



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF AGRICULTURE  
AND RURAL DEVELOPMENT

DR. TIM BORING  
DIRECTOR

**NOTICE OF MEETING**

**MICHIGAN COMMISSION OF AGRICULTURE  
AND RURAL DEVELOPMENT**

**March 13, 2024**

The regular meeting of the Michigan Commission of Agriculture and Rural Development will be held on Wednesday, March 13, 2024. The business session is scheduled to begin at 9:00 a.m. The meeting is open to the public and this notice is provided under the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275. The Commissioners will be meeting at Constitution Hall – Atrium Level, Con-Con Conference Room, 525 West Allegan Street, Lansing, Michigan. This meeting is also being conducted electronically to allow for greater remote public attendance and participation. To join the meeting via Microsoft Teams: by telephone dial: **1-248-509-0316** and enter the Conference ID: **801 807 163#** or by video conference visit [www.michigan.gov/mdard/about/boards/agcommission](http://www.michigan.gov/mdard/about/boards/agcommission) to join the day of the meeting.

In accordance with the Commission's Public Appearance Guidelines, individuals wishing to address the Commission may pre-register to do so during the Public Comment period as noted below and will be allowed up to three minutes for their presentation. Documents distributed in conjunction with the meeting will be considered public documents and are subject to provisions of the Freedom of Information Act. The public comment time provides the public an opportunity to speak; the Commission will not necessarily respond to the public comment.

To pre-register to speak virtually during this meeting, individuals should contact the Commission Assistant **no later than Fri. March 8, 2024**, via email at [MDA-Ag-Commission@michigan.gov](mailto:MDA-Ag-Commission@michigan.gov) and provide their name, organization they represent, address, and telephone number, as well as indicate if they wish to speak to an agenda item. You may also contact the Commission Assistant at that email address to provide input or ask questions on any business that will come before the Commission at the meeting. The Commission Chair will call upon each person by name and telephone number when it is time for them to speak and there will be a meeting moderator facilitating participation. All others wishing to speak will be provided two minutes to do so. Instructions on how to be recognized will be provided at the beginning of the meeting.

Those needing accommodations for effective participation in the meeting should contact the Commission Assistant at 800-292-3939 one week in advance or may use the Michigan Relay Center by calling 711 for deaf, hard of hearing, or speech-impaired persons.

A handwritten signature in black ink that reads "Tim Boring".

Tim Boring  
Director

# MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT

Constitution Hall – Atrium Level  
Con-Con Conference Room  
525 West Allegan Street  
Lansing, Michigan

Option to Join via Remote Technology  
Dial: 1-248-509-0316; Conf. ID 801 807 163#

## **March 13, 2024** TENTATIVE AGENDA

- |           |     |   |
|-----------|-----|---|
| 9:00 a.m. | 1.  | <b>Call to Order and Roll Call</b>  |
|           | 2.  | <b>Approval of Agenda (action item)</b>   |
|           | 3.  | <b>Approval of Minutes</b> from the January 31, 2024, Commission of Agriculture and Rural Development Meeting ( <b>action item</b> )  |
|           | 4.  | <b>Next Scheduled Meeting</b> (information only) <ul style="list-style-type: none"><li>• May 22, 2024</li></ul>   |
| 9:05 a.m. | 5.  | <b>Commissioner Comments and Travel (action item)</b>   |
| 9:15 a.m. | 6.  | <b>Commissioner Issues</b> <ul style="list-style-type: none"><li>• Retirement Resolution – John Hill (<b>action item</b>)</li></ul>   |
| 9:25 a.m. | 7.  | <b>Director's Report</b>  |
| 9:30 a.m. | 8.  | <b>USDA Equity Commission Update:</b> Poppy Sias Hernandez, Office of Global Michigan Director (information only)   |
| 9:45 a.m. | 9.  | <b>Generally Accepted Agricultural and Management Practices Site Suitability Determination for Jonathan and Fannie Yoder poultry facility. – Appeal Process Review and Summary of Departmental Activities:</b> Michael Phillp, Bureau Director, and Mike Wozniak, Right to Farm Program Manager, Bureau of Environmental Sustainability (information only)  |
| 10:00     | 10. | <b>Public Comment on Agenda Items</b><br>In accordance with the Public Appearance Guidelines in the Commission Policy Manual, individuals wishing to address the Commission will be allowed up to three minutes for their presentation. Documents distributed at the meeting will be considered public documents and are subject to provisions of the Freedom of Information Act. The public comment time provides the public an opportunity to speak; the Commission will not necessarily respond to the public comment. |

- |            |     |   |
|------------|-----|---|
| 10:15      | 11. | <b>Professional Committee Report – Appeal of the Generally Accepted Agricultural and Management Practices Site Suitability Determination For Jonathan and Fannie Yoder poultry facility:</b> Gerry May, Site Selection GAAMPs Chair. Site Selection Task Force (information only)   |
| 10:30 a.m. | 12. | <b>Commission Discussion and Recommendation</b>   |
| 10:45 a.m. | 13. | <b>Break</b>  |
| 11:00 am.  | 14. | <b>Food and Agriculture Investment Fund Requests:</b> Jamie Zmitko-Somers, Division Director, Agriculture Development Division ( <b>action item</b> )   |
| 11:45 a.m. | 15. | <b>Public Comment</b><br>In accordance with the Public Appearance Guidelines in the Commission Policy Manual, individuals wishing to address the Commission will be allowed up to three minutes for their presentation. Documents distributed at the meeting will be considered public documents and are subject to provisions of the Freedom of Information Act. The public comment time provides the public an opportunity to speak; the Commission will not necessarily respond to the public comment. |
| 12:00 p.m. | 16. | <b>Adjourn (action item)</b>  |



MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT  
RESOLUTION COMMENDING

**John P. Hill**

The Michigan Commission of Agriculture and Rural Development is pleased to honor John P. Hill upon his retirement from the Michigan Department Agriculture and Rural Development on February 29, 2024.

WHEREAS, John was born in Detroit, Michigan in 1962 and spent his childhood in Westland, Michigan, upstate New York, Cleveland, Ohio and West Bloomfield, MI. Since 1990, John and his family have lived in Traverse City, Michigan; and

WHEREAS, John received his Bachelor's Degree in Forestry from Michigan State University in 1984 and his Master's Degree in Forestry (Silviculture) from Michigan State University in 1986. After graduation, John worked as a Research Technician in MSU's Forestry Department before beginning his professional career as a Forester with the West Virginia Department of Forestry in 1987. In March of 1990, John began what would be a long and distinguished career with the then Michigan Department of Agriculture, as an inspector in the Pesticide and Plant Pest Management Division; and

WHEREAS, as a result of his hard work and dedication, John was promoted from Inspector to Lead Inspector (Gypsy Moth and Nursery) in 1996 and then to Regional Supervisor in 2002. Recognized for his leadership, John has served in many roles throughout his career including, Acting Gypsy Moth Program Manager, Emerald Ash Borer (EAB) Program Manager, where he led the first two surveys of this newly identified exotic pest, Supervisor of the Mackinac Bridge Inspection Station for EAB and bovine TB, Acting Pesticide Section Manager, and the Coordinator of the Ginseng Program for over 30 years. John also demonstrated his leadership by serving on or leading many projects including, implementing the Michigan Ginseng Act, coordinating the Pine Shoot Beetle Trap Log Survey, development of Christmas Tree Inspection procedures, developing policies and procedures for the Nursery Dealer Inspection Program, planning the Division's 2017 In-service Meeting, working as the Michigan aerial application spray system analyst to help protect Michigan's forests and agricultural crops by calibrating spray systems of agricultural aircraft for the annual Gypsy Moth Calibration event, serving on the Governor's Uncrewed Aerial Systems (UAS) Task force, and being 1 of 25 nationally certified and active Operation SAFE Analysts for ag aircraft spray systems set up and pattern testing for over 22 years; and

WHEREAS, for over 22 years, John has been a dedicated Supervisor in the Pesticide and Plant Pest Management Division, at one time supervising as many as 18 employees. Over his career, John has led or participated on 60 different hiring committees and of the 70 different employees John has supervised and mentored over his career, 10 have gone on to become program specialists, 6 have been promoted to supervisors, and 2 have become Division Directors; and

WHEREAS, John has demonstrated leadership, hard work, and dedication over his 34 years of service with the Michigan Department of Agriculture and Rural Development.

THEREFORE be it resolved, that the Michigan Commission of Agriculture and Rural Development thanks John for his service to the State of Michigan, the Department Agriculture and Rural Development, and the people of Michigan. The Commission joins John's friends and colleagues in wishing him a long, happy, and healthy retirement.

Adopted  
Lansing, Michigan

Monica Wyant, Chair





900 MONROE AVE NW  
GRAND RAPIDS, MI 49503

PHONE (616) 632-8000  
FAX (616) 632-8002  
MIKAMEYERS.COM

**James F. Scales**

Direct Dial/Fax (616) 632-8047

E-mail [jkscales@mikameyers.com](mailto:jkscales@mikameyers.com)

January 31, 2024

Michigan Department of Agriculture & Rural Development  
Dr. Tim Boring, Director  
Constitution Hall, 6th Floor  
525 W. Allegan Street  
P.O. Box 30017  
Lansing, MI 48909  
[MDA-Ag-Commission@Michigan.gov](mailto:MDA-Ag-Commission@Michigan.gov)

Re: Appeal of Site Suitability Approval  
Yoder Poultry Facility  
66405 Big Hill Road, Burr Oak Township, St. Joseph County

Dear Dr. Boring:

We represent Greg Persing and Kimberley Prak, neighbors of the property proposed for the Jonathan and Fannie Yoder poultry facility. Enclosed is their appeal of the site suitability determination issued January 2, 2024. Seventeen other neighbors within ½ mile of the proposed facility have joined in the appeal.

We are also sending a copy by overnight mail. Attachment I to the appeal – the County Road map – may be difficult to read as reduced for the email.

Please acknowledge receipt of this. We appreciate your attention to this appeal and ask to be notified when it will be considered by the Commission. Thank you.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Jim F. Scales", is written over a circular blue ink stamp. Below the signature, the name "James F. Scales" is printed in a black, sans-serif font.

James F. Scales

jll  
Encl.

cc: Greg Persing  
Kimberley Prak  
Burr Oak Township Attorneys (Ms. Seeber and Ms. Kaufman)

# APPEAL TO MICHIGAN DEPARTMENT OF AGRICULTURE & RURAL DEVELOPMENT

JANUARY 31, 2024

**REGARDING:       SITE SUITABILITY APPROVAL  
                      JONATHAN AND FANNIE YODER  
                      66405 BIG HILL ROAD, BURR OAK TOWNSHIP, ST. JOSEPH COUNTY**

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## **I.       Introduction.**

This is an appeal of the Site Suitability Approval letter issued January 2, 2024 by the Department of Agriculture and Rural Development for the proposed Jonathan and Fannie Yoder poultry layer facility for 50,000 chickens. The proposed facility is located at 66405 Big Hill Road in Burr Oak Township, St. Joseph County.

This appeal is filed on behalf of Greg Persing and Kimberley Prak, who own property directly abutting the Yoder property to the south, with a residence located approximately 1000 feet from the proposed facility. Joining in the appeal with written permission are seventeen other residents who all reside within one-half mile of the facility, including Eric Kelly, who owns the other property abutting the Yoder property to the South with a residence about 575 feet from the proposed facility.<sup>1</sup>

Also joining are the Besser, Ray Yoder, and Barnes families located directly across the road from the proposed Yoder facility. These are all single-family non-farming residences, located on lots as small as two acres. There is one building located across the road used for storage, not “another set of farm buildings across the road” as stated in the Yoder’s Livestock Production Facility Siting Request (the “Siting Request”).

A list of property owners within a half mile radius who have authorized joining in the Persing/Prak appeal are:

Cary, Jeffrey R. & Pamela L.	29113 Kelly Road,
Malone Robert D. & Christine K.	66775 Big Hill Road
Besser, Michael D. & Diane K.	66202 Big Hill Road
Falkenstein, Steven P. & Amy L.	66251 Big Hill Road
Barnes, Norine Ruth	66390 Big Hill Road
Klinger Steven J. & Jade L.	66080 Big Hill Road
Froning, Henry B. III	66851 Big Hill Road
Triezenberg Keith J. & Judy A.	29465 Kelly Road
Geibe, Joseph & Kimara	66660 Big Hill Road

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<sup>1</sup> The distances of eight of these properties from the proposed facility can be confirmed by the Certification of Notification of Non-farm Residences attached to the Siting Request. The rest were verified with the St. Joseph County GIS mapping tool.

Lock Joseph L. & Patty S.	29240 Witt Lake Road
Lewton, Jason E. & Melisa A.	28059 Witt Lake Road
Purcell, Christopher A.	29178 Witt Lake Road
Eichenberg, Charles W.	29320 Witt Lake Road
James and Charlette Pokoany	66691 Big Hill Road
Lois M. Rosenberg	66960 Big Hill Road
Yoder Ray S. & Bonnie	66318 Big Hill Road
Kelly Geraldine M. & Eric L.	66575 Big Hill Road

The Department promptly and cooperatively provided us with a copy of the Yoder file in response to our Freedom of Information Act Request, and we have reviewed that in preparing this appeal.

## II. Summary of Appeal.

The principal basis for this appeal is that the Yoders and their consultant mischaracterized this as an expanding livestock facility, not as a new livestock facility. As a result, the facility was approved with a 250-foot setback from the south property line, not the 400-foot setback required for a new livestock facility by the 2024 Generally Accepted Agricultural and Management practices for Site Selection and Odor Control for New and Expanding Livestock Facilities (the “Site Selection GAAMP” or just the “GAAMP”). The Yoders chose this location despite the fact that their property extends over 1000 feet north to south, which would easily accommodate the required setback for a new livestock facility. (The north-south dimension of the property can be verified from the setbacks and the width of the livestock facility set forth in the Siting Request.)<sup>2</sup>

In addition, no consideration was given to the “availability of Class A roads for feed and product movement” as required by the Site Selection GAAMP. (p. 2.) Big Hill Road is not a Class A all-weather road, and is subject to seasonal weight and load restrictions. The Yoder facility is miles from any Class A road.

These objections were brought to the attention of Mr. Wozniak, of the Michigan Department of Agriculture and Rural Development by letter from Mika Meyers dated January 2, 2024, (*Attachment A*). Apparently, the site suitability approval letter had already been issued that day.

## III. Description of Proposed Facility.

The Yoders requested a site suitability determination for a facility for 50,000 laying hens in a new building to be constructed on the south part of their property. 50,000 laying hens is the equivalent of 500 animal units according to Table 1 of Site Selection GAAMP.

The building’s dimensions are 61’4’ by 510’ feet, with a 61’ by 80’ area for manure storage. The facility also includes two - 50 foot wide “dirt bathing” areas extending north and south from

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<sup>2</sup>Although the property is assigned two tax parcels, No. 001-029-006-00 and 001-029-006-20. both are owned by the Yoders. (*Attachment B; deeds for parcels.*)

the building. The dirt bathing areas are defined by the Site Selection GAAMP as being part of the livestock facility and are subject to the same property line setback requirements as the building. An additional 50 feet of chicken pasture area extends beyond the dirt bathing areas.

The Yoders own approximately 41 acres with a north to south dimension of about 1,131 feet, and a depth of about 1,918 feet at its deepest point. (*Map from St. Joseph County GIS system, Attachment C*). Contrary to the statement in their Siting Request, the facility is not "in the middle of the parcel behind their house". It is located almost entirely in the south 1/3 of their property and no part of it is behind their house to the east.

The proposed setback from the south property line is 250 feet to the dirt bathing area and 300 feet to the wall of the building.

The adjacent properties to the east and south are existing single-family dwellings. (*See Attachment C*.) The site and surrounding area are zoned to allow single family residences by right on one acre lots. This area is unique in that it is part of only about 15% of the Township adjacent to the City of Sturgis which is designated for low density housing in the Township's Master Plan. Substantially all of the rest of the Township is designated for agriculture and open space use. (*See excerpts of Zoning Ordinance and Future Land Use Map and commentary, Attachment D*)

In addition, despite having hundreds of feet of frontage available for driveway to the facility, the Yoders built the driveway directly on their south property line.

Finally, the Yoder property is not and will not be connected to the electrical grid. Mr. Persing has been informed that the poultry facility is to be powered by a high output gasoline powered generator. (*Affidavit of Greg Persing, Attachment E*). The constant noise from this equipment is another reason for the importance of maintaining the minimum required setback.

#### **IV. Basis for Appeal.**

##### **A. Misclassification as Expanding Livestock Facility.**

The livestock facility has been mischaracterized by the Yoders and their consultant as an existing livestock facility, not correctly as a new livestock facility. As a result of that mischaracterization, the facility was approved with a property line setback from the south line which is 150 feet less than required.

According to the Livestock Siting Review document prepared by Mr. Mahoney of MDARD, the site is classified in Category 2 for purposes of the Site Selection GAAMP with eight non-farm residences located within one-quarter mile. (*See Livestock Siting Review document, p.3, Attachment F*.) Based on this mischaracterization as an expanding livestock facility the Yoders claimed a 250-foot setback was adequate under Table 5 of the Site Selection GAAMP for an "expanding" livestock facility with 500 or more animal units, not the 400-foot property line setback required by Table 4 for a new livestock facility.

The Yoder's basis for claiming classification as an expanding livestock facility is that they have in the past kept six beef cattle on the property, occasionally housed in a barn used for storage located about 475-500 feet from the location of the proposed poultry facility. (*Attachment H*;

***Excerpt of Siting Request; dimension added based on St. Joseph County GIS.)*** According to the cover letter to the Siting Request:

There is an existing 50' X 150' building that is mostly storage and houses 6 beef cattle in a small section of the barn. We are planning to tear this building down and rebuild a 20'X60' lean to building for the cows.

The Yoder's Siting Request also notes that the six existing beef cattle "are on pasture most of the year". It also notes in the Odor Management Plan: "The existing cattle operation is pasture based..."

The definition of a new livestock facility in the Site Selection GAAMP is:

A place where livestock will be kept and/or manure storage structure that will be built at a new site and is not part of another livestock facility. A new livestock facility also is a place that is 1) expanding the animal unit capacity for livestock by 100 percent or greater and the resulting holding animal unit capacity will exceed 749 animal units, or 2) any construction to expand animal unit capacity within three years of completion of an existing facility documented in an MDARD final verification letter and the resulting animal unit capacity will exceed 749 animal units. (Emphasis supplied)

An expanding livestock facility is defined as follows:

A contiguous addition to an existing livestock facility to increase the animal unit capacity. A manure storage structure change or installation to accommodate an increase in animal unit capacity within three years from the construction of the manure storage is an expanding livestock facility. Manure storage structure change or installation at an existing livestock facility to accommodate already existing animal unit capacity is not an expanding livestock facility. (Emphasis supplied)

In order for the poultry barn to be classified as an expanding livestock facility, there must be an existing livestock facility on the property. Based on the application, the existing barn is "mostly storage" and the cattle "are on pasture most of the year".

Also, the Right to Farm Act and the GAAMPs are applicable only to "operations in connection with the commercial production, harvesting, and storage of farm products..." MCL 286.472(b). As supported by the affidavit of Mr. Persing (***Attachment E***) he has never seen more than a total of six animals on the property, two or three of which are the horses used by the Yoders for transportation. He has seen no sign the cattle are being raised for commercial purposes or sale.

According to the Affidavit of Mr. Persing (***Attachment E***), Mr. Yoder's principal occupation up to now has been in the recreational vehicle industry, and the reason he has given his neighbors for the poultry barn was to generate income because of a slowdown in that industry. (***See letter, Attachment H***). Many farmers have other occupations. But the point being made here is that this coupled with the small number of animals and lack of any noticeable commercial

activity strongly suggests that the cattle were not part of the commercial production of farm products. The Yoders have not provided any information to satisfy their obligation to demonstrate that the cattle are involved in the commercial production of farm products, as opposed to being raised for their own use. See, *Lima Township v Bateson*, , 302 Mich App 483 (2013)

If there is no current commercial production of farm products, then the to-be demolished barn is not a “facility” under the meaning of the RTFA or GAAMP. If there is no existing livestock facility on the property there can be no expanding livestock facility.

Moving beyond that, even if the storage/cow barn were considered to be an existing livestock facility, the poultry barn does not meet the GAAMP definition of an expanding livestock facility for the following reasons:

- The definition of an expanding facility in the GAAMP is a “contiguous addition to an existing facility.” This is not an addition; it is an entirely new building located about 500 feet from the storage/cow barn.
- It is documented in several statements in the Siting Request and Department records that the existing storage barn where the cows are supposedly kept sometimes is going to be removed. So, this new poultry barn cannot possibly be considered to be an addition to an existing building. (For two such statements, see cover letter to Siting Request and “Existing Housing” box on the Siting Request.)
- And the definition requires that any addition be “contiguous”, not just on the same property, or within 1,000 feet.
- Considering the 475 to 500-foot distance between the existing storage/cattle barn and the new poultry barn, the poultry facility cannot legitimately be characterized as a “contiguous addition” even if the existing barn were considered a livestock facility.
- Regardless of where the cows may have been pastured, pastureland is excluded from the definition of a “livestock facility” by the GAAMP, so that cannot establish contiguity.

In short, the existing storage barn is not a facility covered by the RTFA, it is going to be torn down, and the poultry barn is not an addition or contiguous to it anyway. According to the definitions in the Site Selection GAAMP, the Yoder’s poultry barn is a new livestock facility and a clear error was made in classifying it as an expanding livestock facility for setback purposes.

The Site Selection GAAMP has the legal effect of preempting nuisance suits and local zoning regulations and so is properly interpreted the same way as a statute or other regulation. It is a well-established rule that laws and regulations must be “construed reasonably ‘keeping in mind the purpose of the act and to avoid absurd results’”. *Bauer v. Saginaw County*, 332 Mich App 174, 193 (2020). In layman’s terms, laws and regulations are to be understood by applying simple common sense.



The Yoder's interpretation of this as an expanding livestock facility defies common sense. If Yoder's interpretation of the GAAMP were correct, then if they kept six chickens anywhere on their property, and proposed to add 700 head of cattle, then as an expanding livestock facility, they would be entitled to a 200-foot reduction of the setback. That is what the courts would call an "absurd" result of such an interpretation of the GAAMP.

And but for the six head of cattle, the Yoders would have absolutely no basis for characterizing this as an expanding facility. There is no rational basis for a 50% reduction in setback merely because a small number of animals were kept at a remote location on the same property. If the Site Selection GAAMP were to be so interpreted, the GAAMP itself would be subject to invalidation by the Courts as a denial of substantive due process for lack of a rational basis. *See Conlin v Scio Tp*, 262 Mich App 379 (2004).

The setbacks are intended to balance the rights of the farmer under the RTFA with protection of non-farm neighbors. A stated purpose of the GAAMP is "minimizing conflicts with adjacent land uses". The purpose of the larger setback requirements for new facilities is to provide additional protection for existing adjacent non-farm residences from newly established livestock facilities. The lesser setbacks allowed for expanding facilities recognize that those non-farm residences may have "come to the nuisance" by virtue of having been built after the facility was already there, as well as to respect the investment backed expectations of the producer for possible expansion of existing facilities. Treating this facility as an expanding livestock facility, with a 200-foot reduction in property line setback would be directly contrary to these purposes. In this case, the only common-sense conclusion is that the poultry facility should be treated as a new livestock facility, not an expanding facility.

No setback reduction was requested or supported in the Siting Request. (See Siting Request "Site Category – Property Lines" box). Therefore, no such request has been analyzed by the Department under the factors in the GAAMP. The local land use and generator noise considerations described toward the end of Section III above would preclude any such reduction.

Because this proposed new livestock facility does not meet the property line setbacks, the facility does not comply with the Site Selection GAAMP. The Persings and their neighbors ask that the site suitability determination be reversed for this reason.

#### **B. The Roads Providing Access to the Site are not Suitable.**

The Site Selection GAAMP includes "the availability of class A roads for feed and product movement..." as one of the factors in determining the suitability of a site. Our review of the site suitability application and MDARD file shows no consideration was given to this factor.

A "Class A" road is an all-weather road which will not be subject to seasonal weight restrictions. "All weather roads (no seasonal load limitation)" are shown as green on the attached St. Joseph County Road Commission map. (*Attachment I*) As can be seen from the map, Big Hill Road is not an all-weather road. This is confirmed by an email communication from the Managing Director of the St. Joseph County Road Commission. (*Attachment J*) In fact, the only all-weather road anywhere in Burr Oak Township is a short stretch between the Village of Burr Oak and U.S. 12, which is not a travel route to the Yoder property. It would be necessary to travel at least 2.2

miles on Big Hill Road, through two stop signs, to reach U.S. 12. (*Affidavit of Greg Persing, Attachment E*)

Therefore, the Site Suitability determination improperly failed to take into account the lack of Class A roads for feed and product movement during times of seasonal load limitations.

**C. The Yoders Ignored MDARD Guidance and Violated the Township Zoning Ordinance by Completing the Structure Before Receiving a Site Suitability Determination.**

The Yoder's Siting Request informed the department of a planned "early spring 2024" construction start. In fact, the Yoders commenced construction before Christmas 2023, and substantially completed the building before the New Year, and before the site verification process was complete. (*Affidavit of Greg Persing, Attachment E*)

The Yoders acted contrary to the guidance given for the site verification process, violated local ordinance and proceeded at their own risk by constructing the building without the required approvals. The Site Selection GAAMP cautions that the site selection and verification process should occur prior to the construction of new livestock facilities or expansion of existing facilities. (p. 16.) The Site Suitability letter itself states in bold faced, underlined type: "**MDARD recommends you do not commence construction at this point.**"

The Burr Oak Township Zoning Ordinance acknowledges the RTFA by allowing intensive livestock operations like this, but only if they comply with the applicable GAAMPs. Section 5.3.A of the Ordinance allows intensive livestock operations "subject to the Right to Farm Act compliance and Generally Accepted Agricultural Management Practices." (*Attachment D, excerpt of Zoning Ordinance*). The Site Selection GAAMP requires site review and certification of site suitability for all facilities on Category 2 sites with more than 50 animal units. (p.9) Not yet having obtained site certification as required by the GAAMP, the Yoders were in violation of the local zoning ordinance by constructing the building without the required zoning permit.

When we pointed out to the Township that the Yoders were constructing the facility without the required zoning approval the Township issued a "stop work order" stating "that construction should stop until the 30-day appeal process is over for the MDARD. If further construction is done, you will be proceeding at your own risk." (*Attachment K*).

As of this writing, the Yoders were still constructing the facility, defying the stop work order and MDARD guidance.

**IV CONCLUSION.**


The protections afforded to commercial farming operations by the RTFA are recognized. However, the RTFA imposes a corresponding obligation on farmers to respect the applicable GAAMP. For the reasons set forth in this appeal, the Yoder's livestock facility does not comply with the Site Selection GAAMP. Mr. Persing and Ms. Prak and their neighbors ask that the Site Suitability letter be revoked.

Respectfully submitted,

MIKA MEYERS PLC

Dated: January 31, 2024

By:



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James F. Scales (P40639)  
900 Monroe Avenue, NW  
Grand Rapids, MI 49503  
(616) 632-8000

## **LIST OF ATTACHMENTS**

- A. Mika Meyers Objection Letter dated January 2, 2024
- B. Yoder Property Deeds
- C. Vicinity Map from St. Joseph County GIS System
- D. Excerpts of Zoning ordinance and Future Land Use Map and Commentary
- E. Affidavit of Greg Persing
- F. Livestock Siting Review Request
- G. Letter from Mr. Yoder
- H. Excerpt of Siting Request; dimension added based on St. Joseph County GIS
- I. Road Map from St. Joseph County Road Commission
- J. Email Communication from the Managing Director of the St. Joseph County Road Commission
- K. Township Stop Work Order

## **ATTACHMENT A**

MIKA MEYERS OBJECTION LETTER DATED JANUARY 2, 2024



900 MONROE AVE NW  
GRAND RAPIDS, MI 49503

PHONE (616) 632-8000  
FAX (616) 632-8002  
MIKAMEYERS.COM

**James F. Scales**

Direct Dial/Fax (616) 632-8047  
E-mail [jscales@mikameyers.com](mailto:jscales@mikameyers.com)

January 2, 2024

Mr. Michael Wozniak  
Michigan Department of Agriculture and Rural Development  
Constitution Hall  
P.O. Box 30017  
Lansing, MI 48909  
[wozniakm1@michigan.gov](mailto:wozniakm1@michigan.gov)

Re: Request for Certification of Livestock Facility  
Jonathan and Fannie Yoder  
66405 Big Hill Road, Burr Oak Township, St. Joseph County

Dear Mr. Wozniak:

We represent Greg Persing, who lives at 66601 Big Hill Road, which is in close proximity to the proposed Yoder chicken facility. Thank you for providing the Yoder's site request documentation in response to our FOIA request.

Based on our discussion and review of the department's website, certification for the facility has not yet been issued. We wanted to make you aware that the Yoder's commenced construction about a week ago, and have substantially completed the shell of the building.

We believe the Yoders have mischaracterized this as an expansion of an existing facility. The Yoders are apparently attempting to justify this characterization on the basis that they have in the past kept six cattle on their property. A facility for only six cattle/animal units would not be classified as a "livestock production facility" at all under the definitions in the Site Selection GAAMP, and so this project cannot be considered an expansion of a livestock production facility. The definition of an "expanding livestock facility" under the GAAMP is a "contiguous addition to an existing livestock facility to increase the animal unit capacity." Here, the place where the cattle are kept is a separate location approximately 500 feet from the site of the proposed poultry barn. Also, according to the Persings' observation, the cattle appear to have been raised for the Yoder's own use, not for the production of farm products as a commercial operation which would be covered by the Right to Farm Act. Therefore, this new barn should be properly classified as a new livestock production facility, not an expanding livestock facility and would be subject to a 400-foot property line setback. According to their application, the setback is only 250 feet measured from the south property line to the dirt bathing area.



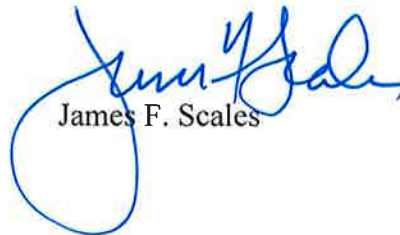
Mr. Michael Wozniak  
January 2, 2024  
Page 2

There may be other reasons why MDARD will not certify this site as suitable. The site selection GAAMP also considers "the availability of the Class A roads for feed and product movement..." as one of the factors in determining the suitability of a site. We understand that Big Hill Road does not meet this classification at this location. The Site Selection GAAMP certification process considers predominant wind direction for odor impact, hydrogeological factors, and adjacent land uses in determining the suitability of a site. Also, the GAAMP requires preparation and approval of a manure management plan. We understand that none of this review has yet been completed by MDARD, yet the Yoders have substantially completed construction of their building, without the required certification.

We appreciate the protections afforded by the Right to Farm Act. However, the Yoders application does not appear to be consistent with the Site Selection GAAMP due to an insufficient property line setback, and potentially other reasons as well. This is especially troubling because the Yoders' property extends over 1000 feet north to south, and yet they chose to place their facility as close to the south property line and neighboring residences as they deem possible.

We would be pleased to discuss this and answer any questions. Thank you.

Very truly yours,



James F. Scales

jll  
*By E-mail Only*  
Enclosures

cc: Greg Persing  
George Letts, Burr Oak Township Supervisor  
Ross Leisman

# **ATTACHMENT B**

## **YODER PROPERTY DEEDS**

SEC. 135 ACT 206, 1893, as Amended - Sec. C.L. 1929) Date July 19, 2017  
I hereby certify that there are no tax liens of titles held by the state on the lands  
described below, and that there are no tax liens or titles held by individuals  
on said lands for five years proceeding 1 day July 2017 and that the  
taxes for said period of five years are paid.  
This certificate does not apply to taxes if any now in process of collection by  
township, city or Village collecting officers.  
ST. Joseph County Treasurer [Signature]



Lindsay Oswald Register Of Deeds  
STATE OF MICHIGAN St. Joseph County

Recorded  
JULY 18, 2017 10:20:28 AM  
Liber 1878 Page 023 - 024 D01  
FEE: \$30.00

Liber 1878 Page 023



STATE OF  
MICHIGAN  
ST JOSEPH COUNTY  
JULY 18, 2017 10:20:28 AM  
RECEIPT # 105720



REAL ESTATE  
TRANSFER TAX  
\$253.00- CO  
\$1,726.00- ST  
STAMP # 25423

## WARRANTY DEED

Patrick Abstract and Title Office, Inc.  
128 W. Main St; PO Box 157  
Centreville, MI 49032  
(269) 467-9885; (800) 401-6657 Fax

The Grantor(s), STEPHEN R YODER AND LITA J YODER, husband and wife,  
whose address is, 59078 LEPLEY RD, COLON, MI 49040,  
convey(s) and warrant(s) to JONATHAN YODER, A/K/A JONI E YODER and FANNIE YODER, husband and wife,  
whose address is 66405 BIG HILL RD, STURGIS, MI 49091  
the following described premises:

SITUATED IN THE TOWNSHIP OF BURR OAK, COUNTY OF ST. JOSEPH AND STATE OF MICHIGAN

ALL THAT PART OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 7 SOUTH, RANGE 9  
WEST, BURR OAK, TOWNSHIP, ST. JOSEPH COUNTY, MICHIGAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST 1/4 CORNER OF SAID SECTION 29 AND RUNNING THENCE NORTH 00°20'31"  
EAST, ALONG THE SECTION LINE, 434.03 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THE  
BOUNDARY RUNS THENCE NORTH 00°20'31" EAST, ALONG THE SECTION LINE, 597.49 FEET; THENCE  
NORTH 88°58'55" EAST 423.37 FEET TO A CAPPED REBAR SET; THENCE NORTH 89°58'04" EAST 1082.33 FEET  
TO A CAPPED REBAR SET; THENCE SOUTH 00°58'24" WEST 441.50 FEET TO A CAPPED REBAR SET; THENCE  
NORTH 89°33'57" WEST 1020.45 FEET TO A CAPPED REBAR SET; THENCE NORTH 00°20'30" EAST 70.59 FEET  
TO A CAPPED REBAR SET; THENCE SOUTH 89°58'05" WEST 51.82 FEET TO A CAPPED REBAR SET; THENCE  
SOUTH 00°28'29" EAST 253.08 FEET TO A CAPPED REBAR SET; THENCE NORTH 88°35'31" WEST 432.10 FEET  
TO THE POINT OF BEGINNING.

TAX ID# 75-001-029-006-00

also known as Property Address: 66405 BIG HILL RD, STURGIS, MI 49091

The Grantor grants to the Grantee the right to make 100% of the available divisions under Section 108 of the  
Land Division Act, Act No. 288 of the Public Acts of 1967.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and  
management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected  
by the Michigan right to farm act.

for the sum of \$230,000.00\*\*\*

Subject to acts and neglects of parties other than grantors subsequent to July 8, 2016, the date of a certain land contract, as evidenced  
by a memorandum of land contract recorded July 11, 2016 in liber 1831 on page 069 in the office of the St. Joseph County Register of  
Deeds, pursuant to which this conveyance is made.

Subject to easements and building and use restriction of record.

Dated this 18<sup>th</sup> day of July, 2017.

Signed by:

[Signature]  
STEPHEN R YODER

[Signature]  
LITA J YODER

St. Joseph County Register of Deeds  
Delivered 7/19/17 Time 10:06 AM

75-001-029-006-00

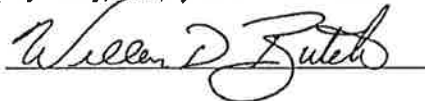
SST- Bill  
Dee

WILLIAM D. BUTCHER  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF ST. JOSEPH  
My Commission Expires May 24, 2019  
Acting in the County of St. Joseph

State of Michigan,  
County of St. Joseph

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of July, 2017, by STEPHEN R YODER AND LITA J YODER.

Notary Public, St. Joseph County,  
Michigan  
My commission expires: 05-24-2019  
Acting in the County of St. Joseph



When Recorded Return To:  
JONI E YODER  
FANNIE YODER  
66405 BIG HILL RD  
STURGIS, MI 49091

Send Subsequent Tax Bills To:  
Grantee

Drafted By:  
Attorney Garrett T. McNally  
JONES LAW OFFICE  
120 W. Main St; Box 187  
Marcellus, MI 49067  
(269) 646-5511; (269) 646-2051 Fax  
NO OPINION OF TITLE RENDERED

Tax Parcel # 75-001-029-006-00

Recording Fee \$ \_\_\_\_\_

Transfer Tax \_\_\_\_\_

2  
SEC. 135 ACT 206, 1893, as Amended - Sec. C.L. 1929) Date February 12, 2018  
I hereby certify that there are no tax liens of titles held by the state on the lands described below, and that there are no tax liens or titles held by individuals on said lands for five years proceeding 1 day Feb. 2018, and that the taxes for said period of five years are paid.  
This certificate does not apply to taxes if any now in process of collection by township, city or Village collecting officers.  
ST. Joseph County Treasurer Maureen DePietri



Lindsay Oswald Register Of Deeds  
STATE OF MICHIGAN St. Joseph County

Recorded  
FEBRUARY 12, 2018 04:45:39 PM  
Liber 1903 Page 540 - 541 D01

FEE: \$30.00

Liber 1903 Page 540



STATE OF MICHIGAN

ST JOSEPH COUNTY  
FEBRUARY 12, 2018 04:45:39 PM  
RECEIPT # 118053



REAL ESTATE  
TRANSFER TAX

\$162.00- CO  
\$1,110.00- ST  
STAMP # 29309

### WARRANTY DEED

The Grantor(s): **Jesse Hochstedler and Marla Hochstedler, Original Co-Trustees of THE JESSE AND MARLA HOCHSTEDLER FAMILY TRUST dated October 9, 2015,**

whose address is: 59704 Beaver Lake Rd., Colon MI 49040

Conveys and Warrants to: **Joni E. Yoder and Fannie J. Yoder, husband and wife, as tenants by the entireties,**

whose address is: 66405 Big Hill Rd., Sturgis MI 49091

the following described premises situated in the Township of Burr Oak, County of St. Joseph and State of Michigan, to wit:

Situated in the Township of Burr Oak, County of St. Joseph and State of Michigan:

All that part of the South 1/2 of the Northwest 1/4 of Section 29, Township 7 South, Range 9 West, described as follows:

Beginning at the West 1/4 corner of said Section 29 and running thence N00° 20' 31" E, along the Section line, 434.03 feet; thence S88° 35' 31" E 432.10 feet to a capped rebar set; thence N00° 28' 29" W 253.08 feet to a capped rebar set; thence N89° 58' 05" E 51.82 feet to a capped rebar set; thence S00° 20' 30" W 70.59 feet to a capped rebar set; thence S89° 33' 57" E 1446.78 feet to a capped rebar set; thence S00° 20' 31" W 593.31 feet to a capped rebar set on the East-West 1/4 line as monumented; thence S89° 57' 03" W, along said 1/4 line, 1927.07 feet to the point of beginning.

Tax Parcel#: 75-001-029-006-20

for the sum of One hundred forty-seven thousand seven hundred fifty and 00/100----- (\$147,750.00)----- dollars.

The grantors grant to the grantees the right to make all available divisions under section 108 of the land division act, Act No. 288 of the Public Acts of 1967.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors and other associated conditions may be used and are protected by the Michigan right to farm act.

Subject to leases, easements, restrictions and rights of way of record.

Dated this 9th day of February, 2018.

Signed:

The Jesse and Marla Hochstedler Family Trust

Jesse Hochstedler  
Jesse Hochstedler, Original Co-Trustee

Marla Hochstedler  
Marla Hochstedler, Original Co-Trustee

75-001-029-006-20

016 1410

STATE OF MICHIGAN )  
COUNTY OF ST. JOSEPH )ss )

The foregoing instrument was acknowledged before me this 9th day of February, 2018, by  
Jesse Hochstedler and Marla Hochstedler, Original Co-Trustees of The Jesse and Marla  
Hochstedler Family Trust

DAWN HEITKAMP  
Notary Public, St. Joseph Co. MI  
My Commission Expires 5-18-18

  
\_\_\_\_\_  
Notary Public  
St. Joseph County  
My commission expires: \_\_\_\_\_

When Recorded Return to:  
Patrick Abstract & Title  
P.O. Box 157  
Centreville, MI 49032

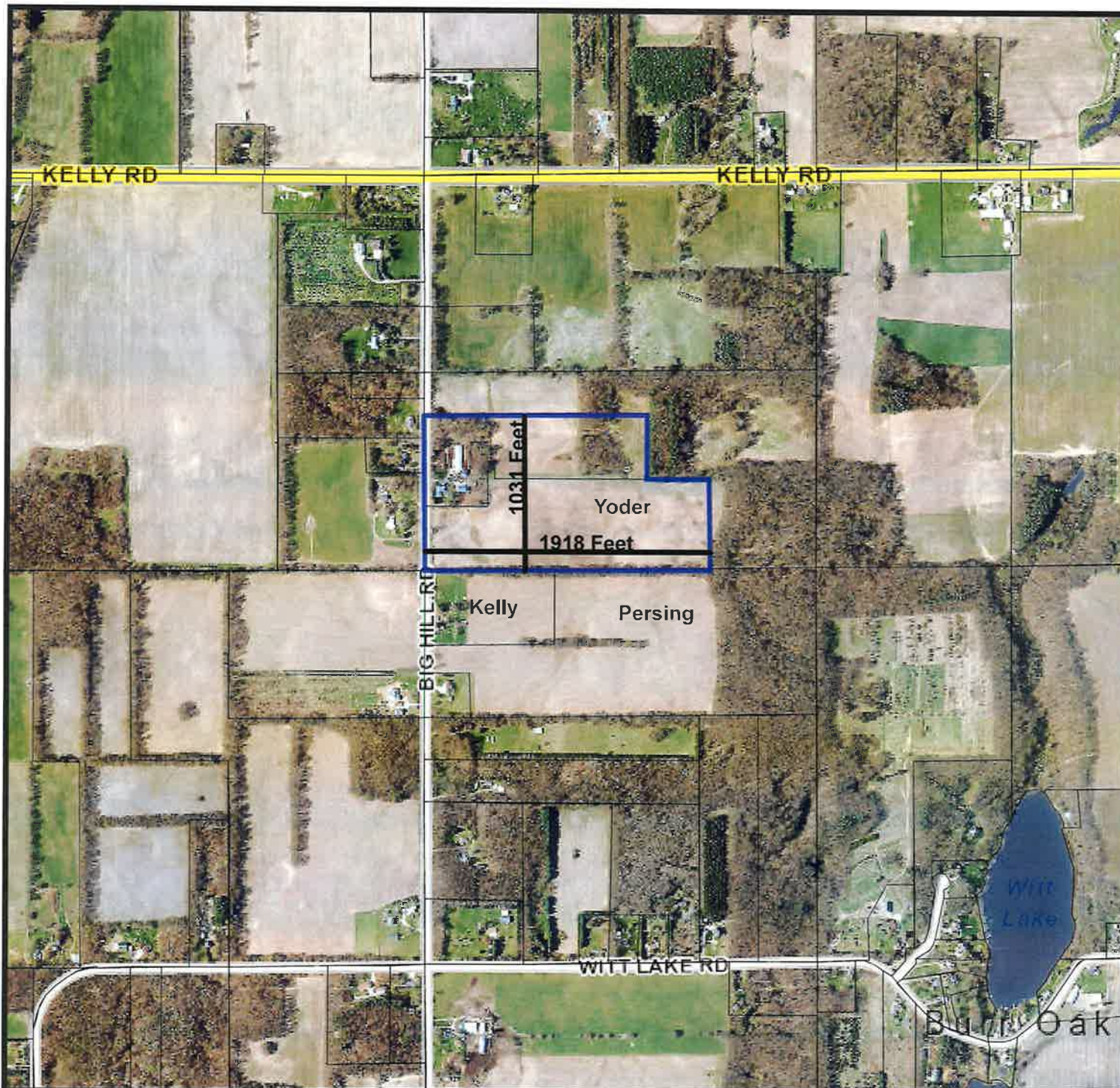
Send subsequent tax bills to:  
Grantees

Drafted by:  
Robert R. Kopen  
Attorney at Law  
PO Box 155  
Centreville MI 49032



## **ATTACHMENT C**

VICINITY MAP FROM ST. JOSEPH COUNTY GIS SYSTEM



St. Joseph GIS

Attachment B



Map Publication:  
01/30/2024 9:45 AM



powered by  
**FetchGIS** 

Disclaimer: This map does not represent a survey or legal document and is provided on an "as is" basis. St. Joseph County expresses no warranty for the information displayed on this map document.

## **ATTACHMENT D**

EXCERPTS OF ZONING ORDINANCE AND FUTURE LAND USE MAP AND COMMENTARY

## ARTICLE 5

### "A" AGRICULTURAL DISTRICT

#### Section 5.1 – Description of District

This District is composed of certain land in outlying areas presently of rural character. Such land is zoned for the agricultural use with the intent that agriculture will be the principal land use within the foreseeable future. The regulations for this District are designed to stabilize and protect the essential characteristics of the District without unduly restricting its use solely to that of an agriculture nature. To these ends, development is limited to a low concentration and to those uses that would not be detrimental to future development.

#### Section 5.2 – Permitted Uses

- A. Any farm or agricultural activity.
- B. Single-family dwellings according to Section 18.6
- C. Dwelling structures (temporary for up to ninety days occupancy) for migrant workers subject to building code compliance and public health department compliance.
- D. Roadside stands.
- E. Accessory buildings or uses customarily incidental to each of the above permitted uses.

#### Section 5.3 – Special Exception Uses

- A. Churches, schools, libraries and publicly owned buildings.
- B. Hospitals, medical and dental clinics, convalescent homes and similar structures designed for human or animal care.
- C. Home occupations, provided, however, that there shall be no external evidence of such occupation except a nameplate or sign not exceeding two (2) square feet in area and that the use of the occupation shall not require or effect a change in the external character or appearance of the dwelling. (See Home Occupations under Article 3 - Definitions.)
- D. Public utility buildings.
- E. Community country clubs, fraternal lodges and similar civic or social organizations when not operated for profit.
- F. Parks, playgrounds, golf courses, public and private swimming pools, and similar facilities for outdoor exercise and recreation.
- G. Buildings and structures customarily incidental to farming provided that no obnoxious fumes, dust, smoke, noise or odors are emitted to such a degree as to be considered offensive, unhealthful or harmful to the public health.
- H. Farm equipment sales and services.



- I. Intensive livestock operations subject to Right to Farm Act compliance and generally accepted agricultural management practices.
- J. Communications tower.
- K. Accessory buildings and uses customarily incidental to each of the above special exception uses.
- L. Family Business. The following minimum standards shall be included in a special exception use permit granted to a family business:
  - 1. All work in connection with any family business permitted hereunder shall be conducted solely within an enclosed building or buildings.
  - 2. No outdoor storage shall be allowed unless the family business involves storage needs that cannot reasonably be accommodated within a building or structure. In such event an allowed outdoor storage area shall be located to the rear of the building in which the business is conducted, and shall be adequately screened to effectively block all view from adjoining roads or properties as defined in the site plan section and definitions in the ordinance.
  - 3. The business shall not operate between the hours of 9:00 p.m. and 7:00 a.m.
  - 4. There shall be no expansion of the family business facility permitted hereunder without further approval of the Township Planning Commission.
  - 5. Noise, smoke, odor, electrical disturbance or lighting shall not be discernible beyond the boundaries of the property from which the business is conducted.
  - 6. The building or buildings where the business is to be conducted shall be located at least 150 feet from any existing residence on adjoining property and at least 50' from the principal residence.
  - 7. The minimum acreage required for allowing a family business is 1 acre.
  - 8. The building or buildings where the family business is conducted will be no larger than 1% of the square foot acreage in total and will not exceed 6000 ft<sup>2</sup> in total and will not consist of more than two buildings.
  - 9. Prior to the issuance of the special exception use permit, the building where the business is to be conducted shall be inspected by the Township's construction code officials /inspectors and shall meet all requirements of Michigan's Construction Code for the type of business being conducted.
  - 10. The business shall be located on the same parcel as the family's dwelling.
  - 11. At least one family member residing on the parcel must be engaged in the family business but no more than a total of (6) six individuals may work on the premises in connection with the family business.
  - 12. The site (plan) review shall, at a minimum, consist of reviewing the type of family business to ensure the family business is conducive to the area and has minimal impact on the neighbors and neighborhood.
  - 13. Instead of running with the land, the family business special exception use shall be identified as conditional and only valid with the owner who has requested the special exception. Once permission is granted, the conditional use shall be registered with the County Register of Deeds.

#### **Section 5.4 – Lot, Yard and Area Requirements**

Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in ARTICLE 25.

**(Note: Article 5 amended by Ordinance No. 2003-2, effective 4/12/03  
Ordinance No. 2008-2, effective 7/3/08)**

## ARTICLE 25

### LOT, YARD AND AREA REQUIREMENTS BY ZONING DISTRICT

PRINCIPAL STRUCTURE	<u>A</u>	C & I	R-1	R-2	R-3 <sup>1</sup>
Minimum Lot Width (ft): <sup>2</sup>					
Single-Family	200		100	100	-
Two-Family	-		100	100	-
Multiple-Family	-		100	100	-
Minimum Lot Area Per Dwelling Unit (sq ft):					
Single-Family	43,560		15,000	15,000	-
Two-Family	-		10,895	8,000	-
Multiple-Family	-		4,356	6,000	-
Maximum Building Height (ft):	35	75	35	35	-
Minimum Floor Area Per Dwelling Unit (sq ft): <sup>3</sup>					
Single-Family	1000		1000	720	-
Two-Family	-		720	720	-
Multiple-Family	-		600	600	-
Minimum Front Yard Setback (ft)	50	65	35	50 <sup>4</sup>	-
Minimum Side Yard Setback (ft)	25	35	10	10	-
Minimum Rear Yard Setback (ft)	25	25	20	50 <sup>5</sup>	-
<b>ACCESSORY BUILDINGS</b>					
Minimum Front Yard Setback (ft)	50	50	50	40 <sup>4</sup>	-
Minimum Side Yard Setback (ft)	10	35	5	5	-
Minimum Rear Yard Setback (ft)	5	25	5	40 <sup>5</sup>	-
Maximum Building Height (ft)	75	75	20	20	-

<sup>1</sup> State code and regulations apply.

<sup>2</sup> The minimum lot width shall be measured at the front lot line along the public or private street. The width of a lot shall not narrow to a width which is less than 50% of the width of the lot at the front lot line at any point between the front lot line and the rear lot line.

<sup>3</sup> All dwelling units in the A – Agricultural District, the R-1 Residential District, and the R-2 Residential District must have a minimum core area of 24 feet x 24 feet. Where there is a two-story structure, there shall be at least 720 square feet of area on the ground floor.

<sup>4</sup> For all lots, measure from the line separating the lot or parcel from the abutting public or private road right-of-way.

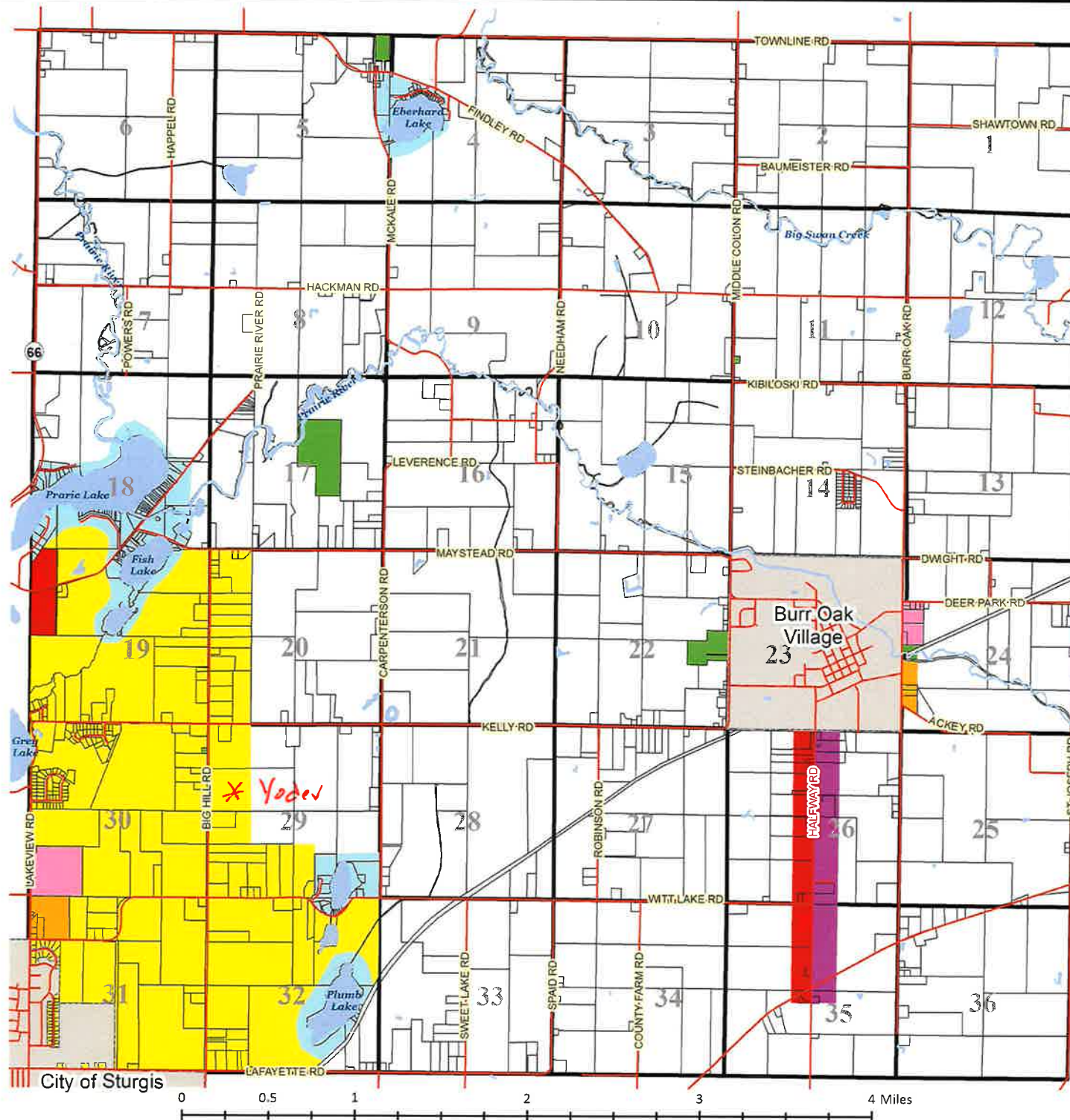
<sup>5</sup> For lake lots, measure from the lake's established high water mark.

**(Note: Article 25 amended by Ordinance No. 2015-2, effective 1/10/16)**



# Burr Oak Township Future Land Use

St Joseph County, Michigan



- Public
- Agricultural/Open Space
- Limited Residential
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Commercial
- Industrial
- City/Village Boundary

The information contained herein has been supplied by the local unit of government. St Joseph County assumes no responsibility for the accuracy of the map or the districts herein depicted.

Produced by: St. Joseph County  
Land Resource Centre (269) 467-5576  
Geographic Information Systems Department

## **FUTURE LAND USE PLAN**

The Future Land Use Plan seeks to coordinate the varying interests of farmland preservation with residential development and commercial and industrial uses along development corridors within the Township. The following eight (8) designations of land use are presented on the Future Land Use Plan map as follows:

- A. Agricultural / Open Space
- B. Limited Residential Development
- C. Public
- D. Low-Density Residential
- E. Medium-Density Residential
- F. High-Density Residential
- G. Commercial
- H. Industrial
- I. Resource Protection Overlay Zone

### **A. AGRICULTURAL/OPEN SPACE**

The predominant land use in the Township is agricultural. This designation of land use is also based upon data from soil surveys, with areas identified as prime farmland. With the vast majority of soil types supporting some type of agricultural use, the area designated will generally encompass all other lands not specifically designated for more intensive development.

### **B. LIMITED RESIDENTIAL DEVELOPMENT**

Lake areas in the Township that do not have access to sewer are shown with this designation. Concern for environmental impact including the potential for water quality degradation has resulted in identifying these areas as "limited development." A low density and clustering of any development to minimize environmental impact are among the recommended land use policies for these areas.

The regulations for this district are intended to avoid contamination or destruction of streams and lakes and to protect the riparian rights of waterfront property owners.

### **C. PUBLIC**

Areas presently or planned for public purposes are shown accordingly on the Future Land Use Map.

### **D. RESIDENTIAL – LOW DENSITY**

A large portion of the southwest quadrant of the Township is shown as residential low density. By providing an ample area with a variety of sites for future residential growth, such growth can be guided to discourage a scattered proliferation of development which would undermine the agricultural preservation goal.

### **E. RESIDENTIAL – MEDIUM DENSITY**

Potential locations for higher density residential (more than 3 dwelling units per acre) are encouraged within Burr Oak Village (not shown on future land use pattern) and in areas of suitable road access and proximity to public utilities, such as designated near the Burr Oak Village and near the City of Sturgis.

### **F. RESIDENTIAL – HIGH DENSITY**

An area of high density residential use (more than 4-5 dwelling units per acre) is shown in the southwest corner of the Township and to the east of Burr Oak Village. High density residential

# **ATTACHMENT E**

AFFIDAVIT OF GREG PERSING

## **AFFIDAVIT OF GREG PERSING**

### **ATTACHMENT TO APPEAL TO MICHIGAN DEPARTMENT OF AGRICULTURE & RURAL DEVELOPMENT**

**REGARDING:           SITE SUITABILITY APPROVAL  
                          JONATHAN AND FANNIE YODER  
                          66405 BIG HILL ROAD, BURR OAK TOWNSHIP, ST. JOSEPH COUNTY**

---

I, Greg Persing, being duly sworn state as follows:

1. I have lived at 66601 Big Hill Road for approximately 7 years, and have owned the property for about 10 years. Part of my property abuts the south property line of the property owned by Jonathan and Fannie Yoder. I am familiar with their plans to construct a poultry barn for 50,000 laying hens and am familiar with the area. I received a notification of the Yoder's request for MDARD approval for the proposed poultry barn.

2. The Yoders started moving dirt for the facility in late November. I contacted the Township about that and was told there was nothing they could do until there were "sticks out of the ground". They started pouring cement on the first of December, and began construction of the building the second week of December. The outside of the building appeared to be almost completed during the week between Christmas and New Years. My attorneys contacted the Township again and the Township issued a stop work order, but the Yoders continued to work on the building as recently as January 27, 2024.

3. I have never seen more than six large animals on the Yoder's farm in the entire time I have lived there. They were in a pasture behind their house and the barn they will be tearing down. Two or three of the six animals were the horses the Yoders used to pull the family's carriages. I have never seen or heard of any advertisements for the cows being sold, and have seen no sign that the cows were not being raised solely for the family's own use.

4. After some of our other neighbors and I contacted Mr. Yoder about our concerns about this facility, he met with us and sent a letter which is attached to our appeal. In the past he has been employed in the recreational vehicle industry in Indiana, and told us he is going into the egg business to supplement the family income. Up to now, I have not seen any sign that the Yoders were raising animals for commercial purposes.

5. My local attorney confirmed with the St. Joseph County Road Commission that Big Hill Road is a local road, subject to seasonal weight restrictions when the frost laws are in place. I measured the distance from the Yoder's property to U.S. 12, the nearest all weather road. It is 2.2 miles, with two intersections with stop signs along the way.

6. The Yoders installed a driveway connection to Big Hill Road without a culvert. When I built my house, I was required to put a culvert in place. During the recent thaw, part of Big Hill Road was flooded due to the backup from the driveway being installed without a culvert.

7. The Yoders are Amish, and their farmstead is not connected to the electrical grid. Based on my discussion with them they plan to use a large gasoline generator to provide electricity for the poultry barn. I am concerned about the noise from a constantly running generator, in addition to the odors and view. The Yoders had plenty of land available to build their facility in the middle of their property, farther away from my property and my neighbor Eric Kelly's property, which is even closer to the chicken barn.

Further affiant sayeth not.

Dated: January 30, 2024

By: Greg Persing

Greg Persing

The foregoing instrument was sworn to before me in St. Joseph County, Michigan on January 30, 2024, by Greg Persing.

Lance L. Thorsten  
Name: Lance L. Thorsten  
Notary Public, St. Joseph County,  
Michigan  
Acting in St. Joseph County,  
Michigan  
My commission expires: 06-21-2024

# **ATTACHMENT F**

## **LIVESTOCK SITING REVIEW REQUEST**

Applicant: **Jonathan & Fannie Yoder** County: **St. Joseph** Consultant: **Agronomic Solutions**  
 Address: **66405 Big Hill Road, Sturgis, MI 49091** Township: **Burr Oak**, section: **29**  
 Date Received: **September 19, 2023**

## Livestock Siting Review Document

62257 R. Hill

Lead Reviewer: <b>Steve Mahoney</b>	
<b>General Review</b>	
<input type="checkbox"/>	Specified Type and Size of Facility: <b>Current: 40' x 65' horse barn, Cow Barn? - torn down</b> <b>Proposed: 62' x 470' Layer Facility</b> <i>create a lean to.</i>
<input type="checkbox"/>	Type and Size of Manure Storage: <b>current: 50' x 150' manure pack storage</b> <b>Proposed: 20' x 60' lean to or 62 x 80' x 8' or both?</b>
<input checked="" type="checkbox"/>	Project Specified as <input type="checkbox"/> New or <input checked="" type="checkbox"/> Existing Facility <i>beef cattle shelter</i>
<input checked="" type="checkbox"/>	Animal type(s) New: <b>Layers 50,000</b> Existing: <b>Beef Cattle 6</b> Proposed:
<input checked="" type="checkbox"/>	Animal units: New: <b>500</b> Existing: <b>6</b> Proposed:
<input checked="" type="checkbox"/>	Category Confirmed: <b>2</b>
<input checked="" type="checkbox"/>	Verified Number of non-farm residences within 1/4 or 1/2 mile, with addresses and notification method: <b>8 via letter</b> Identified on Google Earth
<input type="checkbox"/>	Identified GAAMPs property line setbacks based on category and project GAAMPs Initial Setback: <b>200</b> <input checked="" type="checkbox"/> GAAMPs Minimum Setback: <b>125</b> Proposed Setbacks: N <b>645'</b> E <b>776'</b> S <b>250'</b> W <b>568'</b> Signed Variances: N <input type="checkbox"/> E <input type="checkbox"/> S <input type="checkbox"/> W <input type="checkbox"/> Reduction Request: N <input type="checkbox"/> E <input type="checkbox"/> S <input type="checkbox"/> W <input type="checkbox"/>
<input checked="" type="checkbox"/>	Reviewed and Attached Justification for Setback Reduction. <b>N/A</b>
<input checked="" type="checkbox"/>	Reviewed MMSP or CNMP and are found to be accurate and support the application. Does it support the application?
<input checked="" type="checkbox"/>	Confirmed odor emission factors and centroid location in the MI OFFSET worksheet.
<input type="checkbox"/>	I inspected current or proposed facility for conformance to all other applicable GAAMPs Date:
<b>Mapping</b>	



Applicant: **Jonathan & Fannie Yoder** County: **St. Joseph** Consultant: **Agronomic Solutions**  
 Address: **66405 Big Hill Road, Sturgis, MI 49091** Township: **Burr Oak**, section: **29**  
 Date Received: **September 19, 2023**

Lead Reviewer: **Steve Mahoney**

<input checked="" type="checkbox"/>	Complete Site Plan with exact locations of current and proposed livestock facilities outlined in Tan. Non-livestock buildings are labeled. Complete plan includes: Property lines in Grey Utilities in Dark Red Septic systems, culverts, and drains identified in Black.
<input checked="" type="checkbox"/>	Created ¼ or ½ mile radii from the from the edges of the facility in Red. Plotted non-farm residences in White and numbered and named. Farm residences have been marked in Green.
<input checked="" type="checkbox"/>	Identified surface water or wetlands and drainage patterns in Dark Blue.
<input type="checkbox"/>	<u>15</u> wells are within 2,000 ft. of the production facility. Mapped in Light Blue and labelled by type. Took linear measures from edges of the facility in Yellow. <del>No well meets</del> the following criteria: Type IIA w/in 2,000, Type IIB or Type III w/in 800 or Private Well w/in 75' or has an attached Health Department or DEQ Variance. Wells with a variance should be indicated with a starred icon. Measure House well to Cow Barn and Horse Barn >75'
<input type="checkbox"/>	Outlined all high public use areas in Purple. Took linear measures from edges of the facility in yellow, greater than 1,500 ft or signed variance from local unit of government. High public use areas in the vicinity of this project include: Cemetery ~ 1,100' from existing cow barn Application supply signed notification and variance? <i>Discussed will talk to them</i>
<input checked="" type="checkbox"/>	Confirmed the location of migrant labor housing camps in the area, mapped in Pink if applicable. Took linear measurements in Yellow, greater than 500 ft.
<input checked="" type="checkbox"/>	Mapped Wellhead protection areas, facility does not impinge.
<input checked="" type="checkbox"/>	Mapped political boundaries for municipalities as indicators of residential or commercial zones. Took linear measures from the edge of the facility in yellow, unless greater than 1,500 ft.
<input checked="" type="checkbox"/>	Verified that an accurate soils and topographic maps have been submitted.
<input checked="" type="checkbox"/>	<del>Confirmed an accurate 100-year flood plain map was submitted, facility does not impinge. If so, it does not meet criteria for presence in this area per the GAAMPs.</del>
<input checked="" type="checkbox"/>	Mapped the MI OFFSET 95% annoyance boundary and centroid for the facility in Orange. Any non-farm homes within the boundary have an attached odor variance.
<input checked="" type="checkbox"/>	I have reviewed this Livestock Siting application and conclude that it meets the criteria outlined in the Site Selection GAAMPs.
	Other Comments:



Applicant: **Jonathan & Fannie Yoder** County: **St. Joseph** Consultant: **Agronomic Solutions**  
 Address: **66405 Big Hill Road, Sturgis, MI 49091** Township: **Burr Oak**, section: **29**  
 Date Received: **September 19, 2023**

Secondary Reviewer: Jay Korson	
General Review	
<input checked="" type="checkbox"/>	Specified Type and Size of Facility: 61' 4" x 470' layer barn; 20' x 60' lean-to cattle; 40' x 65' horse barn (existing)
<input checked="" type="checkbox"/>	Type and Size of Manure Storage: new 61' 4" x 80' x 8' litter; existing 30'x40'
<input checked="" type="checkbox"/>	Project Specified as <input type="checkbox"/> New or <input checked="" type="checkbox"/> Existing Facility
<input checked="" type="checkbox"/>	Animal type(s)      New: 50,000 layers (~4lbs) Existing: 6 Beef Cattle      Proposed:
<input checked="" type="checkbox"/>	Animal units:      New: 500 AU Existing: 6 AU      Proposed: 506 AU
<input checked="" type="checkbox"/>	Category Confirmed: Category 2 expanding; 8 non-farm residences within ¼ mile
<input checked="" type="checkbox"/>	Verified Number of non-farm residences within ¼ or ½ mile, with addresses and notification method: Letter Identified on Google Earth
<input checked="" type="checkbox"/>	Identified GAAMPs property line setbacks based on category and project GAAMPs Initial Setback: 200' GAAMPs Minimum Setback: 125' Proposed Setbacks: N 300' E 423' S 250' W 205' Signed Variances: N <input type="checkbox"/> E <input type="checkbox"/> S <input type="checkbox"/> W <input type="checkbox"/> Reduction Request: N <input type="checkbox"/> E <input type="checkbox"/> S <input type="checkbox"/> W <input type="checkbox"/>
<input checked="" type="checkbox"/>	Reviewed and Attached Justification for Setback Reduction. NA
<input checked="" type="checkbox"/>	Reviewed MMSP or CNMP and are found to be accurate and support the application. Does it support the application? Export agreement 600acres
<input checked="" type="checkbox"/>	Confirmed odor emission factors and centroid location in the MI OFFSET worksheet.
<input checked="" type="checkbox"/>	I inspected current or proposed facility for conformance to all other applicable GAAMPs Date:
Mapping	

## **ATTACHMENT G**

LETTER FROM MR. YODER

Dear Neighbors,

I Am writing this to you in regards of the letter we recieved with all Your names on it. As well as your concerns.

We were under the impression When we first started ~~on~~ on this Chicken layer barn, that we could not continue if it upsets the neighbors. But we got informed by the State of Mich. an the townshop of Burr Oak that if we follow the rules an laws as the State of Mich. requires us. There is nothing that any one can do. Now we trust that the State of Mich. would not let us put in such a facility if it was harmful to us, or our neighbors. They make thier rules an laws in such a way that, is safe an should not affect any of your lifes.

So our goal is to follow all of there rules in order to respect our neighbors an to be safe.

It was never our intend to upset any of you. And it makes us sad that you Choose to be upset.

So as of now if the State of Mich. approves it that we can get the permits, our plan is to continue on with it, we came up <sup>with</sup> this plan in the Spring when the RV factory got slow. And we wanted some thing here on the farm that we can do together as a family.

Sincerely, Mathon Yoder  
Fannie Yoder

## **ATTACHMENT H**

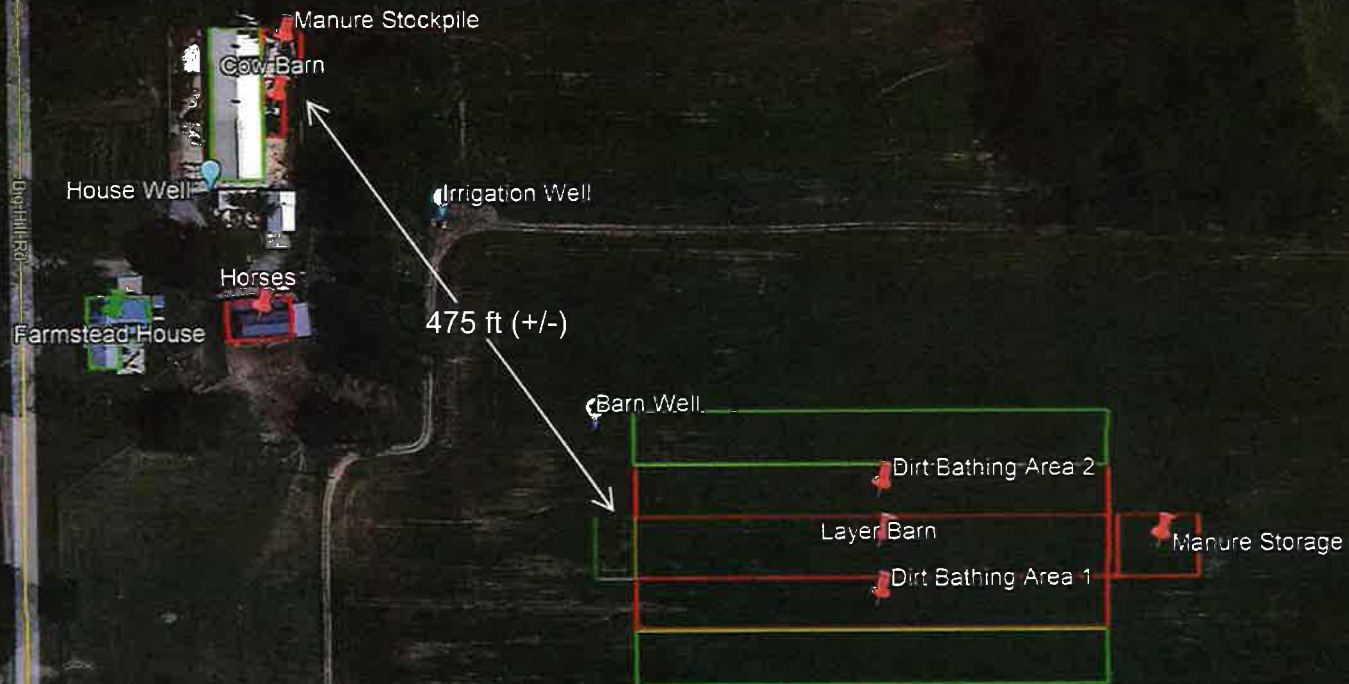
EXCERPT OF SITING REQUEST; DIMENSION ADDED BASED ON ST. JOSEPH COUNTY GIS

# Jonathan Yoder

Site Map

## Legend

- Animal Barns
- Barn Well
- Non-animal Barns/Features
- Property Line
- Well



Google Earth

400 ft

# **ATTACHMENT I**

ROAD MAP FROM ST. JOSEPH COUNTY ROAD COMMISSION







## **ATTACHMENT J**

EMAIL COMMUNICATION FROM THE MANAGING DIRECTOR  
OF THE ST. JOSEPH COUNTY ROAD COMMISSION



## Jim F. Scales

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**From:** Jim F. Scales  
**Sent:** Friday, January 26, 2024 11:12 AM  
**To:** Jim F. Scales  
**Subject:** FW: [EXTERNAL]Big Hill Road, Burr Oak Township

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**From:** Lance Thornton <lthorntonlaw@gmail.com>  
**Sent:** Monday, January 8, 2024 8:47 AM  
**To:** Jim F. Scales <JScales@mikameyers.com>  
**Cc:** Greg Persing <greg.persing22@gmail.com>  
**Subject:** Fwd: [EXTERNAL]Big Hill Road, Burr Oak Township

James:

I am forwarding SJCRC's response to my email.

If I can be of any further assistance, let me know.

Lance Thornton

----- Forwarded message -----

**From:** John Lindsey <jlindsey@sjcrc.com>  
**Date:** Mon, Jan 8, 2024 at 8:03 AM  
**Subject:** RE: [EXTERNAL]Big Hill Road, Burr Oak Township  
**To:** Lance Thornton <lthorntonlaw@gmail.com>

Lance

1. That section of Big Hill is classified as a Local Road.
2. Seasonal weight restriction do apply when frost laws are on. Ther are no other restrictions.

Thanks

John Lindsey

Managing Director

St. Joseph County Road Commission

Cell 269-506-6451 Office 269-467-6393 Ext. 20

[jlindsey@sjcrc.com](mailto:jlindsey@sjcrc.com)

**From:** Lance Thornton <[lthorntonlaw@gmail.com](mailto:lthorntonlaw@gmail.com)>  
**Sent:** Friday, January 5, 2024 4:20 PM  
**To:** John Lindsey <[jlindsey@sjcrc.com](mailto:jlindsey@sjcrc.com)>  
**Subject:** [EXTERNAL]Big Hill Road, Burr Oak Township

You don't often get email from [lthorntonlaw@gmail.com](mailto:lthorntonlaw@gmail.com). [Learn why this is important](#)  
John:

I need information on Big Hill Road for a client. If I should be communicating with someone else, please let me know.

I would like the following for the portion of Big Hill Road that runs from US 12 to Maystead Road:

1. Classification of the road.
2. Whether there are restrictions that apply to the road, either all year-round or seasonal, and, if so, what are those restrictions.

Thanks,

Lance Thornton

Thornton Law Offices, P.C.  
301 North Nottawa  
Sturgis, Michigan 49091  
(269) 651-4880

Thornton Law Offices, P.C.  
62790 Nottawa Rd.  
Sturgis, Michigan 49091  
(269) 651-4880

# **ATTACHMENT K**

## **TOWNSHIP STOP WORK ORDER**

<b>SAFE BUILT INC.</b> <b>INSPECTION REPORT</b>
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PM/OV# 23-BOT-BWOP00010 JURISDICTION TOWNSHIP OF BURR OAK

Date of Inspection: 1/5/2024 Inspector: Vaughn Reed Phone No.: (269) 729-9244

Property Address: 66411 BIG HILL ROAD

YODER JONATHAN

Owner

Contractor

[illegible]

PLEASE CONTACT OUR OFFICE NO LATER THAN [REDACTED]  
TO ADVISE OF YOUR INTENTIONS TO CORRECT THE VIOLATIONS @ (269) 729-9244

☒ PICTURES ON FILE

CC: SUPERVISOR  
CC: ATTORNEY  
CC: CATHERINE KAUFMAN  
CC: \_\_\_\_\_

☒ NB  
FUD☐ B



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF AGRICULTURE  
AND RURAL DEVELOPMENT

DR. TIM BORING  
DIRECTOR

February 9, 2024

James F. Scales  
MIKA MYERS PLC  
900 Monroe Ave, NW  
Grand Rapids, MI 49503

Dear Mr. Scales:

The Michigan Commission of Agriculture and Rural Development (MCARD) received your request to appeal the Michigan Department of Agriculture and Rural Development's (MDARD) Site Suitability Approval Determination of the Jonathan and Fannie Yoder poultry facility. MDARD approves your request to appeal.

MCARD Policy Manual #10, outlines the requirements of an acceptable appeal. Those requirements include:

- A person with property within one-half mile of the site of the proposed livestock facility may submit a request to appeal.
- A request to appeal must be filed within 30 calendar days of the date MDARD's site suitability determination is posted on MDARD's website.
- The request to appeal must identify with specificity the section or requirement in the Site Selection GAAMPs that the requestor believes MDARD failed to apply or improperly applied when it made its site suitability determination.
- The request must include relevant facts, data, analysis, and supporting documentation for the appellant's position.

Your request to appeal meets the requirements above and is approved.

MDARD staff have requested the Site Selection GAAMPs Advisory Committee Chairperson to convene a panel of recognized professionals to review MDARD's Site Suitability Approval Determination and information in your appeal. Within 28 days of this decision, the panel shall submit a report of its findings for consideration at a MCARD meeting.

If you have any questions or concerns, please contact MDARD's Right to Farm Program at [MDARD-RTF@Michigan.gov](mailto:MDARD-RTF@Michigan.gov) or 517-285-1752.

Sincerely,

A handwritten signature in black ink that reads "Tim Boring".

Dr. Tim Boring  
Director



1 Yes there is ~~at~~ a house an barn directly across the road from the Chicken Barn. Jeff an Cindy Hack live there but have no problem with what we are doing.

2 Yes we did talk to the township an to Steve Mohony <sup>Mohoney</sup> an Jay Corson if this anything that mattered about not living on a Class A Road. An they all said not to their knowledge.

3 the driveway has been there for the last 4 yrs. So the farmer had excess to the fields, we did put gravel on it.

4 We will start out with a diesel generator until we get solar put in which we plan to do so as soon as the loan goes thru. an have the generator for back up.

5 the eight non-farm residences that they are talking about are not valid I Eric Kelly right to the porch has 10 acres. He has sheep an ~~an~~ a few Cattle. Greg's land gets farmed as in corn an soy beans. Joe Gibbs has chickens an some Cattle. an Joe's land also gets farm as in corn an soy beans the land to the north get farmed also as in corn an soy beans an Klingu has a Rat Barn that he raises Rats in. So yes we are well surrounded with farms.

Some of the neighbors told us about the



6 An we still have beef cattle, not just had in the past.

7 We will be gathering ~~an~~ eggs an have a cooler sent big enough to store 10 days worth of eggs for Natural Family Farms

8 Regarding the sworn ~~statment~~ Statement ~~provided by~~ Greg Persing  
We talked to the township of Burr Oak an asked do we need a zoning permit. They said no, if you are with the state. We don't need anything from them. And we were talking to Steve Mohoney in the mean time, to see how the site suitability is coming. On Dec. 20th Steve said they got the O.K. to approve it. However the letter did not get signed until Jan. 2. So in the appeal they are saying we ~~violated~~ the township zoning ordinance. But the inspector was out, and said we meet their set backs exceedingly. We started dirt work Dec. 11th. Not in Nov. an Dec. 26th 2 guys were here marking sill plates. Dec. 27th Safe built comes an says you need a permit, so right away we went an applied an paid for it, then later they tell us no we don't need it after all. Construction started Dec. 27th.



In as far as the stop work order. They send a letter, they recommend we stop. But did not say we have to stop. so we continued on, as they were 50,000 birds growing, so we wanted the barn ready for the them.

Greg says he has never seen more than 6 large animals the entire time he has lived here. Well we have never had less than 6 horses, sometimes we had up 12 horses plus the cows and some sheep. The first 2 yrs. that we lived here, we did use the old calf barn and fed up to 250 - 280 calves at a time. ~~It~~ It has been 5 yrs. since we last did feed calves, for Country View Calves.

The driveway Greg talks about was never a problem before it's been there for the last 4 yrs.

Also too he use Eric Kelly's name, an Eric personally told us he has no problem with what we're doing, but signed the paper to get Greg off his back.

If this sworn letter was used to bring on this appeal. We felt we need to let you know it's not valid. Some of the neighbors told us about the lies he used to get people to sign.



## **Jonathan Yoder Poultry Farm Site Suitability Report**

### **March 1, 2024**

This Site Suitability Report discusses items considered by the recognized professionals regarding the appeal to reconsider the Michigan Department of Agriculture and Rural Development (MDARD) siting verification determination for the Jonathan and Fannie Yoder Poultry Facility located in Section 29 of Burr Oak Township, St. Joseph County, Michigan.

The panel of professionals reviewed the following information provided by MDARD staff prior to development of the recommendation:

1. Correspondence and supporting documentation from those who submitted the appeal to the Michigan Commission of Agriculture Rural Development.
2. Supporting documentation from the facility's application to MDARD for siting verification.
3. Generally Accepted Agricultural and Management Practices for Site Selection and Odor Control for New and Expanding Livestock Production Facilities (Siting GAAMPs) dated January 2023.

The panel of professionals referenced only the 2023 Siting GAAMPs as the application was submitted in 2023.

The review request contained several questions and concerns (summarized herein) that were discussed by the professionals:

**Question:** Does the site meet the criteria as an expanding livestock facility or a new livestock production facility?

- There exists a great deal of ambiguity within the Siting GAAMPs between "Livestock Facility," "Expanding Livestock Facility," and "New Livestock Production Facility." The panel of professionals spent a great deal of time trying to sort through the inconsistencies within the GAAMPs.
- Because of this ambiguity, the panel of professionals felt it was appropriate to recommend the Ag Commission request MDARD staff reevaluate the site as a New Livestock Production Facility including consideration of all applicable property line setback reductions based on the Odor Management Plan as outlined within the GAAMPs, using the 2023 Siting GAAMPs.
- The panel of professionals realizes their recommendation may necessitate the applicant to update the Odor Management Plan for the site in question.
- The panel of professionals also notes that the facility in question may still be found in conformance with the Siting GAAMPs as a New Livestock Production Facility.
- The panel of professionals also recommends the Ag Commission request the Siting GAAMP Advisory Committee review the definitions within the Siting GAAMPs with the goal of removing the ambiguity.

**Conclusion:** The panel of professionals agree, the site should be reevaluated as a New Livestock Production Facility and the ambiguity of the definitions found within the Siting GAAMPs should be reviewed by the Siting GAAMP Advisory Committee.

**Concern:** The site is not located on a Class A road.

- The introduction of the Siting GAAMPs mention access to Class A roads as a factor that should be taken into consideration by the applicant when selecting a site, however, there are no applicable guidelines within the Siting GAAMPs that address feed and product movement for MDARD to directly consider in the decision of whether to issue site suitability.

**Conclusion:** The panel of professionals agree, the information submitted met the criteria set forth within the Siting GAAMPs and access to Class A roads is not a determination for conformance with the Siting GAAMPs.

**Concern:** After receiving notification of Site Suitability, the applicants ignored MDARD's suggested 30-day waiting period to construct.

- Any construction during the 30-day waiting period is a risk taken by the applicants.
- If commencing construction is in violation of the Burr Oak Township Zoning Ordinances, it is not within the purview of the Siting GAAMPs.

**Conclusion:** The panel of professionals agree, the violation of the township zoning ordinances and master plan are not within the purview of the Siting GAAMPs.

**Concern:** The appeal expresses concern related to the noise from the high output gasoline generator that will be used to provide electricity for the site.

- There are no guidelines outlined in the Siting GAAMPs addressing noise.
- Other guidelines provide recommendation on noise levels and abatement. It is the applicant's responsibility to seek and follow those guidelines.

**Conclusion:** The panel of professionals agree, noise generation is not within the purview of the Siting GAAMPs when determining site suitability.

**Concern:** The appeal expresses concern of whether the existing farm is a commercial operation.

- There are no guidelines outlined in the Siting GAAMPs addressing the determination of commercial production.

**Conclusion:** The panel of professionals agree, the determination of a commercial facility is not within the purview of the Siting GAAMPs.



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF AGRICULTURE  
AND RURAL DEVELOPMENT

DR. TIM BORING  
DIRECTOR

**DATE:** February 23, 2024  
**TO:** Michigan Commission of Agriculture and Rural Development  
**FROM:** Jamie Zmitko-Somers, Agriculture Development Bureau Director  
**SUBJECT:** Hartford Farm Supply, LLC

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**Background**

Hartford Farm Supply, LLC, dba Paw Paw River Produce, LLC, located in Hartford, MI was founded December of 1997 when Jason and Trever Meachum purchased the existing facility from the Bury Family. The business originally focused on primarily dry-goods storage for several food processors in Southwest Michigan as well as some cold storage for apples and blueberries for the processing market. Over the past 26 years, the company's business model has changed, and the fresh apple market has evolved to supply fresh fruit year-round to distribution centers, such as Walmart. The company is now focused on providing controlled atmosphere (CA) storage to apple growers in the region and currently has CA storage capacity to support approximately 200,000 bushels of apples.

**Project Description**

The \$1,085,392 CA expansion project will create two new jobs and will retain 35 jobs. The project involves construction of a new 80 feet by 100 feet, three room, CA storage facility. Each of the three rooms will have a two-fan refrigeration coil, a Selco sealed door, and atmosphere lungs. The new building will also house a CO2 scrubbing unit.

The new CA facility will store approximately 66,000 bushels of apples resulting in a 33% increase in storage capacity; increasing service to the 30+ apple growers in the region. Adding this CA capacity for the growers and packers of fresh Michigan apples, particularly in Southwest Michigan, will help keep the Michigan apple industry viable and competitive in offering fresh apples year-round to the market. Paw Paw River Produce, LLC's current CA storage capacity for approximately 200,000 bushels of apples is maxed out. During the fall 2023 harvest, apple growers in the region did not completely harvest their trees due to CA storage capacity limitations.

The marketplace for apples has evolved to supplying distribution centers, like Walmart, with a supply of fresh fruit year-round. CA storage is used to store apples until it is time to pack and market them throughout the year. Washington State already has the CA storage in place to pack and market apples year-round. To ensure Michigan's competitiveness in providing a year-round supply of fresh apples for the appropriate markets, increased CA storage options are needed. If Michigan apples cannot be provided year-round to meet market needs, then these distribution centers are supplied with apples imported from other states like Washington or South American countries. To position Michigan as a year-round supplier of fresh apples, increased CA storage capacity is necessary.

### **Impact on Michigan's Agriculture Industry**

Southwest Michigan is short on CA storage with only three active CA storage facilities in the region, including Paw Paw River Produce, LLC. When local storage space has been filled, local processors, growers, and fresh packers must ship apples out of the region or out of the state to store them. This means more food miles on the apples and higher costs due to increased shipping charges. With only three active CA storage facilities in the region, fresh market apple growers have limited choices in Southwest Michigan for storage. The project would add 66,000 bushels of CA storage to Paw Paw River Produce, LLC, which rents space to Shafer Lake Fruit with fruit marketed by Riveridge Produce Marketing. The company also rents space to Sill Farms, Peterson Farms, and others. This process ensures a grower will receive the best pack-out and pricing for their apples. The additional CA space in Paw Paw River Produce, LLC's facility will allow Shafer Lake Fruit to pack apples for an additional 30-40 days per year.

The expanded CA storage will also enhance the diversification of Michigan's apple crops by enabling local growers to expand newer apple plantings and higher-density plantings on their farms. These local growers will then have a place to store their apples until marketing conditions are right for their fruit. It will allow for more apples to be harvested and sold instead of remaining unharvested and lost on trees.

### **Additional Impact**

The CA storage project will result in community and sustainability impacts. The additional 30-40 days of pack time would increase the likelihood that seasonal employees would not need to be laid off between harvest seasons, with layoffs normally occurring from June into early August. The additional pack time will result in employees retaining full-time, year-round employment. This project is expected to create the need for two additional employees and potentially, in a normal crop year, convert approximately 35 seasonal employees at Shafer Lake Fruit to full-time employees. The local economy (schools, businesses, and service providers) will all directly benefit with more fruit staying local and having a labor force present that is not seasonal.

This project will provide employment opportunities and will have an impact on socially disadvantaged workers, including individuals from Central American countries. Most current employees represent individuals from Central American countries and it is anticipated that new employees will have a similar background given employee referrals. The majority of employees retained will be Hispanic or Latin-American female employees.

Expanding the CA storage capacity in Southwest Michigan will result in decreased emissions and diesel fuel use from transporting apples out of the region or out of state for storage. It will also contribute to more sustainable practices for growers.

In addition, access to increased CA storage will allow apple growers to become more efficient and competitive through higher-density planting. While higher-density planting has more upfront costs than less dense planting related to higher cost trees and trellis installation, higher-density planting in the long run results in less water, pesticide, and fertilizer consumption. This contributes to less environmental impact and supports the optimal use of available orchard land resulting in higher yields on less acreage.

### **MDARD Staff Recommendation**

Michigan Department of Agriculture and Rural Development staff recommend the Michigan Commission of Agriculture and Rural Development approve a Food and Agriculture Investment Fund performance-based grant of \$60,000 for Hartford Farm Supply, LLC.



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF AGRICULTURE  
AND RURAL DEVELOPMENT

DR. TIM BORING  
DIRECTOR

**DATE:** February 28, 2024

**TO:** Michigan Commission of Agriculture and Rural Development

**FROM:** Jamie Zmitko-Somers, Agriculture Development Bureau Director

**SUBJECT:** Micah 6 Community

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### **Background**

Micah 6 Community was founded in 2012 as a small community development outfit in Pontiac, Michigan that manages 1.25 acres of farm space including two high tunnels and a four-season greenhouse. Their produce, once grown, goes to their store in the community, Sprout Fresh Food Store. A significant portion of the produce goes to several pantries and kitchens in the area including several free church food distributions, a diabetic food pantry, and several group homes.

In 2019, Micah 6 Community did a large community survey where they interviewed 242 people residing in their census tract asking them what kinds of services and activities they wanted to see in the community center. Neighbors identified four focus areas: arts and culture, health and wellness, youth programs, and entrepreneurship. Of those who took the survey, more than 50% of respondents stated they wanted to see a small grocery store and a farmers' market in the building and almost 50% of respondents said they would be interested in cooking and healthy eating classes. Their largest project to date, the Webster Community Center, seeks to bring together food work, community support organizations, and the arts into one space for the betterment of the city.

### **Project Description**

Webster Community Center is an adaptive reuse of the Webster Elementary School in Pontiac, MI which has been vacant since 2007. In total, this is a \$34 million dollar renovation funded in part through tax credits, ARPA funds, philanthropic support, and many small donors over the years.

The food related portions of the Webster Community Center include the food co-op, the commercial kitchen, and a small farmers' market creating six jobs and have an investment of \$1,579,269 for building renovations and equipment. Once building renovations are completed, the facility will feature a rentable commercial kitchen for food entrepreneurs along with wash pack space. There will also be a small food co-op, which will be Pontiac's first new grocery store in over a decade. On the weekends during peak season the renovated school gym will also host a farmers' market. This project is crucial to creating a bridge to bring much needed produce and healthy foods into the community as well as support the growing food entrepreneur sector that is quickly coming to the area.

Pontiac doesn't have a grocery store on the west side of the city and the nearest grocery store is in Waterford, MI and public transportation does not connect to Waterford. This has socially disadvantaged many who are transportation challenged and must walk at least a mile to access a grocery store or results in grocery shopping at the local gas station.

### **Impact on Michigan's Agriculture Industry**

The food work at Webster Community Center will expand the number of ways they can partner with local farms. Farmers will have the opportunity to sell directly to consumers as a vendor at the farmers' market or sell to the kitchen entrepreneurs who will then use the produce in value-added ways to create or enhance new products. Several of the entrepreneurs who will be using the commercial kitchen at Webster Community Center said they have a strong desire to integrate locally grown produce into their products.

Webster Community Center will help farmers supplement their Community Supported Agriculture (CSA) shares with other locally grown produce they aggregate or connect them to other farmers who can help bolster their shares and set them apart.

Projections indicate the kitchen, with five rentable stations, will be in use 120 rent hours each week by more than 40 entrepreneurs a year. More than a dozen businesses provided letters of interest towards the project, including Local Soup, Too Talented Ladies, Plain and Fancy, Dr. Tia's Bake Shop, and more.

### **Additional Impact**

Webster Community Center will provide an educational component to support local small growers and food producers, helping them become more sustainable and successful in the local food markets. Classes, run by experts, on important topics such as marketing, cottage food laws, best practices, staffing, insurance, and inspections are going to be incredibly important to supporting local small farmers and food producers.

Micah 6 Community believes in continuing to train the workforce and anticipates Webster Community Center will be a place where others do as well. For food entrepreneurs using the kitchen, Serve Safe certification will be required. Serve Safe certification training will be offered twice a year for all who want to take it.

The Webster Community Center is located in a densely populated area in Pontiac on a major bus route. The opportunity for community members to take the bus to the building for their grocery and produce needs is ideal. The building will also have 280 solar panels on the roof, projected to virtually eliminate the electric bill in the building during peak months.

### **MDARD Staff Recommendation**

Michigan Department of Agriculture and Rural Development staff recommend the Michigan Commission of Agriculture and Rural Development approve a Food and Agriculture Investment Fund performance-based grant of \$65,000 for Micah 6 Community.