

Cherry Capital Airport Zoning



**Joint Board Meeting
March 14, 2024**

Agenda



- **Introductions**
- **Federal Law Overview**
- **State Law Overview**
- **Local Impacts Overview**
- **Section 17 Overview**
- **Q&A**

Cherry Capital Airport Zoning



Federal Law Overview

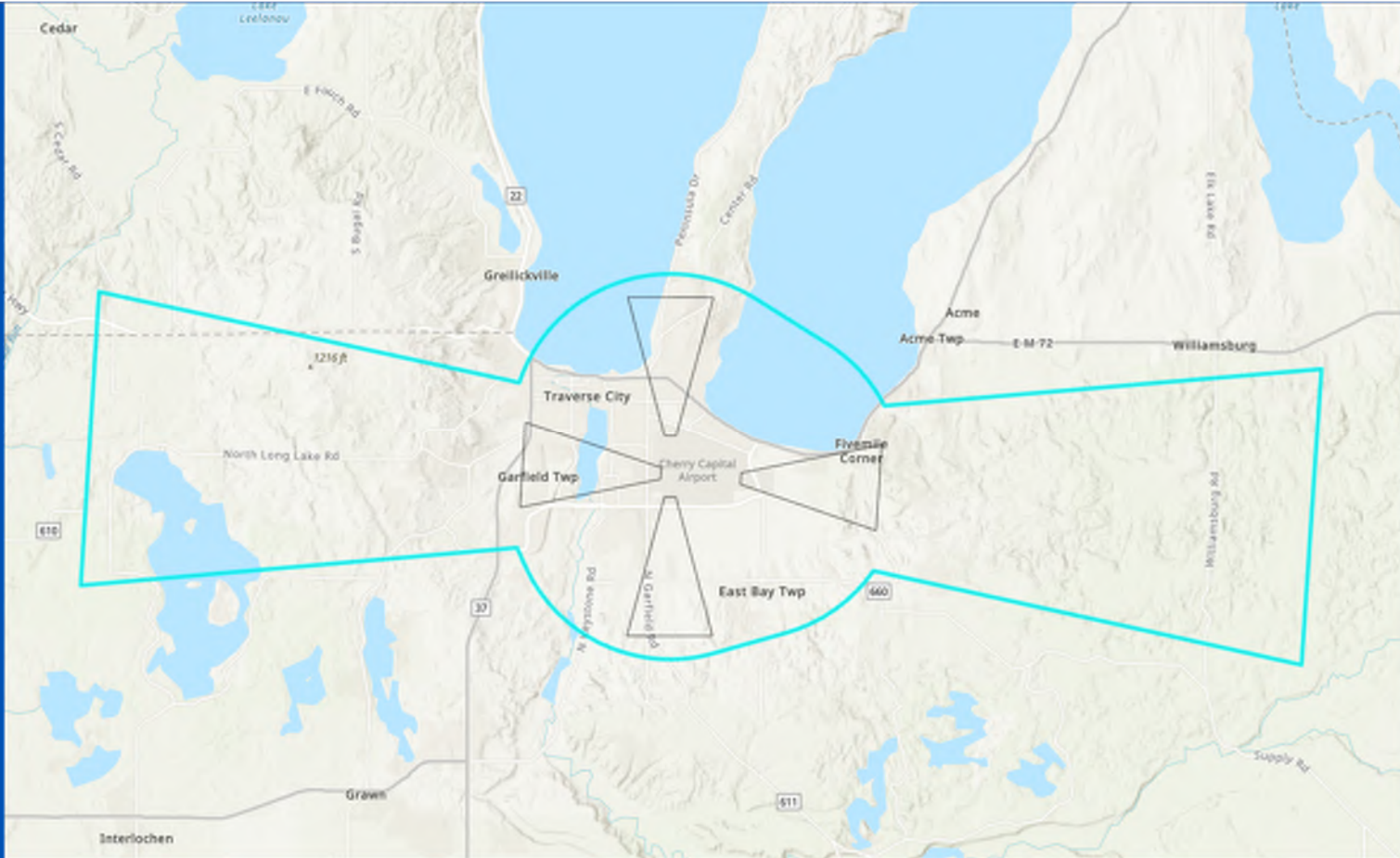
Cherry Capital Airport Zoning



FAA 14 CFR PART 77

- **77.5 Applicability**
 - (a) If you propose any construction or alteration described in § 77.9, you must provide adequate notice to the FAA of that construction or alteration.
- **77.9 Construction or Alteration Requiring Notice**
 - (a) Any construction or alteration that is more than 200 ft. Above Ground Level at its site.
 - (b) Any construction or alteration that exceeds an imaginary surface extending outward and upward at ...100 to 1 for a horizontal distance of 20,000 ft. from the nearest point of the nearest runway]

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State Law Overview

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Michigan Airport Zoning Act

- **Act 23 of 1950**
- **Last Amended 2009**
- **Established to:**
 - **promulgate, adopt, establish, administer, and enforce airport zoning regulations limiting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of publicly owned airports**

Cherry Capital Airport Zoning



Effects

- **Definition of Airport Hazard**
- **Airport Hazard declared public nuisance**
- **Part 77 Surface Co-Regulated by MDOT**

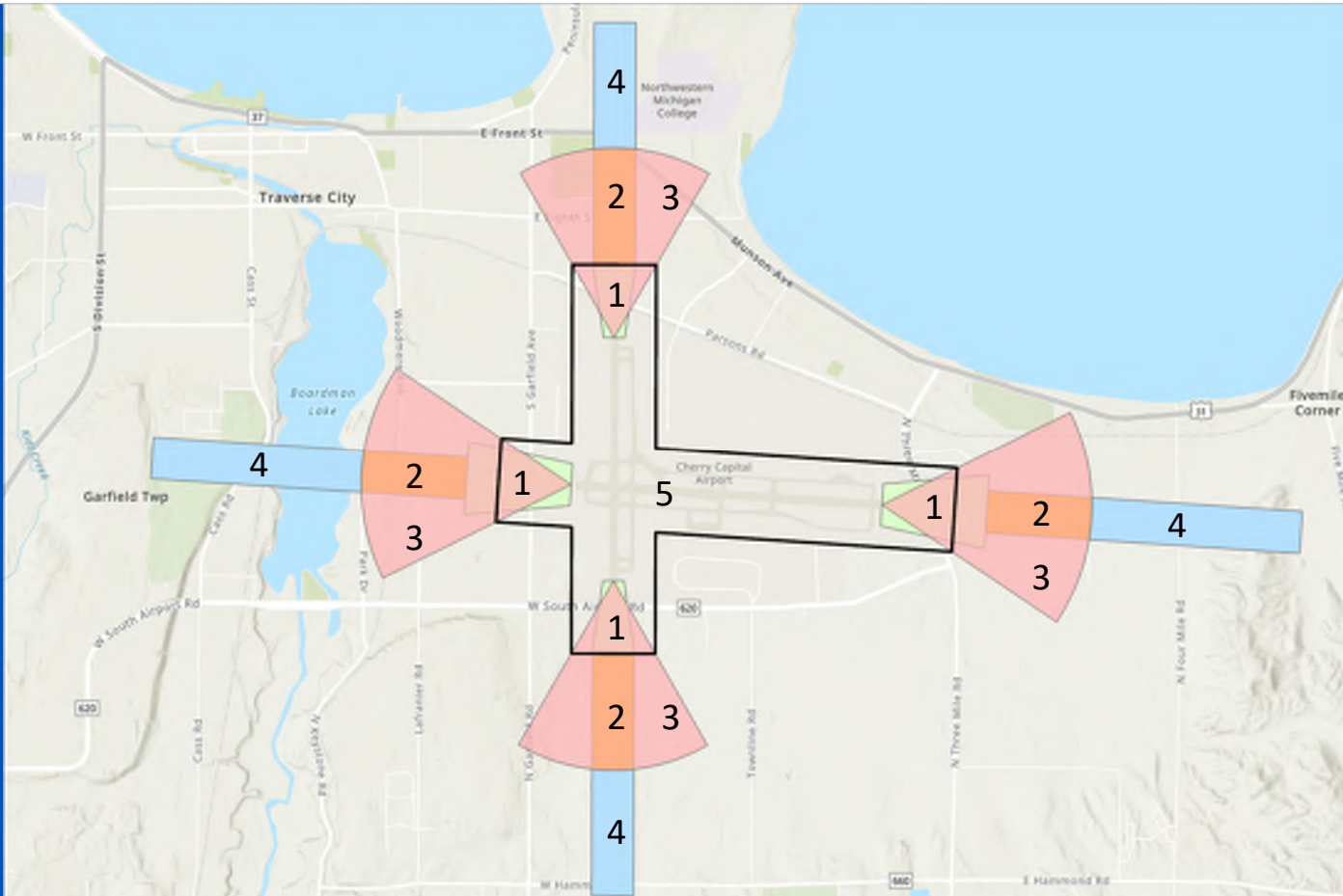
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Effects

- **Additional Land Use Zoning**
 - As of March 28, 2001 - any “zoning ordinance” within the airport zoning regulations area are to be integrated and enforced as part of the zoning regulation (MCL 125.3203)
 - Any revisions to the approach plan by the MAC, shall require amendments to the comprehensive zoning ordinance

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- **Zone 1**
 - 0-5 people/acre, residential prohibited, ideally airport-owned
- **Zone 2**
 - 0-5 people/acre, residential prohibited, unoccupied (storage)
- **Zone 3**
 - <25 people/acre, low-density residential, limited uses
- **Zone 4**
 - <40 people/acre, low-density residential, limited uses
- **Zone 5**
 - 0-5 people/acre, residential prohibited, unoccupied (storage)

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Local Impacts Overview

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Current Process

- 1) Determine if the project requires a submission:
 - <https://oeaaa.faa.gov/oeaaa/external/gisTools/gisAction.jsp?action=showNoNoticeRequiredToolForm>

- 2) If required, submit an FAA airspace case:
 - <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>,
 - By statute, the FAA has up to 90 days to respond.

- 3) For Buildings (not cranes) submit the airspace case number (20XX-AGL-XXXXX-OE) for a State of Michigan Tall Structures permit:
 - <https://www.michigan.gov/mdot/travel/mobility/aeronautics/airspace-zoning/applying-for-tall-structure-permit>

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Lack of Compliance

- Jurisdiction providing approvals in violation of Federal & State Law
- Development owners have liability

Mitigations

- No current mechanism under state law to issue a variance
- Establishment of Local Airport Zoning Board
 - Provide local control
 - Assess projects for potential variances

Airspace Zoning Board



Airport [Airspace] Zoning Board (MCL259.443-7)

- **Section 17:**
 - **multiple subdivisions, State hazard declaration, joint board established by statute**

Thank You



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