

Hayes Township, Charlevoix County, Planning Commission

Regular Meeting of Planning Commission

April 19, 2022 7:00 pm

Hayes Township Hall

9195 Major Douglas Sloan Road

Charlevoix, Michigan 49720

Zoom

<https://us02web.zoom.us/j/83616211385?pwd=UjVnbTkrTHJXNnJ1dkg3M255UUFHQ09>

Meeting ID: 836 1621 1385

Passcode: 719671

+1 312 626 6799 US (Chicago)

### **AGENDA**

Call to Order

Pledge of Allegiance

Welcome New Member

Review of Agenda

Declarations of Conflict of Interest

Approval of Minutes- February 15, 2022

Public Comments Unrelated to Agenda Items

Report of Township Board Representative to the Planning Commission

Report of Planning Commission Representative to the Zoning Board of Appeals

Zoning Administrator Report –

New Business – Amendment to Planning Commission Bylaws

Election of Vice-chairperson/Secretary

Review Article VIII -Planned Unit Development

Old Business – Set/Confirm Public Hearing Dates

– Set public hearing for Bayshore Steel Special Use Permit (Accessory Building)

Set/Confirm Date of Next PC Meeting – May 17, 2022

Public Comment -

Planning Commission Comment

Adjournment

To best facilitate a hybrid meeting (in person as well as ZOOM) for the public, please adhere to the following guidelines:

**In person attendance**

1. Doors to the hall will open at 6:45 pm
2. Please voluntarily provide a name for the record
3. Please hold all comments until the appropriate designated public comment agenda item
4. To maintain an orderly meeting while providing opportunity for the public to be heard, Planning Commission Chairman will call names in appropriate order
5. We ask that you voluntarily state your name for the record
6. Direct all comments to the planning commission
7. Keep comments brief and to the point (3 minutes per person); deputy clerk will advise when time is up
8. Do not speak while others are speaking
9. Minutes may not be yielded to other speakers.

**Via ZOOM attendance**

1. Upon signing into the meeting, please voluntarily provide a name for the record
2. All ZOOM participants will be admitted from the waiting room prior to the start of the meeting
3. All ZOOM participants will remain muted until called on during the appropriate designated public comment agenda item
4. Please raise your hand to be called on during public comments
5. Direct all comments to the planning commission
6. Keep comments brief and to the point (3 minutes per person); participant will be muted at 3 minutes
7. Minutes may not be yielded to other speakers.

Note: A quorum of the Hayes Township Board members may be present at this meeting. No Hayes Township Board business will be discussed or conducted at this meeting.

Hayes Township Planning Commission  
February 15<sup>th</sup>, 2022  
Regular Meeting  
At Hayes Township Hall  
Zoom ID 811 2310 4165

1 **CALL TO ORDER:** Chair Roy Griffiths called the meeting to order at 7:00 p.m.

2 Members present Roy Griffiths (Chair), Ed Bajos, Matt Cunningham (Board of Trustee  
3 Representative), Rex Greenslade (ZOOM), Omar Feliciano (Vice-Chair), Marilyn Morehead, and  
4 Steve Bulman  
5 Also, present: Ron VanZee (Zoning Administrator), and April Hilton (Recording Secretary/Deputy  
6 Clerk) Kristin Baranski.  
7 Audience members signed in: Jim McMahon, Bob Jess, Ellis Boal, Luanne Kozma, Doug Kuebler,

8  
9 **PLEDGE OF ALLEGIANCE TO THE FLAG:** Mr. Griffiths led the Pledge of Allegiance.

10  
11 **REVIEW AGENDA:**

12 Additional item  
13 Marilyn Morehead Draft Proposal  
14 Mr. Bajos made a motion, supported by Mr. Cunningham to approve the agenda as amended.  
15 Yeas: Roy Griffiths, Ed Bajos, Matt Cunningham, Omar Feliciano, Marilyn Morehead, Steve  
16 Bulman.  
17 Nays: None Motion Passed

18  
19  
20 **DECLARATIONS OF CONFLICTS OF INTERESTS:** None

21  
22 **APPROVAL OF MINUTES JANUARY 18<sup>TH</sup>, 2022 REGULAR MEETING:**

23 Mr. Bajos made a motion, supported by Ms. Morehead, to approve the January 18<sup>th</sup>, 2021,  
24 regular meeting minutes as corrected. Motion passed.  
25 Yeas: Roy Griffiths, Ed Bajos, Matt Cunningham, Omar Feliciano, Marilyn Morehead, Steve  
26 Bulman.  
27 Nays: None

28  
29 **APPROVAL OF MINUTES FEBRUARY 8<sup>TH</sup>, 2022 SPECIAL MEETING/TRAINING**

30 Mr. Bajos made a motion, supported by Ms. Morehead, to approve the February 8<sup>th</sup>, 2022,  
31 special meeting minutes as corrected. Motion passed.  
32 Yeas: Roy Griffiths, Ed Bajos, Matt Cunningham, Omar Feliciano, Marilyn Morehead, Steve  
33 Bulman.  
34 Nays: None

35

Hayes Township Planning Commission  
February 15<sup>th</sup>, 2022  
Regular Meeting  
At Hayes Township Hall  
Zoom ID 811 2310 4165

**PUBLIC COMMENTS UNRELATED TO AGENDA ITEMS:**

Public comments open at 7:04pm

Comments included:

-

Public comments closed at 7:11 pm

**REPORT OF TOWNSHIP BOARD REPRESENTATIVE TO THE PLANNING COMMISSION:**

Matt Cunningham gave an oral report of the February 14<sup>th</sup>, 2022, Board of Trustees meeting.  
The next Board meeting will be March 14<sup>th</sup>, 2022.

**REPORT OF ZONING BOARD OF APPEALS REPRESENTATIVE:**

Mr. Griffiths gave an oral report of the ZBA case for interpretation on January 26<sup>th</sup>, 2022, and an appeal case on February 2<sup>nd</sup>, 2022.

**MARILYN'S DRAFT PROPOSAL:**

Mr. Bajos made a motion, supported by Mr. Bulman to approve Marilyn to establish a public meeting to address affordable housing in Hayes Township. Motion passed.

Yeas: Roy Griffiths, Ed Bajos, Matt Cunningham, Omar Feliciano, Marilyn Morehead, Steve Bulman.

Nays: None

**ZONING ADMINISTRATOR REPORT:** Ron VanZee presented an oral Zoning Administrator report. A copy of this report is available at the township hall.

**NEW BUSINESS**

**REVIEW PRELIMINARY DRAFT ARTICLE VII – ZONING DISTRICTS:**

The Planning Commission reviewed and discussed the Preliminary Zoning Ordinance draft of Article VII concerning Zoning Districts. The Planning Commission will continue work on articles.

Hayes Township Planning Commission  
February 15<sup>th</sup>, 2022  
Regular Meeting  
At Hayes Township Hall  
Zoom ID 811 2310 4165

**SET/CONFIRM PUBLIC HEARING DATES:**

None

**SET/CONFIRM DATE OF NEXT REGULAR PLANNING COMMISSION MEETING:**

Next regular Planning Commission meeting will take place on March 15<sup>th</sup>, 2022, at 7:00 pm at the Township Hall.

**PLANNING COMMISSION COMMENT:**

**PUBLIC COMMENT:**

Public comments open at 8:18 pm

Comments included:

-

Public comments closed at 8:25 pm

**ADJOURNMENT:**

Mr. Bajos made a motion, supported by Ms. Morehead, to adjourn the meeting at 8:26 pm.

Motion passed.

Yeas: Roy Griffiths, Ed Bajos, Matt Cunningham, Omar Feliciano, Marilyn Morehead, Steve

Bulman.

Nays: None

Respectfully Submitted by:

April Hilton

Recording Secretary/Deputy Clerk

## 8.1 Purpose

The PUD zoning district is an overlay district that encompasses Agricultural and Residential zoning districts, and provides for the review of single and mixed-use land development projects on a case-by-case basis.

The types of land developments eligible for consideration as PUDs include, but are not necessarily limited to, single and multi-unit residential developments; single and multi-unit residential uses combined with golf course/country clubs; single use recreational and resort-oriented developments such as campgrounds, resorts, public or quasi-public golf courses; conference and retreat centers providing lodging and dining facilities together with residential facilities for management and staff. All site condominium projects proposed in Hayes Township shall comply with this Article.

The PUD overlay district is established to accomplish the following objectives:

- a. To encourage the use of land in ways consistent with its character and adaptability;
- b. To enable farmers and other landowners to realize their rightful equity in their land holdings by providing for the division, sale, and development of land;
- c. To provide for the preservation of farmland, orchards, forest land, open space, visual and community character and to protect and preserve natural resources;
- d. To provide for the division of land under the provisions of the Land Division Act (P.A. 591 of 1996, as amended) and the Condominium Act (P.A. 59 of 1978, as amended);
- e. To provide for the orderly development of land and the orderly layout of lots;
- f. To assure that land is suitable for the creation of building sites and to allow innovation and flexibility in the design of residential and mixed-use developments;
- g. To provide for the provision of environmental amenities and recreational opportunities to present and future residents of the community by providing for the development of land in a manner consistent with the Hayes Township Master Plan;
- h. To provide for safe and adequate ingress and egress to lots;
- i. To provide for the construction and maintenance of roads, storm water management systems, and public utilities in an economical and efficient manner;
- j. To provide for the construction and maintenance of facilities and infrastructure in a manner that does not overburden the Township's financial ability to provide such facilities and infrastructure;
- k. To assure the equitable provision of fire, emergency, medical, and police services to all residents and property owners;
- l. To encourage and accommodate innovation in the design, layout, and construction of land uses and land development projects;
- m. To promote the enhancement of housing with particular emphasis on affordable housing, employment, shopping, traffic circulation, and recreational opportunities for the people of the Township;
- n. To provide for other purposes as outlined in Section 503, Michigan Zoning Enabling Act, P.A. 110 of 2006.

## 8.2 General Requirements

Single and mixed-use PUDs shall be subject to the following general requirements:

- o. Location  
PUD may be established in a zoning district.
- p. Minimum Land Area  
The minimum lot area eligible for PUD overlay is ten (10) acres. The Planning Commission may consider smaller parcels where Municipal or communal water and sewer are available.
- q. Residential Component  
All proposed PUDs, whether single use or mixed use, shall be encouraged to have a residential component.
- r. Single Ownership and Control Required  
The land or proposed PUD must be under single ownership or control. Single ownership and control shall consist of landownership and/or control by an individual or a single legal entity. An owner or entity in control of a PUD under this Article shall assume joint and several liability for completing a PUD subject to the provisions of this Article.
- s. Escrow Funds  
Applicants shall be required to deposit escrow funds of a reasonable amount to cover costs associated with the Township's use of engineering, legal and planning consultants during the review of preliminary and final applications for PUD zoning.
- t. Approved PUD Plan Functions as PUD Overlay District Regulations  
The final site plan, other plans and statements submitted by applicants and accepted by the Township and conditions imposed by the Township that are associated with an approved PUD shall constitute the zoning regulations governing the alteration of land and natural resources and the layout, construction, use and occupancy of buildings, improvements, and structures within a PUD.

## 8.3 PUD Overlay Districts are Established on Case-by-Case Basis

- u. Single Use PUDs  
Single use PUDs containing a use allowed in an underlying zoning district shall be established as a special use approved under Article XI of this Ordinance. An accelerated process shall be developed if no change in the zoning requirements proposed.
- v. Mixed Use PUDs  
Applications for mixed use PUDs shall be processed in the same manner as any other application for rezoning property. Mixed use PUDs may be established provided underlying zoning district use regulations will not be circumvented by the uses proposed.  
  
The establishment of industrial uses in zoning districts in which such uses are not allowed as permitted or special uses are not permitted under any circumstances.

## 8.4 Pre-application Conference (refer to ~~Figure TBD~~ *Planned Unit Development (PUD): Review Process, Article ~~TBD~~* or Flow Chart of the PUD Review/Approval Process)

Applicants shall attend a pre-application conference with the zoning administrator and/or Township planner and Planning Commission representative to present PUD concepts for informal, non-binding informational purposes. Pre-application conferences are intended to allow applicants to address

Article ~~11.8~~ Design and Approval Standards; develop an administratively complete PUD application prior to consideration by the Planning Commission; and to allow the Township to inform applicants of the Township's PUD and other land use goals, policies and objectives, and to identify and address any potential areas of concern.

Statements made by applicants or the Zoning Administrator at pre-application conferences are intended to be informational and not legally binding.

## 8.5 Applications

Applications for PUDs shall be submitted and processed as outlined below:

### w. Single Use PUDs

Single use PUDs containing a use allowed in an underlying zoning district shall be established as a special use. Single use PUD applications shall be submitted to the Zoning Administrator not less than thirty (30) days before the date on which the Planning Commission will first consider same.

### x. Mixed Use PUDs

Applications for mixed use PUDs shall be processed in the same manner as any other application for rezoning property.

Applications shall consist of the following materials and information:

- a. A completed application form;
- b. An application fee;
- c. An escrow fee within twenty (20) days of the zoning administrator and/or Planning Commission's determination of the required reasonable escrow amount;
- d. A preliminary PUD site plan complying with the provisions of Article TBD Content of Site Plans. If the PUD is proposed for development in phases, the location and timing of each phase must be indicated on the site plan;
- e. A natural and cultural features inventory identifying primary conservation areas such as wetlands, waterways, floodplains, shorelines, views into and from the site, etc. and secondary conservation areas such as steep slopes, ridgelines, old buildings/structures, historic/archeological features, farmland, groundwater recharge/discharge areas, significant plant/wildlife habitat, etc., and potential development areas.
- f. A site yield plan showing potential lots, roads, maximum lot density, etc.
- g. A conservation design plan indicating development areas and proposed lots, common elements such as conservation areas, access roads, utilities, and acreage percent of conservation area set asides.
- h. A Written legal description of the property.
- i. A written statement describing, consistent with f. above:
  1. The number of acres of land subject to the application;
  2. The use or uses to be established in the proposed PUD, including the number and area of lots or building sites; number, type, and floor area of dwelling units; and the number, type, and floor area of all other buildings; and



3. If a PUD is proposed for phased development, a tentative construction schedule must also be provided. Applicant submits written request for review of final PUD plans and supporting documentation not less than twenty (20) days before the date of the regularly scheduled Planning Commission meeting at which the applicant wishes to have the application considered.
4. This request must be accompanied by the following materials and information:
5. Complete site plan;
6. Itemized cost estimate for construction of all improvements;
7. A soils report delineating soil types at the site, septic suitability, construction suitability, etc. as determined by the Charlevoix County Soil Survey and/or soil borings;
8. Approvals by the Health Department of Northwest Michigan; approval from fire and safety officials; approval from the Charlevoix County Road Commission for public road development (if any); and approval from Hayes Township for private road development per Section ~~TBD~~ of this Ordinance;
9. At the request of the Planning Commission, a hydrogeological report shall be provided documenting the depth to groundwater, groundwater flow direction, groundwater flow velocity, potential to impact nearby water well supplies and/or natural features, and/or the results of pump test(s), etc.; Documentation of arrangements for construction of improvements; and
10. Proposed covenants, deed restrictions, master deed, condominium or property owners' association by-laws.

## 8.6 Review Process

The steps followed in the single and mixed-use PUD review processes are outlined below. Please refer to *Figure XX Planned Unit Development (PUD): Review Process* for a detailed flow chart. Steps 1 through 5 apply to both types of developments. Step 6 applies only to single-use developments. Steps 6a and 7 apply only to mixed-use developments.

**Step 1** The Zoning Administrator notifies the applicant in writing that a PUD application is administratively complete and that escrow funds have been created or reasonable assurances are received in writing from a financial institution or other third party that escrow funds will be created.

**Step 2** Applicant files application for preliminary PUD approval at least thirty (30) days before the date of the regularly scheduled Planning Commission meeting at which the applicant wishes to have the application considered.

**Step 3** Planning Commission reviews the application, preliminary site plan, supporting documentation and if adequate information has been provided by the applicant, then the Planning Commission sets a date for public hearing in accordance with Section TBD.

At the hearing, the Planning Commission may request modifications to the preliminary site plan or may request that the applicant submit additional information deemed necessary to continue informed deliberations on the application. In such cases, the Planning Commission shall table consideration of

the application until the modified site plan and/or additional adequate information is provided by the applicant.

**Step 5** Planning Commission conducts public hearing.

1. Applicant presents the proposal;
2. Staff comments on the proposal
3. Public makes comments;
4. Close public hearing;
5. Commissioners make comments and ask questions;
6. Planning Commission deliberates;
7. Applicant addresses comments and questions; and
8. Planning Commission continues deliberations or preliminarily approves, approves with conditions, or denies application.

Within a reasonable period of time following the public hearing, the Planning Commission shall approve, deny, or approve with conditions the preliminary PUD site plan. The Planning Commission's decision must be consistent with the following standards:

The Planning Commission's decision must be in writing and include findings of fact clearly describing how the preliminary PUD does or does not comply with the provisions of this Article. The finding of fact shall state the bases for the Planning Commission's decision, and make specific reference to each of the design and approval standards outlined under Section 11.8 below.

Approval of a preliminary PUD site plan authorizes the applicant to proceed with the preparation of an application for final PUD approval.

**Step 4**

Applicant submits written request for review of final PUD plans and supporting documentation not less than twenty (20) days before the date of the regularly scheduled Planning Commission meeting at which the applicant wishes to have the application considered.

This request must be accompanied by the following materials and information:

1. Final site plan;
2. Itemized cost estimate for construction of all improvements;
3. A soils report delineating soil types at the site, septic suitability, construction suitability, etc. as determined by the Charlevoix County Soil Survey and/or soil borings;
4. Approvals by the Health Department of Northwest Michigan; approval from fire and safety officials; approval from the Charlevoix County Road Commission for public road development (if any); and approval from Hayes Township for private road development per Section 4.32 of this Ordinance;
5. At the request of the Planning Commission, a hydrogeological report shall be provided documenting the depth to groundwater, groundwater flow direction, groundwater flow velocity, potential to impact nearby water well supplies and/or natural features, and/or the results of pump test(s), etc.;

6. Documentation of arrangements for construction of improvements; and
7. Proposed covenants, deed restrictions, master deed, condominium or property owners' association by-laws.

#### **Step 6 Single Use PUDs**

Final Review by Planning Commission. Planning Commission reviews the final PUD site plan and supporting documentation and approves, approves with conditions, or denies application in accordance with the standards within Section 11.8 and Article XII.

#### **Step 6a Mixed Use PUDs**

Final Review by Planning Commission.

Planning Commission reviews final application, final site plan and supporting documentation and recommends that Township Board approve, approve with conditions, or deny the final PUD application in accordance with the standards within Section 11.8 and Article XII. The Planning Commission's recommendation must be transmitted to the Charlevoix County Planning Commission for review, and comment as is required of any Planning Commission recommendation on the rezoning of property.

If the County Planning Commission's response has not been received by the Township within thirty (30) days of receipt of the Township Planning Commission's recommendation, it shall be presumed that the County has waived its right for review. If such recommendation has been received, it shall be considered by the Township Planning Commission and forwarded to the Township Board with the Township Planning Commission's original recommendation.

#### **Step 7**

Final Action by Township Board (for mixed-use PUDs only)

The Township Board may take any of the following actions:

1. Conduct additional public hearings. Notification of such hearings shall be published in accordance with state law and this Ordinance.
2. Review evidence compiled by and findings of fact of the Planning Commission, and approve, approve with conditions or reject the mixed use PUD as recommended by the Planning Commission.
3. Remand the mixed use PUD review back to the Planning Commission for further deliberation if the Board determines that additional review is advisable.
4. The Township Board shall produce its own findings of fact in accordance with the standards within Section 11.8 and Article XII.
5. If approved, publish a notice describing the nature and extent of the PUD in a newspaper within fifteen (15) days of the date of its approval by the Township Board.

#### **8.7 Public Hearing Requirements**

At least one public hearing shall be conducted on applications for all PUDs. The date and time of the public hearing shall be set by the Planning Commission.

The notice shall 1) describe the nature of the proposed PUD and whether or not this is a hearing to rezone the property; 2) indicate the property subject to the application (an address if one exists and either a tax identification number or a legal description); 3) state where and when the application will be considered; 4) indicate when and where the application, preliminary site plan and other materials may be inspected by the public and; 5) state when and where written comments on the application will be received.

1. Publication

Notice including the date, time and place of a public hearing must be posted outside the Township Hall and published once in a newspaper of general circulation in Hayes Township. The publication must occur not less than fifteen (15) before the date of the public hearing.

2. Delivery

Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within three hundred (300) feet of the property and to occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in Hayes Township.

Notice shall be given not less than fifteen (15) days before the date the application will be considered for action by the Planning Commission. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following: a) describe the nature of the request; b) indicate the property that is the subject of the request including a legal description, or property tax identification number and a listing of all existing street addresses within the property, however street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

### 8.8 Design and Approval Standards

Before taking action upon a preliminary PUD Site Plan and final single or mixed use PUDs, the Planning Commission must insure compliance with the following standards:

a. Design Standards

1. Perimeter Setbacks/Greenbelt Buffer Zone

2. All PUD projects shall establish and maintain perimeter setbacks of one hundred (100) feet, which may be reduced at the discretion of the Planning Commission.

3. 11.16. Setback areas shall be maintained as a greenbelt buffer zone. Perimeter greenbelt buffer zones shall be one hundred (100) feet in width, which may also be reduced at the discretion of the Planning Commission. Such greenbelt buffer zones shall be maintained as vegetated open space or be re-planted with native vegetation consisting of trees, shrubs and/or groundcovers to create an effective visual buffer between a PUD and adjacent land uses. Refer to Appendix TBD for a list of allowable native plant species.

Pedestrian and bicycle pathways may occupy setback areas, and such areas may be used for stormwater management and/or snow storage. Pathways, if proposed, shall be six (6) feet or less in width; be designed and built to meet American Association of State Highway

Transportation Officials (AASHTO) Standards; exist within a ten (10) foot dedicated easement; and be intended for non-motorized use only.

4. Density and Open Space Requirements

The maximum number of single and Multiple dwelling units permitted in a single or mixed-use PUD shall be based on a density of one (1) lot or condominium unit per three (3) acres of land area, excluding land areas in, dedicated to, improved for, or occupied by any of the following:

- i. Surface waters, wetlands or floodplains;
- ii. Existing or proposed public or private road right-of-ways;
- iii. Existing or proposed constructed utility and stormwater drainage structures and/or easements;
- iv. Existing or proposed parking areas; or
- v. Existing buildings, including historic structures or sites.
- vi. This ratio of density may be changed at the discretion of the Planning Commission to meet the goals of encouraging housing options as identified in the Master Plan.

Lots and condominium units may vary in size. There shall be no minimum parcel size except what is deemed necessary for adequate septic disposal as required by the Northwest Michigan Community Health Agency. There will be no maximum parcel size. Rather, the total land area dedicated to single and Multi-unit residential lots or condominium units and all other improvements shall not exceed—Sixty (60%) percent of the parent parcel(s) preexisting area.

Not less than forty percent (40%) of the total land area shall be dedicated open space to be held in common association ownership. Open space shall consist of contiguous acreage not split by an existing public road or public highway. Any of the following natural and cultural features existing at a proposed PUD should be located within the forty percent (40%) open space area to the greatest extent feasible, including but not limited to: scenic vistas; pathways or other recreation areas internal to the development and intended for use by PUD landowners/association members; historic sites and structures; wetlands; and floodplains.

Such open space shall be set aside by the applicant through an irrevocable conveyance acceptable to the Township. The conveyance shall insure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use without approval by the Planning Commission for single use PUDs and by the Township Board for mixed use PUDs. Forms of conveyance may include:

- i. A recorded deed restriction to which Hayes Township is a party and signatory;
- ii. Covenants that run with the land in perpetuity; or
- iii. A conservation easement established in accordance with the provisions of P.A. 197 of 1980, as amended.

5. Layout of Residential Lots and Non-Residential Uses

Residential lots and non-residential buildings and improvements shall be laid out to the greatest extent feasible, as follows:

- i. On soils most suitable for septic systems. Hydric soils and soils containing a permanent high water table or hydric inclusions are to be avoided.
- ii. See setbacks determined by Planning Commission in site plan review
- iii. Below the crest of ridgelines, and in other locations least likely to block scenic vistas as seen from public roads and surface waters.
- iv. On areas not actively being used for agricultural purposes, or on soils not designated as prime, unique, or important farmland soils, or timberland soils important on a national or regional basis.
- v. Plans for residential lots proposed to be created on pre-development slopes of eighteen percent (18%) or greater must be accompanied by a stamped, detailed plans and a statement from a licensed architect or professional engineer indicating that the steep slope may be safely developed, and explanation of the construction methods to be used in overcoming foundation and other structural problems potentially presented by steep slope conditions, preserving the natural vegetation and drainage, and preventing soil erosion.

Special land use approval must also be obtained for lot creation in pre-development areas of twenty-five percent (25%) slope or greater in accordance with Article ~~XIII~~.

#### 6. Setbacks

Lot and building setbacks shall be as follows:

- i. Waterfront lots proposed within a PUD shall comply with Article VI: Waterfront Overlay District within this Ordinance.
- ii. Side setbacks shall be fifteen (15) feet, and may be modified or waived by the Planning Commission if in accordance with Sections XX or XX.
- iii. Front and rear building setbacks shall be established on the basis of underlying zoning district regulations according to Article V, though front and rear setbacks may be modified or waived by the Planning Commission if in accordance with Sections XX or .XX.

#### 7. Access

Each building site, lot, dwelling unit or other use shall have access to a public road by way of a public or private road.

#### 8. Roads

PUDs shall provide for vehicular access to all uses and areas. All roads must either be public roads or provide dedicated easements and shall be designed by a Professional Engineer in compliance with the Private Road provisions of this Ordinance, see Section 4.32.

#### 9. Signs

All signs shall conform to requirements of Article XX of the Hayes Township Zoning Ordinance.

#### 10. Lighting

All exterior lighting fixtures, whether attached to a building or freestanding, shall be of unified design and shall be fully shielded, shaded and downward directed. Lighting fixtures shall be located so as not to illuminate the night sky or produce glare outside of the boundaries of the development. Light fixtures/poles shall be fourteen (14) feet or less in height.

11. Parking Areas

Common parking areas, if proposed, shall be designed and constructed to adequately serve the needs of all buildings and uses within the PUD. Such areas are encouraged to utilize permeable surfaces such as permeable pavement, porous pavers, etc.

Common parking areas shall be screened from view from adjoining property as deemed appropriate by the Planning Commission for the setting in accordance with Sections XX or XX or underlying zoning district in which a PUD is located. Screening can be accomplished by existing trees or other vegetation or by landscaped native plant buffers or greenbelts.

Common parking areas shall provide stormwater management systems that infiltrate to groundwater to reduce off-site impacts of any kind. The use of innovative stormwater management, treatment and disposal is strongly encouraged, such as rain gardens, grassed waterways, constructed wetlands, etc. The direct discharge of stormwater from parking areas to natural watercourses, wetlands, or other surface waters is prohibited.

12. Driveways and Access

Access to the PUD from adjoining public roads shall be designed and constructed to insure the safety of vehicles and pedestrians. Clear vision areas shall be maintained at adjoining public roads and at public and private road rights-of-way in accordance with Private Road provisions of this Ordinance, See Section 4.32.

13. Snow Removal

Adequate areas shall be provided for the storage and disposal of snow removed from roadways, walkways, and parking areas during the winter months.

14. Access for Emergency Services

Routes for police, fire, and emergency medical services vehicles shall be provided to all buildings and uses in accordance with fire and safety agency standards and guidelines. Such routes shall be maintained to assure access to all buildings and uses in the PUD year-round under all weather conditions. Review and approval is required from police, fire and emergency services agencies in accordance with Section 11.6. Failure to demonstrate adequate access for police, fire, medical and other medical services may be a basis for PUD denial by the Planning Commission or Township Board.

15. Loading, Service, and Storage Areas

Areas used for the delivery or pickup of goods or materials, or for servicing vehicles or equipment, shall be screened from view from adjoining property as deemed appropriate by the Planning Commission in accordance with Sections XX or XX. Areas used for the storage of waste materials shall be screened from view from adjoining properties and public roadways. Screening may be provided by existing trees and other vegetation, or by landscaped native plant buffers or greenbelts.

16. Stormwater drainage

Stormwater runoff from improved areas shall be managed to prevent off-site impacts. Each PUD shall be provided with a storm drainage system that maintains stormwater runoff at a predevelopment rate. Stormwater plan review and approval is required from county and/or state agencies in accordance with Section 11.6. Failure to demonstrate stormwater plan approval from county and/or state agencies may be a basis for PUD denial by the Planning Commission or Township Board.

17. Integration of Natural Features

Lots, buildings, roads, and other improvements shall be situated to minimize alteration of floodplains, stands of mature trees, productive woodlots, and farmland.

18. Utility Service

Utilities services shall be installed underground. Backup power sources are encouraged.

19. Dry hydrants or underground water storage tanks may be required as a condition of approval.

b. Approval Standards

1. The use or uses established in a proposed PUD shall be consistent with the Township's Master Plan and Zoning Ordinance. The type of development authorized by the PUD zoning will be consistent with the intent and purpose of the Master Plan and the Zoning Ordinance.
2. The proposed PUD will create substantial benefit to the community in addition to the property owner/developer. The granting of PUD approval will result in a substantial benefit to the users of the PUD and the Township. Such benefits would not likely be realized if the PUD approval was not granted.
3. The proposed PUD will not unreasonably burden public roads, facilities, utilities and services. The use or uses established in the PUD will not result in a material burden on police and fire services nor on other public services or facilities.
4. The proposed PUD will not unreasonably impact use and development of surrounding properties. The use or uses established within the PUD will not diminish the opportunity for surrounding properties to use and develop their property as zoned.
5. The proposed PUD must be under single ownership or control. An individual or single legal entity as a landowner or having control has responsibility for completing the project in conformity with the approved final site plan and any conditions of approval.
6. Natural and cultural features and amenities, including waterbodies and waterways, natural and artificial drainage ways, shorelines, wetlands, floodplains, groundwater recharge/discharge areas, historic places and structures, woodlots, etc., shall be meaningfully incorporated into the design and construction of the PUD. The PUD shall be designed so as to result in a minimal disturbance of the natural topography.
7. Buildings and improvements must be completed prior to use and occupancy unless such use or occupancy will not impair the health, safety, and general welfare of the users or occupants of the PUD or of users and occupants of adjoining property. The Planning Commission may establish conditions applicable to completion of buildings and other improvements.
8. As a condition of approval of a PUD site plan, the Planning Commission may require a performance guarantee of a sufficient sum to assure the installation or construction of those features or components of the approved PUD considered necessary to protect the health, safety and welfare of the public and of users or inhabitants of the proposed PUD.

Features or components, hereafter referred to as "improvements," may include, but shall not be limited to, survey monuments and irons, streets/roads, curbing, landscaping, fencing, walls/berms, screening, vegetated buffers, snow removal,



emergency vehicle access, lighting, drainage facilities, pathways, sidewalks, paving, common driveways, roads, parking, common potable water facilities (if any), common septic and/or sewage treatment and disposal facilities (if any), utilities and similar items. Improvements do not include the entire PUD.

When required, performance guarantees shall be deposited with the Township Clerk before any land clearing, excavation or other construction activities commence at or within a PUD. Performance guarantees shall be processed in the following manner:

- a. Prior to the issuance of any Township zoning permits for lots within a PUD, the applicant or their agent shall submit an itemized estimate of the cost of the required improvements that are subject to the performance guarantee, which shall then be reviewed by the Planning Commission and/or Zoning Administrator. The amount of the performance guarantee shall be one-hundred percent (100%) of the cost of purchasing materials, installation and construction of the required improvements, plus the cost of necessary engineering, planning, legal and inspection costs borne by the Township and a reasonable amount for contingencies.
- b. The required performance guarantee shall be payable to the Township and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, surety bond, or other surety instrument acceptable to the Township.
- c. Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a zoning permit for the subject PUD, provided in consultation with the Planning Commission it is in compliance with all other applicable provisions of this Zoning Ordinance and other applicable Hayes Township ordinances.
- d. The Zoning Administrator, upon written request of the Applicant, shall rebate portions of the performance guarantee upon the Zoning Administrator's determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
- e. When all of the required improvements have been completed, the Applicant shall send written notice to the Zoning Administrator of the completion of all improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of reason(s) for any rejections.
- f. If partial approval is granted, the Applicant shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
- g. The Zoning Administrator/Township Clerk shall maintain a record of required performance guarantees.

#### **8.9 Actions Following Final PUD Approval**

Three (3) copies of the approved final site plan shall be signed and dated by the Planning Commission Chair and the applicant. A copy of the Planning Commission's approving report or recommendation shall be attached to each signed final site plan. A mixed use PUD application shall require similar action by the Township Board.

One (1) site plan shall be provided to the applicant. One (1) shall be provided to the Township Clerk for inclusion in the Hayes Township Zoning Ordinance. One (1) copy shall be provided to the Zoning Administrator for inclusion in his or her files of Township approval of the PUD.

## **8.10 PUD Rezoning Considerations**

### **c. Single Use PUDs**

The Planning Commission approval or conditional approval of a single use PUD has the effect of rezoning of the subject property.

If a final application for a single use PUD is approved by the Planning Commission, a notice describing the nature and extent of the new PUD zone shall be published in a newspaper within fifteen (15) days after approval by the Planning Commission.

### **d. Mixed Use PUDs**

After receiving the recommendations from the Planning Commission, the Township Board shall place the request for review approval of a mixed use PUD on the agenda for the next available, regularly scheduled Township Board meeting.

1. The Township Board shall review the record compiled before the Planning Commission, the findings of fact made by the Planning Commission concerning the mixed use PUD eligibility criteria and the Planning Commission's ultimate recommendation.
2. If the Township Board accepts the Planning Commission's recommendations concerning any waivers, reductions or modifications of the dimensional regulations applicable to the proposed PUD; concerning the waiver(s) of any PUD approval standards; and concerning any conditions and performance guarantees to be imposed with final mixed use PUD approval and if the Township Board finds that the proposed mixed use PUD meets the eligibility criteria and approval standards, then the Township Board shall grant approval for the proposed mixed use PUD by adopting a zoning ordinance amendment rezoning the property on which the mixed use PUD will be located to a PUD zone and authorizing development of the property pursuant to the site plan approved by the Planning Commission. In rendering its decision, the Township Board may adopt as its own the findings of fact made by the Planning Commission, may modify the findings of fact made by the Planning Commission based on the evidence presented to the Planning Commission, may remand the matter to the Planning Commission for consideration of additional evidence the Township Board considers relevant and further recommendations by the Planning Commission, or may itself hold a public hearing after giving the notice required under Sections ~~11.6~~ XX and ~~11.7~~,XX, gather any additional evidence it considers relevant, and make its own findings of fact in accordance with Section 11.8 concerning the factual determinations made by the Planning Commission.

If a final application for a mixed-use PUD is approved by the Township Board, a notice describing the nature and extent of the PUD zone shall be published in a newspaper within fifteen (15) days after approval by the Township Board.

### **8.11 Statement of Compliance Required**

All buildings, structures and improvements within an approved final PUD shall be established in strict compliance with the approved final site plan and any conditions of approval. All buildings and improvements shall be constructed as illustrated on the approved final site plan. No project related construction of any type is allowed until final PUD approval.

Following completion of site plan elements, including but not limited to the construction of buildings, shared facilities, roads, utilities, structures and other improvements, the applicant shall provide a statement, prepared by an independent professional (a licensed surveyor, professional engineer, registered landscape architect) certifying that all common buildings, shared structures, and improvements have been constructed in compliance with approval granted.

#### **8.12 Recorded Affidavit Required**

An affidavit in a form acceptable to the Hayes Township Attorney containing the information outlined in this Article shall be recorded with the Charlevoix County Register of Deeds within thirty (30) days following approval:

- a. Date of approval of the PUD by the Planning Commission (in the case of single-use PUDS) or Township Board (in the case of mixed-use PUDS).
- b. Legal description of the property.
- c. A statement by the applicant(s) certifying that the property will be developed in accordance with:
  1. The site plan and other information approved by the Planning Commission or Township Board, and
  2. All conditions associated with approval of the PUD.

This statement shall specifically indicate that no modifications shall be made to the PUD as approved; to the final site plan or other information provided by the applicant; or to any conditions associated with approval of the PUD, unless approved under the modification provisions of this Article.

Three (3) certified copies of the affidavit shall be provided to the Zoning Administrator. One (1) copy shall be attached to his or her copy of the signed site plan. One (1) copy shall be placed in the Planning Commission's record of proceedings on the PUD. One (1) copy shall be provided to the Township Clerk for inclusion in the Township Board's record of proceedings on the PUD.

#### **8.13 Modification of an Approved PUD**

- e. Minor modifications to a PUD may be approved by the by mutual agreement between the Township and applicants or successors in interest as follows:
  1. Reorientation of buildings provided no such structure is moved more than twenty five (25) feet from the original plan location; the move is determined to be necessary based on site conditions not previously known; the intent, concept, and objectives of the PUD are not circumvented; and no greater impact is exerted on adjacent properties.
  2. Redistribution of the dwelling units among the proposed structures, provided building heights are not increased, and the density of dwelling units is not increased.
  3. Minor realignment of roads, pedestrian ways, parking areas based on the need to respect site features (topography, soils, bedrock, vegetation) or to accommodate minor reorientation of buildings.
  4. Increase in total land area, with the additional undeveloped land to be protected open space or not proposed to be developed at the time of acquisition.

5. Total land area increased by purchase of adjacent previously developed property, but the use of the newly acquired adjacent property is not proposed to change and is consistent with the previously approved uses for the PUD.

f. **Major Modifications**

Major modifications to an approved PUD shall be subject to review and approval under a new application for PUD. Major modifications include, but are not limited to, increases in floor area of any building in excess of one-hundred twenty (120) square feet) or 10% of building size; or increases in the number of building sites, lots, or dwelling units; increases in land area occupied by non-residential uses; decrease in open space set-aside; or the addition of other buildings, structures, uses and improvements not originally included in the final PUD plan as approved.

#### **8.14 PUD Plan Expiration and Renewal**

The expiration, repeal and renewal of a PUD site plan, whether preliminary or final, shall be in accordance with the following standards:

g. **Plan Expiration**

PUD approval shall automatically expire after twenty-four (24) months, following the effective approval date, if one or more of the following apply:

1. In the case of a final site plan no earthwork or construction activities are in evidence and no valid construction permits are in effect;
2. The project appears to be abandoned, there is no apparent interest in continuing the PUD as established, and no applications for renewal have been received;
3. No apparent effort is being made to market the PUD project or operate it as an active development; or
4. In the case of a preliminary site plan, the use proposals are different from the approved preliminary site plan.

h. **Plan Renewal**

To forestall automatic expiration, the PUD applicant shall request renewal of the PUD prior to the expiration date. Renewal shall be by formal action of the Planning Commission. Renewal requests shall be filed at least seven (7) days prior to the scheduled meeting date of the Planning Commission, but no formal public hearing is required. Renewals shall be for periods not to exceed twelve (12) months and only two (2) such renewals shall be permitted.

i. **Rezoning or PUD Removal upon Plan Expiration**

Upon PUD plan expiration or repeal, the Township within a reasonable period of time shall rezone the PUD parcel or otherwise remove the PUD designation pursuant to the Hayes Township Zoning Ordinance.

#### **8.15 Reasonable Conditions**

The Planning Commission and Township Board may attach reasonable conditions with the approval of a site plan, special use or PUD. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating

increased service and facility loads caused by the land use or activity; to protect the natural environment and conserve natural resources and energy; to insure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

1. Be designed to protect natural resources; the health, safety and welfare and social and economic well being of those who will use the land or activity under consideration; which may include residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning ordinance and the master plan, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

#### **8.16 Waiver of PUD Standards**

The Planning Commission may recommend and the Township Board may waive a PUD standard if all of the following findings are documented, along with the rationale for the decision:

1. No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.
2. The spirit and intent of the PUD provisions will still be achieved.
3. No nuisance conditions will likely be created by such waiver.

# **HAYES TOWNSHIP PLANNING COMMISSION BYLAWS**

## **Adopted**

### **1 INTRODUCTION**

The following rules of procedure are hereby adopted by the Hayes Township Planning Commission to facilitate the performance of its duties as outlined in the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, hereafter "the Planning Act". These bylaws are also adopted by the Planning Commission for administration of a zoning ordinance as outlined in the Michigan Zoning Enabling Act, hereafter the "Zoning Act".

### **2 DUTIES OF THE PLANNING COMMISSION**

1. Take required action on petitions, staff proposals and Township Board requests for amendments to the Zoning Ordinance.
2. Prepare, adopt and amend the Master Plan as appropriate.
3. Prepare a Planning Commission annual report and budget for the Township Board.
4. Take actions required by the Michigan Zoning Enabling Act, Act 110 of 2006, as amended.
5. Review, deliberate, decide and prepare appropriate findings and final determination documents on all special land use, planned unit development proposals and all other issues that come before the Planning Commission.
6. Prepare special studies and plans as deemed necessary by the Planning Commission or Township Board and for which the Township Board has appropriated any needed funds.
7. Attend training sessions, conferences or meetings as needed to properly fulfill the duties of planning commissioner and for which the Township Board has appropriated any needed funds.
8. Prepare a capital improvements plan if directed by the Township Board.
9. Perform other duties and responsibilities or respond as requested by the Township Board.

### **3 MEMBERSHIP AND MEMBERS**

#### **3.1 NUMBER, TERMS AND QUALIFICATIONS**

The Hayes Township Planning Commission shall consist of seven members. Except for ex-officio members, all members shall be appointed for three-year terms. However, of the members (except ex-officio members) first appointed, a number shall be appointed to one-year or two-year terms such that, as nearly as possible, the terms of one-third of all members will expire each year. Vacancies shall be filled for unexpired terms in the same manner as provided for an original appointment. A member shall hold office until his or her successor is appointed.

Planning Commission members shall be qualified electors of the township, except that one member may be appointed who is not a qualified elector of the township.

The Planning Commission membership shall be representative of important segments of the community. The membership also shall be representative of the entire geography of the local unit of government to the extent practicable.

#### **3.2 TOWNSHIP BOARD REPRESENTATIVE TO THE PLANNING COMMISSION**

The Township Board representative shall present to the Township Board the recommendations

of the Planning Commission pertaining to the Zoning Ordinance or other matters, as appropriate, prior to the Township Board's consideration of each. The Township Board representative also shall convey information and requests from the Township Board to the Planning Commission. One member of the legislative body shall be appointed to the Planning Commission as an ex-officio member. The term for the Township Board representative shall expire with his or her term on the legislative body, i.e. Township Board.

### **3.3 EX-OFFICIO MEMBER**

An ex-officio member is a member with full voting rights who serves on the Planning Commission by virtue of holding another office, for the term of that other office.

An ex-officio member is not eligible to serve as chairperson or vice chairperson of the Planning Commission.

### **3.4 PLANNING COMMISSION REPRESENTATIVE TO THE ZBA**

The Planning Commission representative to the Zoning Board of Appeals shall report the actions of the Zoning Board of Appeals to the Planning Commission and update the Zoning Board of Appeals on relevant actions by the Planning Commission. A Zoning Board of Appeals representative will be chosen by the Township Board from members serving on the Planning Commission.

## **4 OFFICERS**

### **4.1 SELECTION AND TENURE**

At the last regular meeting in each year, the Planning Commission shall select from its membership:

1. A chairperson
2. A vice-chairperson /secretary

All officers shall serve a term of one year, commencing on January 1 following the election held in December of each year, or until their successors are selected and assume office, except as noted in Section 4.3. All officers shall be eligible for reelection to the same office for consecutive terms.

### **4.2 CHAIRPERSON**

The chairperson shall preside at all meetings, appoint committees and perform other duties as required by the Planning Commission.

### **4.3 VICE-CHAIRPERSON/SECRETARY**

The vice-chairperson/secretary shall act as chairperson in the chairperson's absence. If the office of chairperson becomes vacant, the vice-chairperson/secretary shall assume this office for the unexpired term, unless a substantial conflict would result. The Planning Commission shall select a successor to the vice-chairperson/secretary for the unexpired term. The vice-chairperson/secretary shall execute documents in the name of the Planning Commission and perform other duties as the Planning Commission may determine.

## **5 SUPPORT STAFF**

### **5.1 RECORDING SECRETARY**

The recording secretary shall:

1. Report to the chairperson regarding Planning Commission business.

2. Prepare the minutes of each meeting and add them to permanent records maintained by the township clerk. The minutes shall contain a brief synopsis of the meeting, including attendance, a complete restatement of all motions and record of votes, conditions or recommendations made on any action.
3. Keep a public record of Planning Commission resolutions, transactions, findings and determinations.
4. Post the Hayes Township meeting notices at the Hayes Township Hall and other locations where township notices are posted.
5. Issue formal written correspondence as directed by the Planning Commission.
6. Bring communications, petitions, reports and other written materials to the attention of the Planning Commission chairperson.
7. Issue newspaper notices as may be required by the Planning Commission or by the Hayes Township Zoning Ordinance.

## **5.2 ZONING ADMINISTRATOR AND PLANNING CONSULTANT**

The zoning administrator and planning consultant shall be responsible for the professional and administrative work in coordinating and supporting the functions of the Planning Commission.

## **5.3 OTHER PROFESSIONAL OR TOWNSHIP STAFF**

The Planning Commission may be assisted by other professional or township staff as needed.

# **6 MEETINGS**

## **6.1 REGULAR MEETINGS**

The Planning Commission shall hold no fewer than four regular meetings each year and by resolution shall determine the time and place of regular meetings. Other meetings may be held as necessary. When a regular meeting falls on a legal holiday or when a conflict exists, the Planning Commission shall, if possible, select an alternate meeting date in the same month as the originally scheduled meeting. Notice of regular Planning Commission meetings shall be posted at the Hayes Township Office within 10 days after the Planning Commission's first meeting in each fiscal year, in accordance with the Open Meetings Act.

## **6.2 SPECIAL MEETINGS**

Special meetings of the Planning Commission may be called by the chairperson or by at least two members, upon written request to the Planning Commission secretary. All Planning Commission business shall be conducted at a public meeting held in compliance with the Open Meetings Act. Notice of special meetings shall be given to Planning Commission members at least 48 hours prior to the meeting. This notice shall state the purpose, time and location of the special meeting and shall be posted in accordance with the Open Meetings Act.

## **6.3 PUBLIC RECORDS**

All Planning Commission meetings, minutes, records, documents, correspondence and other materials shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

## **6.4 QUORUM**

A majority of the Planning Commission membership, regardless if vacancies exist or not, shall constitute a quorum for transacting all business and taking all official action. Whenever a quorum is not present, those present may adjourn the meeting to another time and day in accordance with the Open Meetings Act.



## **6.5 VOTING**

1. An affirmative vote of the majority of the Planning Commission membership is required to adopt any part of the Master Plan or amendments to the plan..
2. Unless required by statute, other actions or motions placed before the Planning Commission may be adopted by a majority vote of the membership in attendance, as long as a quorum is present.
3. Voting shall be by voice vote; a roll call vote shall be required if requested by any commission member or if directed by the chairperson.
4. All Planning Commission members, including the chairperson, shall vote on all matters; the chairperson shall vote last.

## **6.6 AGENDA**

The chairperson shall be responsible for determining agenda items for Planning Commission meetings. The Planning Commission may vote to amend the agenda. The order of business for meetings shall be as follows:

1. Call to Order
2. Review Agenda
3. Declaration of Conflict of Interest (if any)
4. Public Hearings
5. Public Comments Unrelated to Agenda Items
6. Approval of Minutes
7. Report of Township Board Representative to the Planning Commission
8. Report of Planning Commission Representative to the Zoning Board of Appeals
9. Zoning Administrator Report
10. New Business (itemized)
11. Old Business (as required)
12. Set Public Hearing Dates (as required)
13. Set/Confirm Date of Next Planning Commission Meeting
14. Public Comment
15. Planning Commission Comment
16. Adjournment

## **6.7 PUBLIC HEARINGS**

All public hearings held by the Planning Commission must be part of a regular or special meeting of the Planning Commission. The following procedure shall apply to public hearings held by the Planning Commission:

1. Chairperson opens the public hearing and announces the subject.
2. Chairperson summarizes the procedures/rules to be followed during the hearing.
3. Applicant presents the main points of the application.
4. Township planner/zoning administrator/other consultants present report(s).
5. Persons speaking to the issue are recognized.
6. Recognition of correspondence received.
7. Applicant rebuttal/clarification, if requested by Planning Commission Chair.
8. Chairperson closes the public hearing and returns to the regular/special meeting.
9. Planning Commission decides when it will begin deliberation.

## **7 ABSENCES, REMOVAL, RESIGNATION AND VACANCIES**

### **7.1 ABSENCES**

To be excused, members of the Planning Commission shall notify the Planning Commission

chairperson or other Planning Commission member when they intend to be absent from a meeting. Failure to make this notification prior to the meeting shall constitute an unexcused absence. Three (3) unexcused consecutive absences in a calendar year may be cause for removal.

## **7.2 REMOVAL**

Members of the Planning Commission may be removed by the Supervisor, subject to the approval of the Township Board, for misfeasance, malfeasance or nonfeasance in office, following written charges and a public hearing before the township board. The following definitions are from Black's Law Dictionary:

Misfeasance: "A lawful act performed in a wrongful manner."

Malfeasance. "A wrongful or unlawful act; especially wrongdoing by a public official."

Nonfeasance: "The failure to act when a duty to act existed."

## **7.3 RESIGNATION**

A member may resign from the Planning Commission by sending a letter of resignation to the township supervisor.

## **7.4 VACANCIES**

Vacancies shall be filled by the township supervisor, with approval of the Township Board. The successor shall serve out the unexpired term of the member being replaced. In the event that an officer's term on the commission has expired and is not reappointed to the commission, the Planning Commission shall select a replacement member to serve in office until the last regular meeting of the year.

## **8 CONFLICT OF INTEREST**

### **8.1 DECLARED CONFLICT OF INTEREST**

If a member has a conflict of interest, such conflict of interest shall be fully stated on the record. If a question exists whether the circumstances actually present a conflict of interest, the Planning Commission may, by majority vote of the members present, adjourn the case to a specific time, date, and place in order to obtain a written opinion from the township attorney. Once the conflict of interest is declared or confirmed, the Planning Commission member with the conflict of interest shall abstain from participation and voting in the case.

### **8.3 FAILURE TO DECLARE CONFLICT OF INTEREST**

Failure to disclose a potential conflict of interest constitutes malfeasance in office, rendering the member subject to removal as specified in Section 7.2.

## **9 AMENDMENTS**

1. Upon adoption of the Planning Commission bylaws of April 19, 2022 they shall become effective and all previous Planning Commission bylaws, as amended, shall be repealed.
2. These bylaws may be amended at any meeting by a vote of a majority of Planning Commission members, so long as such amendment does not result in a conflict with state law, zoning ordinance or court decision.

It is my understanding that Hayes Township is considering spot rezoning from agricultural to industrial the Reith Riley gravel pit parcel on Townline Road that is across from Resort Township's Bay Shore trailer court.


I would like to give the Planning Commission a 30-year history of that parcel.

Bruce Green owned that 30 acre parcel for many years. Elders in the area cannot remember it ever being farmed. It was always in their memory a fallow field.

Around 1988, Bruce sold the 30 acres to Hodgkiss and Douma (H&D), now Reith-Riley. H&D applied to mine gravel on that parcel. The Township Planning Commission and Township Board denied the mining permit because they thought that mining activity was inappropriate with the Village of Bay Shore across the street and more residential housing close by

H&D sued members of the township board and planning commission individually for \$10,000 each, alleging a violation of the Open Meetings Act. The board quickly capitulated and granted H&D a permit to mine with no restrictions on the operation.

The Bay Shore community formed Concerned Citizens for the Bay Shore Area (CCBSA). They hired a lawyer and Bay



Shore residents filed to be granted intervenor status against the Township's settlement for gravel mining that 30 acres and additional land.

At considerable legal expense, the intervenors succeeded in getting many restrictions placed on the gravel mining operation on the Green parcel as well as additional parcels West of the original 30 acres. Examples are restricted hours of operation, no rock crusher on site, all ingress and egress had to be from US 31, not from Pincherry, Townline, or Petoskey Street.

Another critical condition regarded the additional Paragraph 15 property which was located at the headwaters of the Horton Creek. This Paragraph 15 part of the Consent Agreement spelled out conditions and restrictions including no mining into the water table.

The Consent Agreement allowed H & D to mine the site for 30 years. The 30 years expired in 2019. The remaining gravel on the land South of Pincherry Road appears not to be mined.

The Consent Agreement stated that H&D must regrade and restore the original topsoil on all mined property. The agreement also stated that the 30 acre Green property would be divided into four 10 acre parcels for

residential use, the maximum allowable under zoning at that time.

In 2019 JoEllen Rudolph gave a presentation to the township board on the history of the Consent Agreement, specifically that the 30 year agreement to mine was expiring and restoration should be initiated.

With residential use on all four sides of the mine, the intervenors never would have entered the Consent Agreement if the implication was that after 30 years the parcel would be spot zoned to industrial or commercial.

Given the critical lack of affordable housing in the two-county area, the Green parcel is an ideal location for housing.

Petoskey School buses already come to the trailer park across Townline Road. The location is approximately equidistant from Petoskey, Boyne City and Charlevoix and would accommodate residents working in any of the three cities.

Any other zoning of this property is certainly spot zoning and seriously imperils its future residential use and is discriminatory against the village residents.



clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>

---

## Tonight meeting!

1 message

Danelle Hutcheon <dhutch3547@gmail.com>

Tue, Apr 19, 2022 at 12:23 PM

To: clerk@hayestownshipmi.gov, LuAnne Kozma <luannekozma@gmail.com>, Deborah Narten <dlnarten@gmail.com>

I requesting that this email be read out loud and put in the minutes of the meeting tonight. Thank you

Firstly,,,,,i am again requesting that Roy Griffiths not be re-appointed or remain on the board. AS a board member he should be know , and uphold the laws and rules of participating on a board, and the proper way to conduct meetings and do business. He clearly does not, as he has been serving on the board illegally and voting on issues illegally. This is not in the best interest of Hayes Township, or its residents.

Secondly,,,, The EMS is not in the township budget. There was a separate Millage brought before the residents of Hayes Township, we all voted on it and it was passed. That millage goes directly to Lake Charlevoix EMS Authority. Mr Van Zee did not speak correctly on public radio, implying the township cannot enforce its ordinance because it has other budget priorities such as this.

Thirdly,,,,,Mr VanZee doesnt care about the lake as he proclaims. He showed pictures of waterfront infractions to the the shoreline protection strip. Noting they were not on his watch! He blatantly forgot to show the Law Property and its paved road to the lake among other protection strip infringements!! That was done on your watch Mr VanZee!!

Danelle (Dee) Hutcheson  
Hayes township resident

Danelle (Dee) Hutcheson  
Hayes township resident

Date: April 19, 2022

To: Kristin Baranski, Clerk and Members of the Hayes Township Planning Commission

From: Bill Henne, Former Planning Commission and ZBA Chair

Subject: Comments for Planning Commission Meeting Tonight

Kristin, please read the following comments at the Planning Commission (PC) meeting tonight and include them with the minutes. Also, please distribute it to all members of the PC.

Roy Griffiths has been serving on the PC illegally since he was appointed to the position of Assistant Supervisor, in violation of the Zoning Enabling Act, last year, until he was reappointed to the PC at the last township board meeting. This is a serious issue that must be addressed. None of the decisions or votes that Roy made in that time period can be considered valid because he was not a legal member. All conversations and decisions that he made with other parties, such as Beckett and Raeder and others, must be considered invalid. All meeting payments must be returned to the township since he was not a member of the PC. The rewriting of the Beckett and Raeder draft of the proposed changes to the Hayes Township Zoning Ordinance that Roy and Ron Van Zee have been redoing and submitting to the PC members must be discarded because Roy was not a member of the PC.

I have the following comments on proposed changes to the bylaws:

1. Sec. 6.4 QUORUM You are proposing to eliminate the last part of the paragraph after "Open Meetings Act". This is important language and must be retained.
2. Sec. 7.4 VACANCIES You are proposing to add a sentence that would be illegal. The PC cannot make appointments to the PC. Only the township board can do that.
3. Sec. 8 CONFLICT OF INTEREST You are proposing to completely change the wording of this section so that it would not protect the PC and the ordinance in the way that was intended. Are you trying to provide cover for certain individuals here? This is unacceptable.
4. Sec. 8.2 DECLARED CONFLICT OF INTEREST You are proposing to remove this section completely and are not even bothering to adjust the number sequence. Why? Again, this is an important section. It helps to keep members honest. Is there a current member who may want to hide something?

I would like to know whose idea it is to make these proposed changes and why this individual wants to make any changes to the bylaws at this time. In my opinion, all of the proposals are wrong, are misguided, are counterproductive and, in one case, illegal.

I request that you reject all of them.





clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>

---

## Letter to Zoning Board of Appeals re Boat House Project

1 message

---

sgdamm2002@gmail.com <sgdamm2002@gmail.com>

Sun, Apr 17, 2022 at 4:50 PM

Reply-To: sgdamm2002@gmail.com

To: clerkhayestownshipmi@gmail.com

TO:

Hayes Township ZBA, Trustees, Planning Commission, and Zoning Administrator:

While I cannot argue the details of the Laws' Boat House plans, I can say from my experience on the Planning Commission and my knowledge of Lake Charlevoix, that the scope of this project is absolutely not in line with Hayes Township Zoning Ordinances and that it will be dangerous to the health of the lake.

In addition this project is not in anyway of benefit to Hayes Township nor Lake Charlevoix. This project, if fulfilled, will be a net negative to the lake and set a dangerous precedent.

The Hayes Township Long Range Plans and the Zoning Ordinance were written and modified over the years with a major focus of protecting the lake and the rural ambiance of our township.

It is the health of the lake that is essential to the local economy. Please do not sell it out.

I urge the ZBA and other officials to strictly enforce the Hayes Township Zoning Ordinance and observe the spirit of the long range plan.

It is appalling that there is even a hint that big money can buy the right to degrade the lake and the surrounding lands.

The ZBA and all officials must follow the law and act ethically. That is their public trust.

Sincerely,

Sara Gay Dammann

--

Sara Gay Dammann

email: [sgdamm2002@gmail.com](mailto:sgdamm2002@gmail.com)