

Hayes Township, Charlevoix County, Planning Commission
Regular Meeting of the Planning Commission

July 18, 2023 7:00 pm

Hayes Township Hall

9195 Major Douglas Sloan Road

Charlevoix, Michigan 49720

<https://us02web.zoom.us/j/83601481092?pwd=bTRvd01yc2NtSHY5MXkrZDUxVDMrZz09>

+1 309 205 3325 US

Meeting ID: 836 0148 1092

Passcode: 068828

Call to Order

Pledge of Allegiance

Review of Agenda

Declarations of Conflict of Interest

Approval of June 20, 2023 Regular Meeting Minutes and June 27, 2023 Special Meeting Minutes

Public Comment 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

- Review Advisory Committee Report and Future Land Use Map
- Begin Review of Zoning Ordinance Draft

Old Business

Set/Confirm Public Hearing Dates

Set/Confirm Date of Next Planning Commission: August 15, 2023 at 7:00 pm

Public Comment

Planning Commission Comment

Adjournment

Public Comment at Meetings of the Hayes Township Planning Commission

The Hayes Township Planning Commission values public input and offers two opportunities for the public to comment at its meetings, once near the beginning and once near the end. This affords the Planning Commission the opportunity to hear your views and remarks. If you speak, you should not expect to engage the Planning Commission members or any staff in discussion or debate.

Planning Commission Members will not respond to comments made during the Public Comment unless it becomes necessary to ask a clarifying questions, correct a factual error, or to provide specific factual information.

Questions about Township matters are best directed to individual Board members or Township staff (Planner, Zoning Administrator, or Assessor) between meetings. Contact information is available on the township website at: hayestownshipmi.gov.

The availability of public comment is recognized by the Michigan Open Meetings Act. The Act provides that rules may be adopted for orderly comment from the public. To that end, the following rules have been established by the Planning Commission:

1. A person who wishes to speak during Public Comment will sign in and signify that they would like to speak on the form.
2. The person will begin by stating their name, spelling it out if requested.
3. The person addresses the Chairperson, or other person chairing the meeting, on behalf of the entire Planning Commission. Public comment is NOT to be addressed to individual Planning Commission members, to any township staff present, or to other members of the audience.
4. There is a three (3) minute time allotment for each speaker. The time limit may be extended by the Chairperson or majority of the Planning Commission members present. If a speaker uses less than three (3) minutes, they may not use the remaining time at that Public Comment. A speaker may speak only once at each Public Comment. There is no provision for another audience member to 'donate' their three (3) minutes to another speaker.
5. A speaker will be out of order if the speaker disrupts the meeting, fails to be germane, speaks longer than the allotted time, uses vulgarities or makes a personal attack on a Planning Commission member or Township employee that is unrelated to the performance of that person's duties.
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7. The Chairperson, or other person chairing the meeting, will have the discretion to permit members to speak at times other than the times reserved for Public Comment.

Hayes Township Planning Commission
June 20th, 2023
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CALL TO ORDER: Chairperson Roy Griffiths called the meeting to order at 7:00 p.m.

Members present: Roy Griffiths (Chair), Steve Bulman, Derek Burnett, Marilyn Morehead, Rex Greenslade and Matt Cunningham

Excused: Ed Bajos.

Also, present: April Hilton (Deputy Clerk/Recording Secretary).

Audience: Ellis Boal, John McMahon, LuAnne Kozma, CT Martin, Jerry Augustine, Janet Simon, Betty Henne, Chelsea Mills, Mel Czechowski, Jennie Silva, David Kemme, Jim Pemberton, and Doug McCombs.

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

REVIEW AGENDA:

Mr. Greenslade made a motion, supported by Ms. Morehead to approve the agenda as presented.

Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead

Nays: none **Motion Carries**

DECLARATIONS OF CONFLICTS OF INTERESTS: None

APPROVAL OF MINUTES MAY 16TH, 2023 REGULAR MEETING

Ms. Morehead made a motion, supported by Mr. Burnett, to approve the May 16th, 2023, regular meeting minutes as corrected.

Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead.

Nays: none **Motion Carries**

PUBLIC COMMENTS UNRELATED TO AGENDA ITEMS:

Public comments opened at 7:02 pm.

- Resident believes the first public comment should include agenda items. Also, would like to see the planning commission add site plan reviews to the agenda for the evening.

- Resident informed the audience and planning commission of a court hearing in process.

Public comments closed at 7:08pm

Hayes Township Planning Commission
June 20th, 2023
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REPORT OF TOWNSHIP BOARD REPRESENTATIVE TO THE PLANNING COMMISSION:

Next meeting July 12th, 2023.

REPORT OF ZONING BOARD OF APPEALS REPRESENTATIVE:

NA

ZONING ADMINISTRATOR REPORT:

Written report available at Hayes Township Hall.

NEW BUSINESS-

ADVISORY COMMITTEE REPORT:

Advisory Committee members presented the Planning Commission and audience with their recommendations for the Future Land Use Map.

The Planning Commission discussed and asked Advisory Members questions to develop the best understanding of each division. To create a Future Land Use Map that will benefit the township for future generations.

The Process of redrafting the Future Land Use Map in a long timeline. However, the Advisory Committee recommendations is a great start, and all their hard work is appreciated.

SHORELAND PROTECTION SUBCOMMITTEE REPORT- 11667 PA BA SHAN:

Mr. Greenslade made a motion, supported by Ms. Morehead, to approve amending the Site Plan Review for this Site Plan Review only.

Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead.

Nays: none **Motion Carries**

Planning Commission members requested a 10-minute recess beginning at 8:05 Meeting will resume at 8:15.

Mr. Bulman made a motion, supported by Mr. Greenslade to recess the Site Plan Review for a special meeting on Tuesday 27th 2023 at 7:00 pm to review this application.

Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead.

Nays: none **Motion Carries**

Hayes Township Planning Commission
June 20th, 2023
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ACCESSORY DWELLING UNITS:

Planning Commission members discussed the ADU section of the Zoning Ordinance and the possibility of amending the ordinance to address the housing needs of families within the community.

Planning Members agree each zoning district needs to be address individually and at use by right when amending the ADU section of the Zoning Ordinance.

The Planning Commission will be working with Housing North to create a revised draft of the Accessory Dwelling Unit (ADU) section of the Zoning Ordinance, for the Planning Commission members to review at a future meeting.

OLD BUSINESS-

SET/CONFIRM PUBLIC HEARING DATES:

None

SET/CONFIRM DATE OF NEXT PLANNING COMMISSION MEETING:

Next Planning Commission meeting will take place on June 27th, 2023, at 7:00 pm.

PUBLIC COMMENT: Public comments open 8:50 pm.

Comments included:

- Resident questioned the plan for the Master plan review and if the Zoning Ordinance redraft is on hold.
- Resident reached out to two Planning Commission members to amend the agenda item for the Site Plan Review and would like to know why those two members did not act on their request.
- Resident provided their employer Rieth Riley's comments and abjections of the Advisory Committee recommendations to the Planning Commission. More specifically some of the language choices in the draft will decrease value of Rieth Riley land and they feel that the recommendations favor other residents and penalize another. Also feels that the recommendations decrease the communities view on Rieth Riley business.
- Resident stated he agrees with Roy's statement that the consent judgement with Rieth Riley does in fact determine everything. Also believes there should be an advisory committee meeting to correct the language error in the committees report to the Planning Commission.
- Resident read the definition of mining to the Planning commission. And is concerned for the potential for developing the land after the mining land is recommended.

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- Resident would like the public comment timer to start after the resident states their name. Also, would like to know if the language change for ADU's portion of the zoning ordinance will be posted for review by the residents.
- Housing North representative thanked the Planning Commission for reviewing the ADU section of Hayes Township Zoning Ordinance.

Public comments closed 9:06pm.

PLANNING COMMISSION COMMENT:

- Roy Griffiths stated the language is an issue and they will be working on adjusting these errors, however, must work carefully along with the consent agreement. He appreciates everyone's hard work.
- Rex Greenslade is disappointed all the Advisory Committee discussion and work is being boiled down to discussion on one wrong word. Suggested working with Rieth Riley to better the wording of the Future Land Use Map within this section.

ADJOURNMENT: Mr. Greenslade made a motion, supported by Ms. Morehead, to adjourn the meeting at 9:10 pm.

Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Marilyn Morehead, Rex Greenslade, and Matt Cunningham.

Nays: none **Motion Carries**

Respectfully Submitted by:
April Hilton
Deputy Clerk/Recording Secretary

Hayes Township Planning Commission
Special Meeting
June 27th, 2023
Regular Meeting
Zoom ID 836 0148 1092

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

2 Members present: Roy Griffiths (Chair), Steve Bulman, Derek Burnett, Marilyn Morehead, Rex
3 Greenslade and Matt Cunningham

4 Excused: Ed Bajos.

5 Also, present: April Hilton (Deputy Clerk/Recording Secretary).

6 Audience: Doug Kuebler and Betty Henne

7
8 **REVIEW AGENDA:**

9 Mr. Greenslade made a motion, supported by Ms. Morehead to approve the agenda as
10 presented.

11 Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Matt Cunningham, Rex Greenslade, and
12 Marilyn Morehead

13 Nays: none **Motion Carries**

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15 **DECLARATIONS OF CONFLICTS OF INTERESTS:** None

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17 **PUBLIC COMMENTS:**

18 Public comments opened at 7:01 pm.

19 No Comments

20 Public comments closed at 7:01pm

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22 **SHORELAND PROTECTION SUBCOMMITTEE REPORT- 11667 PA BA SHAN AND SITE PLAN**

23 **REVIEW OF SHORELINE PROTECTION STRIP PLAN PROPOSED CINTINUATION:**

24 Mr. Greenslade made a motion, supported by Mr. Cunningham to approve the shoreland
25 protective strip site plan review with the conditions that the owner will have to receive
26 approval by Tip of the Mitt for any plants and the condition that the shoreline protection strip
27 remain in a natural state.

28 Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Marilyn Morehead, Rex Greenslade, and Matt
29 Cunningham.

30 Nays: none **Motion Carries**

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32 **PLANNING COMMISSION COMMENT:**

33 Planning Comment included encouragement to being up advisory group discussion points at
34 next meeting.

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Hayes Township Planning Commission
Special Meeting
June 27th, 2023
Regular Meeting
Zoom ID 836 0148 1092

36 **ADJOURNMENT:** Ms. Morehead made a motion, supported by Mr. Cunningham, to adjourn the
37 meeting at 7:13 pm.
38 Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Marilyn Morehead, Rex Greenslade, and Matt
39 Cunningham.
40 Nays: none **Motion Carries**

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Respectfully Submitted by:
April Hilton
Deputy Clerk/Recording Secretary

**HAYES TOWNSHIP
ZONING ADMINISTRATOR REPORT
JULY 2023**

Issued zoning permit for a semi-in-ground pool with deck surround at 09190 Burgess Road.

Issued zoning permit for a new single family residence at 7423 Major Douglas Sloan Road.

Issued zoning permit for a new single family residence with attached garage and covered porch at 10611 Maple Grove Road.

Issued zoning permit for a 30' x 40 accessory structure at 10367 Burnett Road.

Issued zoning permit for a new single family residence with attached garage and deck at 11667 North Pa Ba Shan Trail.

Issued zoning permit for a residential addition including two porches at 07644 Indian Trails.

Issued zoning permit for to repair an existing deck at 07690 Indian Trails.

Received and reviewing application for zoning permit for removal of existing residence and construction of a new single family residence at 07948 Indian Trails. Shoreland review committee reviewing greenbelt plan.

Approved parcel division application for property located at 06497 Woods Creek Drive.

Working with citizen on a complaint about a neighbors building over the property line on Shrigley Road.

Working with citizen on a complaint about a neighbor building a fence over the property line on Burns Road.

Working with property owners on Maple Grove Road about multiple families living in a single family dwelling.

FUTURE LAND USE

At present, Hayes Township is a scenic lakefront township which is primarily forested, agricultural and rural residential in the interior portions of the Township. Lakeshore living is available along the shores of Lake Michigan, Lake Charlevoix and Susan Lake. While active agricultural uses have declined from historic levels, the remaining active farms and the associated "open space" are highly valued by the local residents.

Through land use planning and land use controls, Hayes Township intends to work to ensure that the shorelines are protected, the existing agricultural, rural residential and recreational uses can continue, and reasonable growth can be accommodated with minimal land use conflicts or negative impacts. Based on the social, economic and environmental characteristics of the Township, ten general categories of land use, and one overlay, have been identified to serve existing and future development needs. These categories are listed below:

- » Farm / Forest
- » Conservation
- » Residential – Rural
- » Residential – Waterfront
- » Residential -Settlement
- » Residential – Resort
- » Tribal
- » Institutional
- » Commercial
- » Light Industrial
- » Utility
- » Mining Impaired

Farm/Forest

The Farm/Forest land use category has been designated consistent with the Township's goal to encourage farmland preservation and to recognize the importance of economic viability of farming and forestry operations. The Township will encourage innovative methods of preserving farmlands, farming, open space, natural resources, and the rural character of the Township, and at the same time assist landowners who want to reduce or discontinue farming. The methods could include innovative zoning provisions that allow for the preservation or conservation of essential natural resources, farmland, or open space, such as innovative agricultural tourism related businesses. Some methods which other communities have employed to help protect and preserve agricultural land while protecting a landowner's economic investment, include the Purchase of Development Rights (PDR), Transfer of Development Rights (TDR), clustering requirements for non-agricultural uses, and tax breaks or incentives for continuing agricultural use. It is recommended that these alternatives be investigated for possible application in Hayes Township, to balance economic rights with agricultural preservation goals.

Conservation

The Conservation category includes land owned and /or protected by a land conservancy under conservation easements.

Residential - Rural

A Residential-Rural land use category has been designated consistent with the Township's goal to "retain the township's rural and scenic character, while providing for suitable housing opportunities..." While the designation of the Rural Residential land use category will not prevent the conversion of farmland to other uses, it will help to control the scale and rate of conversion and direct attention to areas where farmland conversion may be an issue. The Residential -Rural category is intended to have a minimum lot size of five acres.

Residential - Waterfront

The Residential-Waterfront category is designed to accommodate single family dwellings on lots ranging from one-half to two acres and is primarily located in the vicinity of Lake Michigan and Lake Charlevoix. This development is located on roads with light vehicular traffic. No municipal water or sewer service is anticipated to be available in the near future. Additional provisions are recommended to be incorporated into the Zoning Ordinance to allow for a cluster development pattern to avoid or minimize development impacts on environmentally sensitive areas, forests or farmland. This Residential land use category strives to maintain an ecologically sound balance between human development activities and retain the Township's scenic waterfront character. Other zoning provisions, such as, the use of shoreline protection and preservation buffers may be used to manage this sensitive zone along the waterfront. The Residential - Waterfront category is intended to have a minimum lot size of two acres.

Residential - Settlement

The Residential-Settlement category recognizes the presence of smaller lot platted and unplatted residential developments, such as the Bayshore community, the small neighborhood adjacent to Susan Lake, and Lake Michigan Heights. These neighborhoods have a higher density per acre than the

balance of the Township and have a design unique to traditional residential neighborhoods with smaller lots and a network of streets. Minimum lot sizes range from 5,000 to 10,000 square feet.

Residential - Resort

The Residential - Resort land use category is primarily designed to accommodate large scale private residential -recreation developments, such as the Charlevoix Country Club and Dunmaglas. It is recognized that these recreation-based residential developments provide open space as part of their site master plans by clustering dwelling units. The density of residential uses in these developments are managed through the planned unit development process and/or development agreements.

Tribal

Properties under the ownership and sovereign control of the Little Traverse Bands of Odawa Indians.

Institutional

Properties owned by a governmental unit such as Township Hall and Camp Sea Gull Park.

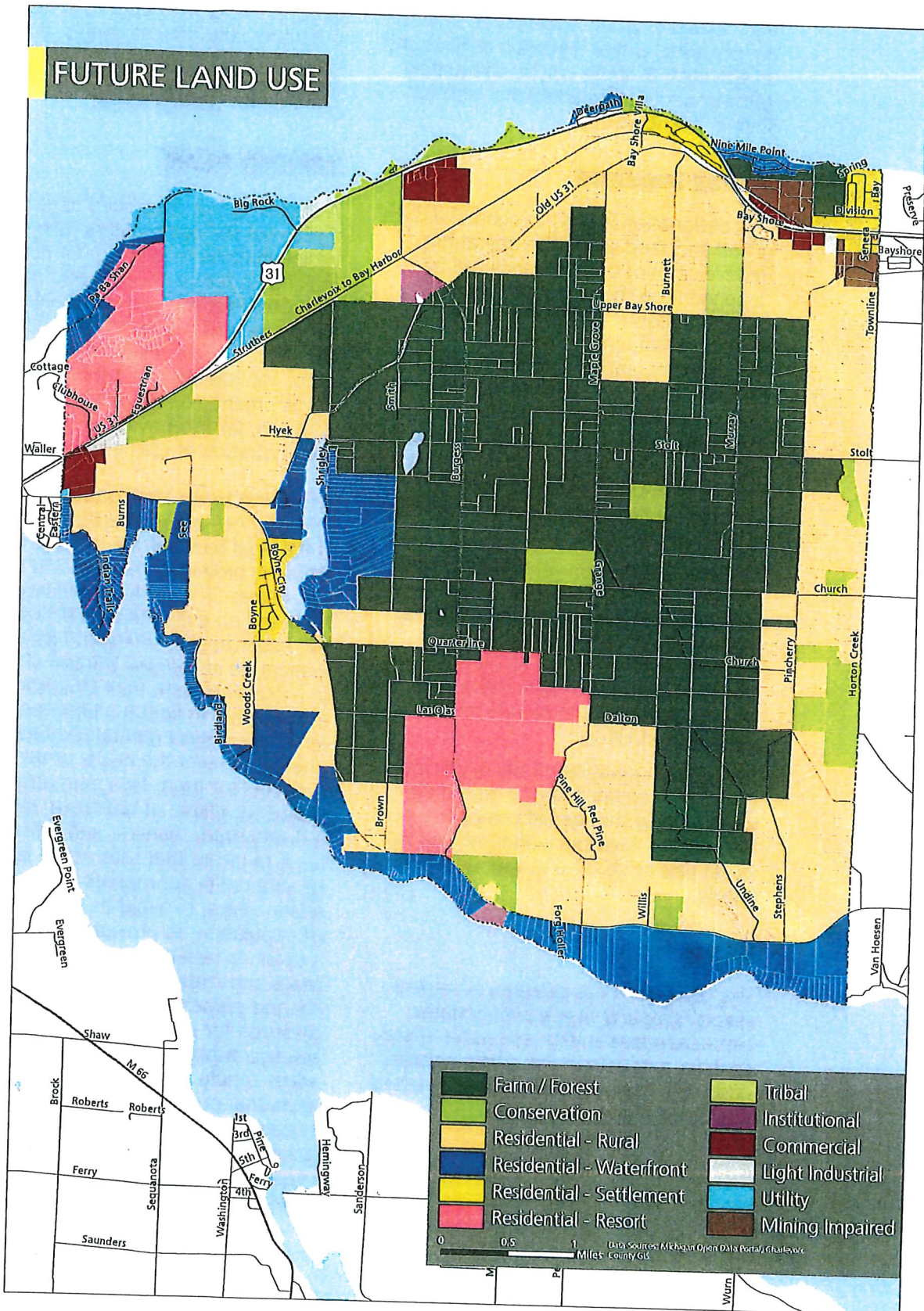
Commercial

The Commercial category is designated to accommodate small to moderate scale commercial needs of the Township. This area exists in three locations: on US-31 just west of Bay Shore, at the vicinity of the intersection of Burgess and US-31, and on the southside of US-31 near the Charlevoix Township line.

Light Industrial

Light Industrial category is designated to accommodate light industrial uses compatible with the limited availability of utilities and the environmental sensitivity of much of the Township. Light industrial uses are typically less intensive than general or heavy industrial uses, and may include storage and distribution, research and development,

FIGURE 2: FUTURE LAND USE MAP



and contractor establishments. Due to the availability of industrial property in the adjacent communities of Charlevoix and Petoskey, where appropriate services are provided, Hayes Township believes the local industrial needs can be adequately without designating additional land for such in this Township.

Mining Impaired

This designation is used to denote surface gravel and sand extraction operations. Redevelopment of these lands will be dependent on the scope and extent of reclamation activities, foundation limitations influenced by depth to groundwater, and on-site waste disposal options. Land use options could include residential, commercial, warehousing, and open space, conservation and passive recreation, all of which would be subject to special land use conditions intended to minimize unfavorable impacts to adjacent residential land uses.

The quarry operation on the north side of US-31 is envisioned to accommodate commercial and warehousing activities that would be non-intrusive to the adjacent residential uses along Michigan Shore Drive and Nine Mile Point Drive, and the Bayshore community on the north side of US-31.

The quarry operation on the south side of US-31 is envisioned as a residential development that would complement the existing Bayshore community on the south side of US-31 and east of Townline Road.

Utility

The Utility land use category is used to classify property that accommodates non-renewable and/or renewable energy facilities and equipment, and properties under the ownership of state and federal regulated energy companies.

FUTURE LAND USE MAP

The Future Land Use Map on the previous page illustrates the geographic extent of the future land use categories. The Future Land Use Map is a policy tool for zoning decisions necessary to implement the community's desired future.

ZONING PLAN

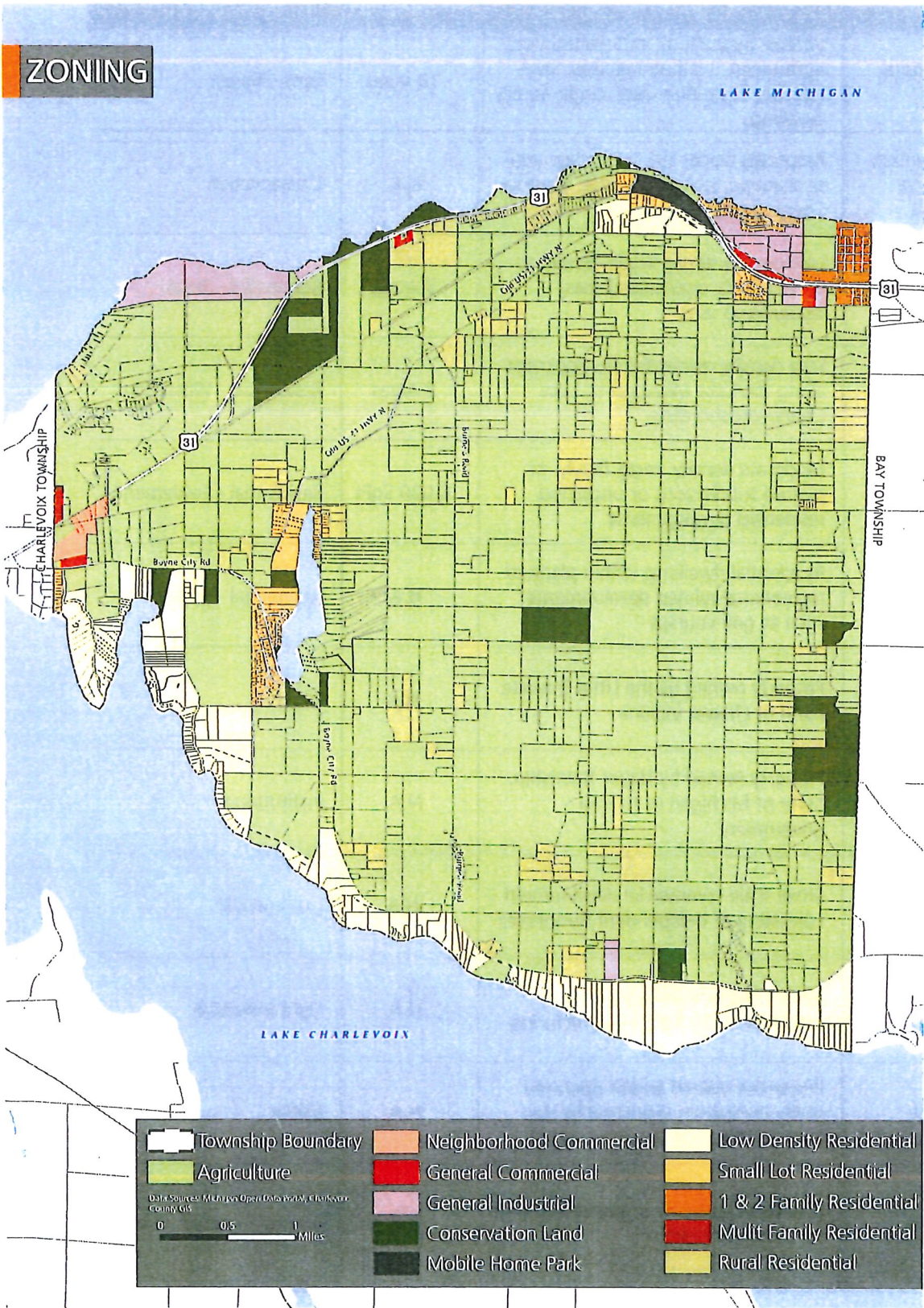
A Master Plan is developed to provide a vision of the community's future. It is designed to serve as a tool for decision making on future development proposals. A Master Plan will also act as a guide for future public investment and service decisions, such as the local budget, grant applications, road standards development, community group activities, tax incentive decisions, and administration of utilities and services.

According to the Michigan Zoning Enabling Act, comprehensive planning is the legal basis for the development of a zoning ordinance. Section 203 of the Act states: "The zoning ordinance shall be based on a plan designed to promote the public health, safety and general welfare, to encourage the use of lands in accordance with their character and adaptability, to limit the improper use of land, to conserve natural resources and energy, to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to insure that uses of the land shall be situated in appropriate locations and relationships, to avoid the overcrowding of population; to provide adequate light and air; to lessen congestion of the public roads and streets, to reduce hazards to life and property; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous use of land resources, and properties."

TABLE 1: ZONING DISTRICTS AND ASSOCIATED FUTURE LAND USE

Zoning District	Uses (general)	Lot Size (minimum)	Future Land Use Category
Agricultural (A)	Various agricultural and related uses, agritourism, institutional uses, low-intensity recreation uses, single-family dwellings	10 Acres	Farm / Forest
Conservation Reserve (CR)	Properties under the ownership and/or management of the Little Traverse Conservancy	N.A.	Conservation
Rural Residential (RR)	Low density single-family dwellings on large lots, agricultural uses, institutional uses	5 Acres	Residential - Rural
Low Density Residential (R-1)	Low density residential development along the Lake Michigan or Lake Charlevoix shoreline	2 Acres	Residential - Waterfront
Small Lot Residential (R-2)	Moderate density single family in platted subdivisions or unplatted residential developments	8,000 SqFt	Residential - Settlement
Planned Unit Development (PUD)	Residential dwellings within planned recreational-related developments such as golf courses	N.A.	Residential - Resort
Regulated by Tribal Planning and Zoning	Property owned by the Little Traverse Band of Odawa Indians	N.A.	Tribal
Conservation Reserve (CR)	Property owned by Hayes Township, State of Michigan or federal government	N.A.	Institutional
General Commercial (C-2)	Small scale commercial development consisting of independent businesses	N.A.	Commercial
General Industrial (I-1)	Warehousing, contractor establishments, light manufacturing	N.A.	Light Industrial
New	Properties owned and/or operated utility companies regulated by the state and/or federal government	N.A.	Utility
New	Properties currently or previously used for mineral extraction.	N.A.	Mining Impaired

FIGURE 3: ZONING MAP



The Zoning Ordinance is the most important tool for implementing the Master Plan. Zoning is the authority to regulate private use of land by creating land use zones and applying development standards in various zoning districts. Hayes Township is covered by the Hayes Township Zoning Ordinance regulating land use activities.

In accordance with the Michigan Planning Enabling Act, the Master Plan includes a zoning plan to guide future actions and amendments. Table 1 relates the future land use categories to the established zoning districts. Following the table are proposed zoning changes that have emerged through the master planning process.

PROPOSED ZONING MODIFICATIONS

The master planning process has revealed a number of zoning priorities that require review and updating to reflect current trends and established goals. The items presented below represent the issues the Township will explore to meet the evolving needs of the community.

Mining Impaired

This would be a new zoning district established to govern the land uses that would be allowed once the quarries north and south of US-31 are no longer mined. The district would differentiate land uses by location. The quarry north of US-31 would be designated for general commercial and warehousing. The quarry south of US-31 would allow for residential uses only. All uses regulated in this district would be subject to a Special Land Use Permit (SLUP) in order to evaluate any potential impacts to nearby residential developments.

Utility

This district would cover property owned by state and federal regulated utility company. Allowable uses would be utility-related such as transmission lines, power generation, warehousing, storage yards, and offices.

Water Quality

The quality of water resources, both surface and ground, is a foundation to the community's identity. However, protecting water quality while maintaining private property rights is a delicate balance. The Township will review its existing waterfront regulations and gather input from the community and Tip of the Mitt Watershed Council to identify improvements to the zoning ordinance that effectively achieve this balance while respecting individual land owners.

Preserve Farmland and Open Space

In order to prevent the fragmentation of open space and large tracts of land, the Township will explore the transfer of development rights through planned unit developments to reduce the development pressure land owners may face. Furthermore, the Township will look to maintain the viability of agricultural operations by reviewing its value-added agricultural uses. It will explore increased setbacks to reduce the potential for conflicts by increasing the setbacks between agricultural and residential uses.

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New Business

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Set/Confirm Public Hearing Dates

Set/Confirm Date of Next Planning Commission: August 15, 2023 at 7:00 pm

Public Comment

Planning Commission Comment

Adjournment

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Excused: Ed Bajos.

Also, present: April Hilton (Deputy Clerk/Recording Secretary).

Audience: Ellis Boal, John McMahon, LuAnne Kozma, CT Martin, Jerry Augustine, Janet Simon, Betty Henne, Chelsea Mills, Mel Czechowski, Jennie Silva, David Kemme, Jim Pemberton, and Doug McCombs.

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REVIEW AGENDA:

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Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead

Nays: none **Motion Carries**

DECLARATIONS OF CONFLICTS OF INTERESTS: None

APPROVAL OF MINUTES MAY 16TH, 2023 REGULAR MEETING

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Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead.

Nays: none **Motion Carries**

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REPORT OF ZONING BOARD OF APPEALS REPRESENTATIVE:

NA

ZONING ADMINISTRATOR REPORT:

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SHORELAND PROTECTION SUBCOMMITTEE REPORT- 11667 PA BA SHAN:

Mr. Greenslade made a motion, supported by Ms. Morehead, to approve amending the Site Plan Review for this Site Plan Review only.

Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead.

Nays: none **Motion Carries**

Planning Commission members requested a 10-minute recess beginning at 8:05 Meeting will resume at 8:15.

Mr. Bulman made a motion, supported by Mr. Greenslade to recess the Site Plan Review for a special meeting on Tuesday 27th 2023 at 7:00 pm to review this application.

Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead.

Nays: none **Motion Carries**

Hayes Township Planning Commission
June 20th, 2023
Regular Meeting
Zoom ID 836 0148 1092

ACCESSORY DWELLING UNITS:

Planning Commission members discussed the ADU section of the Zoning Ordinance and the possibility of amending the ordinance to address the housing needs of families within the community.

Planning Members agree each zoning district needs to be address individually and at use by right when amending the ADU section of the Zoning Ordinance.

The Planning Commission will be working with Housing North to create a revised draft of the Accessory Dwelling Unit (ADU) section of the Zoning Ordinance, for the Planning Commission members to review at a future meeting.

OLD BUSINESS-

SET/CONFIRM PUBLIC HEARING DATES:

None

SET/CONFIRM DATE OF NEXT PLANNING COMMISSION MEETING:

Next Planning Commission meeting will take place on June 27th, 2023, at 7:00 pm.

PUBLIC COMMENT: Public comments open 8:50 pm.

Comments included:

- Resident questioned the plan for the Master plan review and if the Zoning Ordinance redraft is on hold.
- Resident reached out to two Planning Commission members to amend the agenda item for the Site Plan Review and would like to know why those two members did not act on their request.
- Resident provided their employer Rieth Riley's comments and abjections of the Advisory Committee recommendations to the Planning Commission. More specifically some of the language choices in the draft will decrease value of Rieth Riley land and they feel that the recommendations favor other residents and penalize another. Also feels that the recommendations decrease the communities view on Rieth Riley business.
- Resident stated he agrees with Roy's statement that the consent judgement with Rieth Riley does in fact determine everything. Also believes there should be an advisory committee meeting to correct the language error in the committees report to the Planning Commission.
- Resident read the definition of mining to the Planning commission. And is concerned for the potential for developing the land after the mining land is recommended.

Hayes Township Planning Commission
June 20th, 2023
Regular Meeting
Zoom ID 836 0148 1092

- 108 - Resident would like the public comment timer to start after the resident states their
109 name. Also, would like to know if the language change for ADU's portion of the zoning
110 ordinance will be posted for review by the residents.
111 - Housing North representative thanked the Planning Commission for reviewing the ADU
112 section of Hayes Township Zoning Ordinance.
113 Public comments closed 9:06pm.
114

115 **PLANNING COMMISSION COMMENT:**

- 116 - Roy Griffiths stated the language is an issue and they will be working on adjusting these
117 errors, however, must work carefully along with the consent agreement. He appreciates
118 everyone's hard work.
119 - Rex Greenslade is disappointed all the Advisory Committee discussion and work is being
120 boiled down to discussion on one wrong word. Suggested working with Rieth Riley to
121 better the wording of the Future Land Use Map within this section.
122

123 **ADJOURNMENT:** Mr. Greenslade made a motion, supported by Ms. Morehead, to adjourn the
124 meeting at 9:10 pm.

125 Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Marilyn Morehead, Rex Greenslade, and Matt
126 Cunningham.

127 Nays: none **Motion Carries**
128
129

130 Respectfully Submitted by:
131 April Hilton
132 Deputy Clerk/Recording Secretary
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Hayes Township Planning Commission
Special Meeting
June 27th, 2023
Regular Meeting
Zoom ID 836 0148 1092

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

2 Members present: Roy Griffiths (Chair), Steve Bulman, Derek Burnett, Marilyn Morehead, Rex
3 Greenslade and Matt Cunningham

4 Excused: Ed Bajos.

5 Also, present: April Hilton (Deputy Clerk/Recording Secretary).

6 Audience: Doug Kuebler and Betty Henne
7

8 **REVIEW AGENDA:**

9 Mr. Greenslade made a motion, supported by Ms. Morehead to approve the agenda as
10 presented.

11 Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Matt Cunningham, Rex Greenslade, and
12 Marilyn Morehead

13 Nays: none **Motion Carries**
14

15 **DECLARATIONS OF CONFLICTS OF INTERESTS:** None
16

17 **PUBLIC COMMENTS:**

18 Public comments opened at 7:01 pm.

19 No Comments

20 Public comments closed at 7:01pm
21

22 **SHORELAND PROTECTION SUBCOMMITTEE REPORT- 11667 PA BA SHAN AND SITE PLAN**

23 **REVIEW OF SHORELINE PROTECTION STRIP PLAN PROPOSED CINTINUATION:**

24 Mr. Greenslade made a motion, supported by Mr. Cunningham to approve the shoreland
25 protective strip site plan review with the conditions that the owner will have to receive
26 approval by Tip of the Mitt for any plants and the condition that the shoreline protection strip
27 remain in a natural state.

28 Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Marilyn Morehead, Rex Greenslade, and Matt
29 Cunningham.

30 Nays: none **Motion Carries**
31

32 **PLANNING COMMISSION COMMENT:**

33 Planning Comment included encouragement to being up advisory group discussion points at
34 next meeting.
35

Hayes Township Planning Commission
Special Meeting
June 27th, 2023
Regular Meeting
Zoom ID 836 0148 1092

36 **ADJOURNMENT:** Ms. Morehead made a motion, supported by Mr. Cunningham, to adjourn the
37 meeting at 7:13 pm.
38 Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Marilyn Morehead, Rex Greenslade, and Matt
39 Cunningham.
40 Nays: none **Motion Carries**

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Respectfully Submitted by:
April Hilton
Deputy Clerk/Recording Secretary

**HAYES TOWNSHIP
ZONING ADMINISTRATOR REPORT
JULY 2023**

Issued zoning permit for a semi-in-ground pool with deck surround at 09190 Burgess Road.

Issued zoning permit for a new single family residence at 7423 Major Douglas Sloan Road.

Issued zoning permit for a new single family residence with attached garage and covered porch at 10611 Maple Grove Road.

Issued zoning permit for a 30' x 40 accessory structure at 10367 Burnett Road.

Issued zoning permit for a new single family residence with attached garage and deck at 11667 North Pa Ba Shan Trail.

Issued zoning permit for a residential addition including two porches at 07644 Indian Trails.

Issued zoning permit for to repair an existing deck at 07690 Indian Trails.

Received and reviewing application for zoning permit for removal of existing residence and construction of a new single family residence at 07948 Indian Trails. Shoreland review committee reviewing greenbelt plan.

Approved parcel division application for property located at 06497 Woods Creek Drive.

Working with citizen on a complaint about a neighbors building over the property line on Shrigley Road.

Working with citizen on a complaint about a neighbor building a fence over the property line on Burns Road.

Working with property owners on Maple Grove Road about multiple families living in a single family dwelling.

Future Land Use & Zoning Plan

2

FUTURE LAND USE

At present, Hayes Township is a scenic lakefront township which is primarily forested, agricultural and rural residential in the interior portions of the Township. Lakeshore living is available along the shores of Lake Michigan, Lake Charlevoix and Susan Lake. While active agricultural uses have declined from historic levels, the remaining active farms and the associated "open space" are highly valued by the local residents.

Through land use planning and land use controls, Hayes Township intends to work to ensure that the shorelines are protected, the existing agricultural, rural residential and recreational uses can continue, and reasonable growth can be accommodated with minimal land use conflicts or negative impacts. Based on the social, economic and environmental characteristics of the Township, ten general categories of land use, and one overlay, have been identified to serve existing and future development needs. These categories are listed below:

- » Farm / Forest
- » Conservation
- » Residential – Rural
- » Residential – Waterfront
- » Residential -Settlement
- » Residential – Resort
- » Tribal
- » Institutional
- » Commercial
- » Light Industrial
- » Utility
- » Mining Impaired

Farm/Forest

The Farm/Forest land use category has been designated consistent with the Township's goal to encourage farmland preservation and to recognize the importance of economic viability of farming and forestry operations. The Township will encourage innovative methods of preserving farmlands, farming, open space, natural resources, and the rural character of the Township, and at the same time assist landowners who want to reduce or discontinue farming. The methods could include innovative zoning provisions that allow for the preservation or conservation of essential natural resources, farmland, or open space, such as innovative agricultural tourism related businesses. Some methods which other communities have employed to help protect and preserve agricultural land while protecting a landowner's economic investment, include the Purchase of Development Rights (PDR), Transfer of Development Rights (TDR), clustering requirements for non-agricultural uses, and tax breaks or incentives for continuing agricultural use. It is recommended that these alternatives be investigated for possible application in Hayes Township, to balance economic rights with agricultural preservation goals.

Conservation

The Conservation category includes land owned and /or protected by a land conservancy under conservation easements.

Residential - Rural

A Residential-Rural land use category has been designated consistent with the Township's goal to "retain the township's rural and scenic character, while providing for suitable housing opportunities..." While the designation of the Rural Residential land use category will not prevent the conversion of farmland to other uses, it will help to control the scale and rate of conversion and direct attention to areas where farmland conversion may be an issue. The Residential -Rural category is intended to have a minimum lot size of five acres.

Residential – Waterfront

The Residential-Waterfront category is designed to accommodate single family dwellings on lots ranging from one-half to two acres and is primarily located in the vicinity of Lake Michigan and Lake Charlevoix. This development is located on roads with light vehicular traffic. No municipal water or sewer service is anticipated to be available in the near future. Additional provisions are recommended to be incorporated into the Zoning Ordinance to allow for a cluster development pattern to avoid or minimize development impacts on environmentally sensitive areas, forests or farmland. This Residential land use category strives to maintain an ecologically sound balance between human development activities and retain the Township's scenic waterfront character. Other zoning provisions, such as, the use of shoreline protection and preservation buffers may be used to manage this sensitive zone along the waterfront. The Residential - Waterfront category is intended to have a minimum lot size of two acres.

Residential - Settlement

The Residential-Settlement category recognizes the presence of smaller lot platted and unplatted residential developments, such as the Bayshore community, the small neighborhood adjacent to Susan Lake, and Lake Michigan Heights. These neighborhoods have a higher density per acre than the

balance of the Township and have a design unique to traditional residential neighborhoods with smaller lots and a network of streets. Minimum lot sizes range from 5,000 to 10,000 square feet.

Residential - Resort

The Residential - Resort land use category is primarily designed to accommodate large scale private residential -recreation developments, such as the Charlevoix Country Club and Dunmaglas. It is recognized that these recreation-based residential developments provide open space as part of their site master plans by clustering dwelling units. The density of residential uses in these developments are managed through the planned unit development process and/or development agreements.

Tribal

Properties under the ownership and sovereign control of the Little Traverse Bands of Odawa Indians.

Institutional

Properties owned by a governmental unit such as Township Hall and Camp Sea Gull Park.

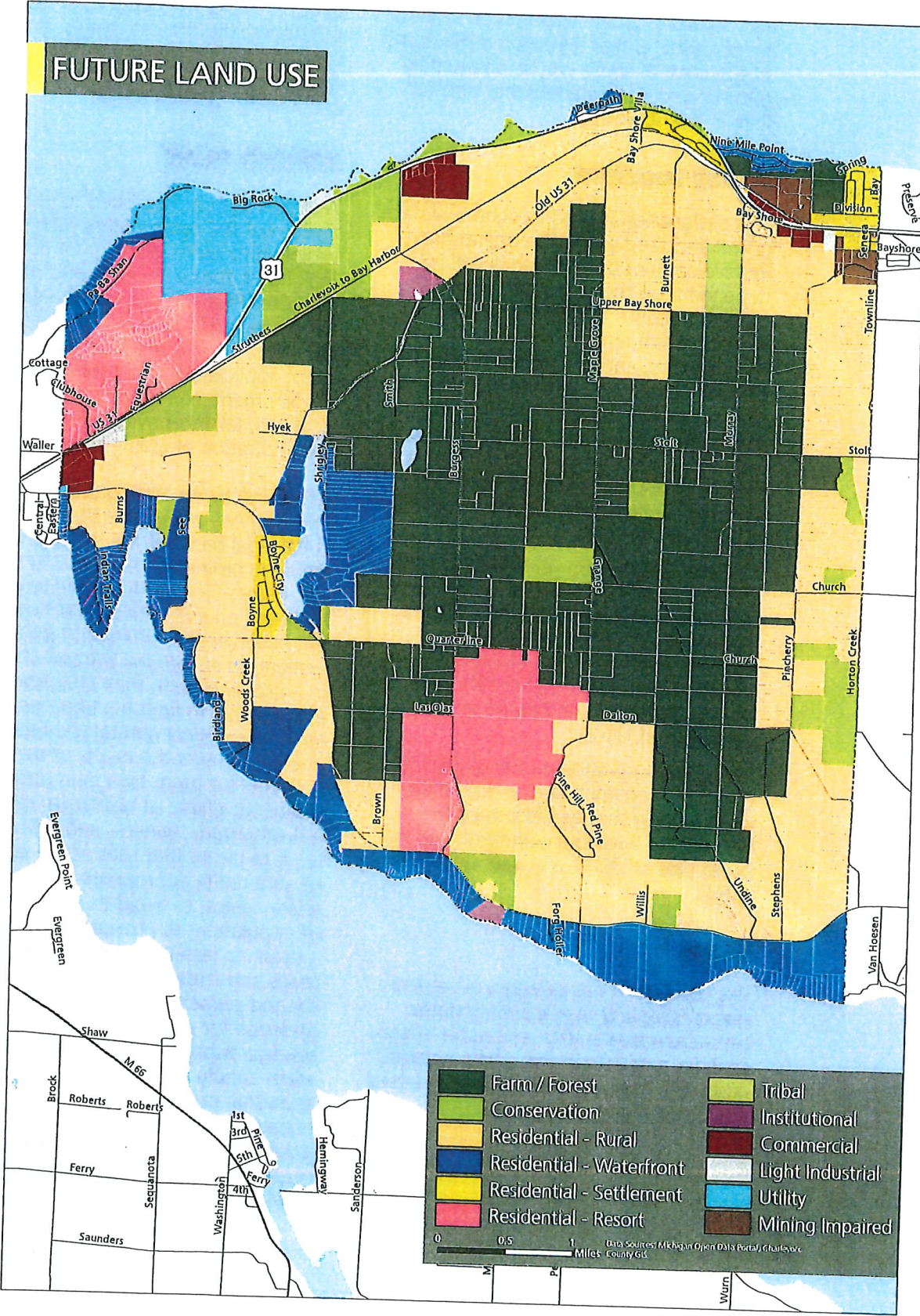
Commercial

The Commercial category is designated to accommodate small to moderate scale commercial needs of the Township. This area exists in three locations: on US-31 just west of Bay Shore, at the vicinity of the intersection of Burgess and US-31, and on the southside of US-31 near the Charlevoix Township line.

Light Industrial

Light Industrial category is designated to accommodate light industrial uses compatible with the limited availability of utilities and the environmental sensitivity of much of the Township. Light industrial uses are typically less intensive than general or heavy industrial uses, and may include storage and distribution, research and development,

FIGURE 2: FUTURE LAND USE MAP



and contractor establishments. Due to the availability of industrial property in the adjacent communities of Charlevoix and Petoskey, where appropriate services are provided, Hayes Township believes the local industrial needs can be adequately met without designating additional land for such in this Township.

Mining Impaired

This designation is used to denote surface gravel and sand extraction operations. Redevelopment of these lands will be dependent on the scope and extent of reclamation activities, foundation limitations influenced by depth to groundwater, and on-site waste disposal options. Land use options could include residential, commercial, warehousing, and open space, conservation and passive recreation, all of which would be subject to special land use conditions intended to minimize unfavorable impacts to adjacent residential land uses.

The quarry operation on the north side of US-31 is envisioned to accommodate commercial and warehousing activities that would be non-intrusive to the adjacent residential uses along Michigan Shore Drive and Nine Mile Point Drive, and the Bayshore community on the north side of US-31.

The quarry operation on the south side of US-31 is envisioned as a residential development that would complement the existing Bayshore community on the south side of US-31 and east of Townline Road.

Utility

The Utility land use category is used to classify property that accommodates non-renewable and/or renewable energy facilities and equipment, and properties under the ownership of state and federal regulated energy companies.

FUTURE LAND USE MAP

The Future Land Use Map on the previous page illustrates the geographic extent of the future land use categories. The Future Land Use Map is a policy tool for zoning decisions necessary to implement the community's desired future.

ZONING PLAN

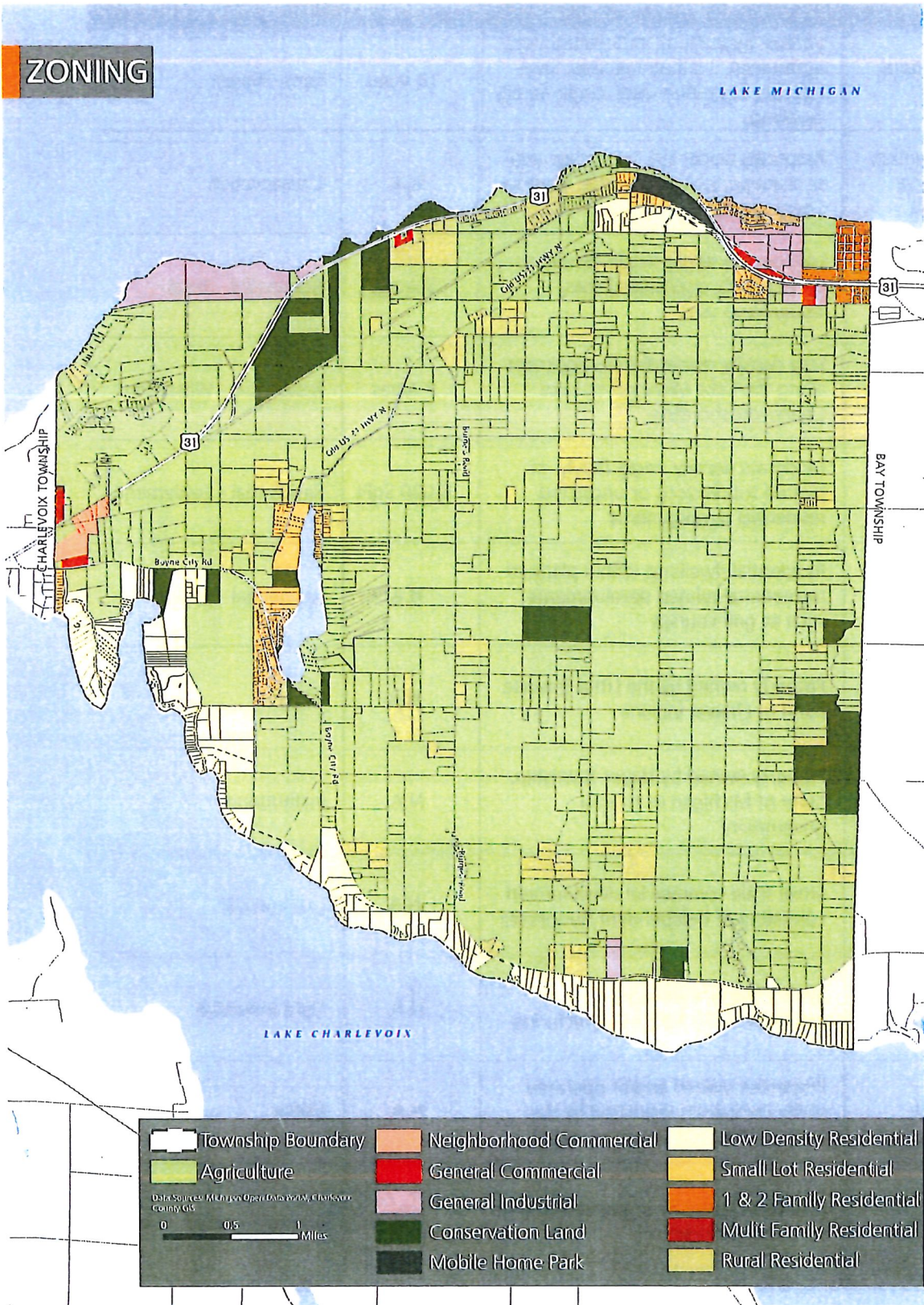
A Master Plan is developed to provide a vision of the community's future. It is designed to serve as a tool for decision making on future development proposals. A Master Plan will also act as a guide for future public investment and service decisions, such as the local budget, grant applications, road standards development, community group activities, tax incentive decisions, and administration of utilities and services.

According to the Michigan Zoning Enabling Act, comprehensive planning is the legal basis for the development of a zoning ordinance. Section 203 of the Act states: "The zoning ordinance shall be based on a plan designed to promote the public health, safety and general welfare, to encourage the use of lands in accordance with their character and adaptability, to limit the improper use of land, to conserve natural resources and energy, to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to insure that uses of the land shall be situated in appropriate locations and relationships, to avoid the overcrowding of population; to provide adequate light and air; to lessen congestion of the public roads and streets, to reduce hazards to life and property; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous use of land resources, and properties."

TABLE 1: ZONING DISTRICTS AND ASSOCIATED FUTURE LAND USE

Zoning District	Uses (general)	Lot Size (minimum)	Future Land Use Category
Agricultural (A)	Various agricultural and related uses, agritourism, institutional uses, low-intensity recreation uses, single-family dwellings	10 Acres	Farm / Forest
Conservation Reserve (CR)	Properties under the ownership and/or management of the Little Traverse Conservancy	N.A.	Conservation
Rural Residential (RR)	Low density single-family dwellings on large lots, agricultural uses, institutional uses	5 Acres	Residential - Rural
Low Density Residential (R-1)	Low density residential development along the Lake Michigan or Lake Charlevoix shoreline	2 Acres	Residential - Waterfront
Small Lot Residential (R-2)	Moderate density single family in platted subdivisions or unplatted residential developments	8,000 SqFt	Residential - Settlement
Planned Unit Development (PUD)	Residential dwellings within planned recreational-related developments such as golf courses	N.A.	Residential - Resort
Regulated by Tribal Planning and Zoning	Property owned by the Little Traverse Band of Odawa Indians	N.A.	Tribal
Conservation Reserve (CR)	Property owned by Hayes Township, State of Michigan or federal government	N.A.	Institutional
General Commercial (C-2)	Small scale commercial development consisting of independent businesses	N.A.	Commercial
General Industrial (I-1)	Warehousing, contractor establishments, light manufacturing	N.A.	Light Industrial
New	Properties owned and/or operated utility companies regulated by the state and/or federal government	N.A.	Utility
New	Properties currently or previously used for mineral extraction.	N.A.	Mining Impaired

FIGURE 3: ZONING MAP



The Zoning Ordinance is the most important tool for implementing the Master Plan. Zoning is the authority to regulate private use of land by creating land use zones and applying development standards in various zoning districts. Hayes Township is covered by the Hayes Township Zoning Ordinance regulating land use activities.

In accordance with the Michigan Planning Enabling Act, the Master Plan includes a zoning plan to guide future actions and amendments. Table 1 relates the future land use categories to the established zoning districts. Following the table are proposed zoning changes that have emerged through the master planning process.

PROPOSED ZONING MODIFICATIONS

The master planning process has revealed a number of zoning priorities that require review and updating to reflect current trends and established goals. The items presented below represent the issues the Township will explore to meet the evolving needs of the community.

Mining Impaired

This would be a new zoning district established to govern the land uses that would be allowed once the quarries north and south of US-31 are no longer mined. The district would differentiate land uses by location. The quarry north of US-31 would be designated for general commercial and warehousing. The quarry south of US-31 would allow for residential uses only. All uses regulated in this district would be subject to a Special Land Use Permit (SLUP) in order to evaluate any potential impacts to nearby residential developments.

Utility

This district would cover property owned by state and federal regulated utility company. Allowable uses would be utility-related such as transmission lines, power generation, warehousing, storage yards, and offices.

Water Quality

The quality of water resources, both surface and ground, is a foundation to the community's identity. However, protecting water quality while maintaining private property rights is a delicate balance. The Township will review its existing waterfront regulations and gather input from the community and Tip of the Mitt Watershed Council to identify improvements to the zoning ordinance that effectively achieve this balance while respecting individual land owners.

Preserve Farmland and Open Space

In order to prevent the fragmentation of open space and large tracts of land, the Township will explore the transfer of development rights through planned unit developments to reduce the development pressure land owners may face. Furthermore, the Township will look to maintain the viability of agricultural operations by reviewing its value-added agricultural uses. It will explore increased setbacks to reduce the potential for conflicts by increasing the setbacks between agricultural and residential uses.



clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>

Message from "RNP5838793ABF5D"

3 messages

clerkhayestownshipmi@gmail.com <clerkhayestownshipmi@gmail.com>
To: Clerk <clerk@hayestownshipmi.gov>

Thu, Jul 13, 2023 at 3:53 PM

This E-mail was sent from "RNP5838793ABF5D" (IM C3000).

Scan Date: 07.13.2023 15:53:54 (-0400)

Queries to: clerkhayestownshipmi@gmail.com

 20230713155354983.pdf
169K

clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>
Reply-To: clerk@hayestownshipmi.gov
To: Todd Millar <tmillar@parkerharvey.com>

Thu, Jul 13, 2023 at 3:34 PM

Todd,

The PC has their July meeting on Tuesday. Should this be part of the correspondence to the members as well as the public?

[Quoted text hidden]

--

Kristin Baranski
Hayes Township Clerk
9195 Major Douglas Sloan Road
Charlevoix, Michigan 49720
231.547.6961

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169K

Todd Millar <tmillar@parkerharvey.com>
To: "clerkhayestownshipmi@gmail.com" <clerkhayestownshipmi@gmail.com>
Cc: "Katlyn R. Selleck" <kselleck@parkerharvey.com>

Fri, Jul 14, 2023 at 1:15 PM

I would say yes. Give it out at the meeting.

Todd

[Quoted text hidden]

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emailed to PC
7/10/23



Schenk Boncher & Rypma

ATTORNEYS & COUNSELORS

Gary P. Schenk
616 647-0968 direct
gschenk@schenkboncher.com

June 27, 2023

Ron VanZee, Hayes Township Supervisor; Roy Griffiths, Hayes Township Planning Commission Chair; Kristin Baranski, Hayes Township Clerk
9195 Major Douglas Sloan Rd.
Charlevoix, MI 49720

RE: Hayes Township Master Plan and Future Land Use Map Advisory Committee

Dear Ms. Baranski and Gentlemen:

Rieth-Riley Construction Co., Inc.'s Office of the General Counsel and this office jointly represent Rieth-Riley Construction Co., Inc., (hereinafter "Rieth-Riley"). Rieth-Riley was provided with a copy of a document entitled "Future Land Use and Zoning Plan" which we understand was produced by an Advisory Committee dealing with the Township's Future Land Use Map and amendments to the Townships Master Plan. Of course, we recognize that based upon Table 1 of that report and the proposed zoning changes "that have emerged through the Master Planning process" there are recommendations that deal not only with the updating of the Land Use Map but also have implications for future zoning as well as changes to the Master Plan.

Of significant concern to Rieth-Riley is the proposed "Mining Impaired" Zoning District. The report indicates that

"This would be a new zoning district established to govern the land uses that would be allowed once the quarries north and south of US-31 are no longer mined. The district would differentiate land uses by location. The quarry north of US-31 would be designated for general commercial and warehousing. The quarry south of US-31 would allow for residential land uses only. All uses regulated in this district would be subject to a Special Land Use Permit (SLUP) in order to evaluate any potential impacts to nearby residential developments."

While we are given to understand that this is not, at present, a rezoning of any Township lands, it is clearly apparent that the intention is to have an impact on future zoning decisions. Of great concern to Rieth-Riley are the following matters:

1. The designation "Mining Impaired" has a negative connotation (i.e. "impaired") that does not exist in any other zoning district in the Township. It suggests that the lands have been adversely impacted without any proof thereof and makes that suggestion even while each of the mining operations owned by Rieth-Riley have reclamation plans in place that were approved by

the Township and which have been monitored to assure complete reclamation and a mitigation of any adverse impacts those plans are somehow deficient. Clearly, the “Mining Impaired” designation could well have a negative impact on the value of that property as a result of this unfortunate adverse branding.

2. The proposed zoning requires SLUP approval for any use. The current zoning of each of the parcels in most cases would require a special use, but in each instance, has uses that are uses “of right”. Stripping these parcels of any uses of right, (for example, agricultural uses, residential uses and the like) is tantamount to removing rights that exist currently on those properties without reasonable compensation for the loss of those rights. For example, restricting one of the mining areas to only commercial and warehouse use (and only after a rigorous SLUP approval process) would undoubtedly negatively effect the value of those parcels. In our view, it is difficult to discern the advancement of any reasonable governmental interest by pre-judging what may or may not be a suitable use for the properties.

3. Third, conditioning approval of any redevelopment on the “scope and extent of reclamation activities” appears to be to intended to retroactively contradict previously granted local, county and state issued permits and a Consent Judgment of Record (which specifies required reclamation activity).

4. Finally, the Advisory Committee’s plan appears to be intended to give Rieth-Riley *persona non grata* Status in the Township, in order to prejudice any future sale and dictate any future redevelopment of the properties. It appears intended to have a detrimental impact on the value on Rieth-Riley’s land and its ability to resell or redevelop that land.

Overall, the Committee “appears” to want to create a new zoning description and Master Planning category solely to target Rieth-Riley, to penalize its current lawful business operation, harm its property values and limit its future sale and redevelopment of private property. Whether intended or not, the Committee’s plan as proposed, as we have indicated seems not to serve any legitimate governmental interest and may well constitute a taking of Rieth-Riley’s properties.

Moreover, designating the property as “impaired” could well be detrimental to the future redevelopment of the property that might not allow it to continue to have productive and beneficial uses. The Advisory Committee’s Plan also appears to usurp existing departments, boards and local agencies that currently possess oversight and police current and future uses of the properties, such as the Health Department which has oversight and grants permits for on-site waste disposal (drain fields) as well as the county building department which grants permits for buildings and foundations. If Rieth-Riley or a future owner desires to develop the gravel pits for a use that isn’t a “use of right” within its current zoning (Agriculture for Green Pit and General Industrial for BayShore Pit) then there is already a process that exists to either obtain a SLUP for the desired development or request a zoning change that allowed the desired development.

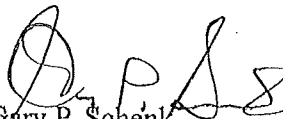
Though we have other concerns, these are the current primary concerns. Accordingly, as owners of the property, Rieth-Riley requests that it be included in all discussions and have a seat at the table where discussions regarding the Future Land Use Map, future zoning and Master Planning which includes these parcels is to take place.

Thank you for your attention to this matter.

Very Truly Yours,



Keegan Brennan, Asst. General Counsel
Rieth-Riley Construction Co., Inc.,
Office of the General Counsel



Gary P. Schenk
Schenk Boncher & Rypma
Attorneys for Rieth-Riley Construction Co., Inc.



clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>

Master Plan and Zoning Ordinance

1 message

Jim McMahon <jim_mcmahon_jii@yahoo.com>

Sun, Jul 16, 2023 at 7:47 PM

To: "hayestownshipcc@gmail.com" <hayestownshipcc@gmail.com>, Kristin Baranski <clerk@hayestownshipmi.gov>, Ron VanZee <zoning@hayestownshipmi.gov>
Cc: John Iacoangeli <jri@bria2.com>

Dear Members of the Planning Commission, (Kristin, please distribute this email. Thank you.)

The Advisory Group did an excellent job of updating the Future Land Use Map and its Zoning Plan Descriptions. We are fortunate to have had their input, discussion, and recommendations for the planning commission. Here are two items for consideration.

1. Section 2, Future Land Use & Zoning Plan, page 18, clarification:

In the **Mining Impaired description under Future Land Use**, 3rd paragraph, replace the word "and" with the phrase:

", as well as the neighboring community in Emmet County, just" Otherwise, the casual reader could think that Bay Shore is in the SE corner of US-31 and Townline Road.

2. Section 2, Future Land Use & Zoning Plan, page 21, reclamation:

In the **Mining Impaired description under Proposed Zoning Modifications**, at the end of the 1st sentence, add the phrase:

"and have been fully reclaimed and certified as environmentally safe by an independent, qualified, licensed geologic and hydrologic engineering company."

General conclusion: I realize Reith-Riley is very upset with the term "Mining Impaired" because that terminology could describe the property in a negative context. The community of Bay Shore is also very upset with many aspects of the mining, immediately adjacent to their residential area.

The mining has forever changed the natural wellbeing of this land to the detriment of the surrounding residential homeowners. The mined land must have this **"Mining Impaired"** classification to advise potential future landowners of its risks. Perhaps, this label could be modified to some less negative term when the land is fully reclaimed and certified as environmentally safe as noted in # 2 above. However, this mined land must always carry a label that indicates it has been previously mined.

Zoning Ordinance, Section 7.01.15, Resource Mining, Extraction and Fill:

1. It appears that several performance standards in part C, Section 7.01.15, for the current mining near Bay Shore are currently not being complied with, specifically severe slopes, fencing, and possibly other standards. I am asking the Zoning Administrator to review all of these standards for adherence. Thank you.

2. Improvement of the site reclamation standards in part D, Section 7.01.15, need attention. There are also no standards for underground geologic structures and water-related issues.

Thank you for your ongoing work to improve the township master plan and zoning ordinance.

Jim McMahon
phone: 231-347-9829

*Emailed to PC
7/10/23*



clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>

Definition of Mining Impaired

1 message

Melvin Czechowski <mhczechow@aol.com>

Mon, Jul 17, 2023 at 10:56 AM

To: "hayestownshipcc@gmail.com" <hayestownshipcc@gmail.com>, Kristin Baranski <clerk@hayestownshipmi.gov>, Ron VanZee <zoning@hayestownshipmi.gov>
Cc: John Iacoangeli <jri@bria2.com>

Members of the Planning Commission,

I have read the Hayes Township "Future Land Use and Zoning Plan" and consider it an excellent proposal for how Hayes Township should develop in the near future.

I know there is concern with the term "mining impaired". However, it is an appropriate term until the gravel pit area is fully reclaimed.

Kristin, please distribute the following:

Mining impaired is defined in the "Future Land Use & Zoning Plan" as the following: "to denote surface gravel and sand extraction operations". The land use and zoning plan further states that: "Redevelopment of these lands will be dependent on the scope and extent of reclamation activities, foundation limitation influenced by depth to ground water, and on-site waste disposal options."

The area in question has had surface and sand extraction operations and is impaired. This cannot be in denied.

Before a name change in an area now known as "mining impaired" can be made, the area must be reclaimed. It would be improper to sell this land without a buyer knowing the history of the land. Reclamation of the Bay Shore area should have been defined before any mining occurred, and as mining has stopped and restarted over the years, with new areas being mined, each area should have a definition on how it will be reclaimed.

In Wikipedia reclamation is defined as:

"Mine reclamation is the process of modifying that has been mined to ecologically functional or economically usable state. Although the process of mine reclamation occurs once mining is completed, the planning of mine reclamation activities occurs prior to a mine being permitted or started. Mine reclamation creates useful landscapes that meet a variety of goals ranging from the restoration of productive ecosystems to the creation of industrial and municipal resources. In the United States, mine reclamation is a regular part of modern mining practices.^[1] Modern mine reclamation reduces the environmental effects of mining".

What were the goals of this land after gravel mining?

"Mining can cause in erosion, sinkholes, loss of biodiversity, or the contamination of soil, groundwater, and surface water by chemicals emitted from mining processes. These processes also affect the atmosphere through carbon emissions which contributes to climate change [1]. Some mining methods — may have such significant environmental and public health effects that mining companies in some countries are required to follow strict environmental and rehabilitation codes to ensure that the mined area returns to its original state."

Bay Shore residents have great concerns about 1) the dust during and after mining, and how it may affect their health and soil, 2) adverse effects on their well water, 3) erosion near housing, 4) potential inability to use septic systems due to high water table, and 5) sinkholes.

Before this area can be redefined from mining impaired to another term it must be reclaimed to acceptable condition as defined by the township and confirmed by an independent geological firm with expertise not only in geology but also in environmental matters.

Any person or company purchasing this land must be made aware that it has been mined for gravel, and that it has been reclaimed. When that is completed a new definition of the mining impaired area can be made.

(1) [Surface Mining Control and Reclamation Act of 1977](#)

Melvin H. Czechowski, Ph.D.

Hayes Township Zoning Ordinance Waterfront Regulations

July 18, 2023

To: Hayes Township Planning Commission
From: LuAnne Kozma, 9330 Woods Road, Charlevoix MI
RE: Opposition to Zoning Ordinance Draft

We have a really good ordinance currently in effect, that protects the shoreland, streams and lakes in the township. It's considered one of the best in Michigan by Michigan Lakes and Streams Association, and considered "strong" by Tip of the Mitt Watershed Council.

It could use a few important improvements, such as prohibiting lawns and retaining walls in the Shoreland Protection Strip, and spelling out more clearly that excavation is indeed prohibited, as the ZBA recently ruled. It could require that septic systems get inspected and fixed with changes of ownership. It could prohibit marinas, permanent docks, and rip rap and other hardening of the shore. It needs to correct the error of interpretation by the ZBA of how the Ordinary High Water Mark works. It is always, by everyone's definition, the dividing line between uplands and bottomlands, and bottomlands sometimes have no water on it, but uplands rarely do and only during an extraordinary and temporary, a "highest" water level event. Certainly there are no excavated channels or basins that are "uplands" and yet that's what the ZBA misunderstood and declared there are, when they made a decision in my interpretation case last summer. I am currently in a lawsuit with the Township over this. An easy fix to this situation is for the PC to write the ordinance to reverse that ZBA decision.

There is an awful example in the Township of a waterfront property with a series of retaining walls just to the north of Camp Seagull, I believe adjacent or close to the home of Commissioner Morehead. How that shoreland destruction and a wall right up against the water of Lake Charlevoix was allowed to happen under this ordinance is beyond comprehension. Someone blew it: the Zoning Administrator, the Shoreland Protection Subcommittee, Planning Commission, or all three.

The PC's proposed changes in the draft you have before you tonight, however, are designed to intentionally gut the waterfront and shoreland protections we currently enjoy.

As residents who have fought hard to defend these shoreland protections, my husband and I are opposed to the PC's changes that leave Lake Charlevoix, and all the lakes and streams in the township, victim to overdevelopment, pollution, habitat loss, forest fragmentation and loss, shoreland loss, wildlife loss, and degradation of water quality and overall watershed destruction.

Hayes Township's Zoning Ordinance currently protects a required 50-foot wide strip of land on all township lakes and streams, called the *Shoreland Protection Strip*, a feature of the ordinance since 1974. The draft you created slashes that to 25 feet, and worse, changes the definition to "An area of protective ground cover extending from the OHWM OR PROPERTY LINE inland twenty- five (25) to thirty (30) feet to limit erosion and provide filtration of runoff into the water." This would no longer protect **land**, just vegetation. "An area of protective ground cover" could be just patches of vegetation along the shore, if and where it exists.

Brazenly, right after our win at the ZBA in August last year on prohibition of excavation of the shoreland, one of you, or the Zoning Administrator, inserted a **huge loophole** giving automatic Township approval to any waterfront owner wanting to alter more than 20% of their shoreland if the Planning Commission allows it, or if the State and Federal governments permit it. This is the exact situation of the proposed Law boathouse/Dining and event facility. It illegally would give the Planning Commission variance power for waterfront owners wanting to do the worst alterations of all! And abdicates the Township's responsibility of waterfront protection the ordinance ordinarily would provide. Just throws the ordinance right in the garbage.

Other changes in the draft zoning ordinance that I oppose include all of those on the attached flyer.

So many people who have served on the PC before this Planning Commission, used their convictions and intelligence and used science and best practices by watershed experts into crafting a good protective ordinance over the years. To see this commission, led by a chair who wants rich people do whatever they want and a rogue Zoning Administrator with absolutely no administrative oversight or accountability for his misdeeds, destroy this township's ordinance... for what? A corporate resort for one company? That is here today, gone tomorrow? For anyone who wants to put retaining walls up and down their lakefront? It's egregious and irresponsible. **I want to thank the few Commissioners who have been asking the tough questions and who made good comments on the draft, for their leadership. I hope that you can get us out of this mess.**

Hayes Township Zoning Ordinance Waterfront Regulations

Considered one of the best ordinances in Michigan to protect the shoreland by Michigan Lakes and Streams Association

Considered “strong” by Tip of the Mitt Watershed Council (Charlevoix County Local Ordinance Gaps Analysis, TOMWC. 2011)

Hayes Township’s Zoning Ordinance protects a required 50-foot wide strip of land on all township lakes and streams, called the *Shoreland Protection Strip*, a feature of the ordinance since 1974.

Michigan Lakes and Streams Association lists the Hayes ordinance as one of 14 example ordinances that follow the recommendations in *Protecting Michigan’s Inland Lakes: A Guide for Local Governments*.

The Hayes Township Zoning Board of Appeals interpreted the Waterfront Regulations section on August 22, 2022, as **prohibiting excavation of the Shoreland Protection Strip for boat basins and channels!**

The Zoning Board of Appeals also interpreted Section 3.14(8) the Waterfront Development Review process, to mean that its purpose **is not to compromise or negotiate but to enforce compliance** with the Waterfront Regulations.

**Drastic changes proposed by Hayes Township Planning Commission
GUT the protections for the
Shoreland Protection Strip!**

The current definition Shoreland Protection Strip is “a strip of land fifty feet in depth landward from the Ordinary High Water Mark, placed as to be parallel to the body of water.”



The new proposed language is: “An area of protective ground cover extending from the OHWM OR PROPERTY LINE inland twenty- five (25) to thirty (30) feet to limit erosion and provide filtration of runoff into the water.”

This would no longer protect **land**, just vegetation. “An area of protective ground cover” could be just patches of vegetation along the shore, if and where it exists. The revision would also decrease the size of the Shoreland from 50 feet to just 25 to 30 feet, a **drastic change** from what Hayes Township has been protecting for decades.



The changes in the draft zoning ordinance include:

- Changing the very definition of Shoreland Protection strip as no longer “land” but an “area of vegetative ground cover”
- Removes the word “natural” from the intent section, that the shoreland “must be preserved in a natural fashion.” Removed also is “and community scenic and recreational values.”
- Reduces the size of the Shoreland Protection Strip to just 25-35 feet from a strict 50 feet, which has been in place for decades. Tip of the Mitt recommends 50 feet or more. A drastic step in the wrong direction.
- Inserted a **huge loophole** giving automatic Township approval to any waterfront owner wanting to alter more than 20% of their shoreland if the Planning Commission allows it, or if the State and Federal governments permit it. This is the exact situation of the proposed Law boathouse/Dining and event facility.
- Further **guts protection from excavation** by changing the prohibition on removal of tree root systems to “Tree root systems should [rather than SHALL] be left in place for shoreline stabilization” and then adds... “whenever possible.”
- Changes the wording “preventing soil erosion” to “inhibiting soil erosion.”
- Changes “the strip should not be altered more than 20%” from “shall not be altered more than 20%” regarding vegetation.
- Guts the compliance element of the Waterfront Development Review process outlined in Section 3.14(8) from its current purpose to “ensure the compliance” with the rest of the Waterfront Regulations, to “in an attempt to increase compliance...”
- Removing the required participation of an organization with scientific expertise in lake ecology in the shoreland protection review process, replacing it with an option of consulting an expert only “as needed.”



Why is Hayes Township no longer interested in protecting lakes and streams?

HAYES TOWNSHIP PLANNING COMMISSION

Meeting Date:	JULY 18, 2023
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Location:

Hayes Township Hall

[illegible]

