

AGENDA
HAYES TOWNSHIP, CHARLEVOIX COUNTY
PLANNING COMMISSION
SPECIAL MEETING
AUGUST 22, 2023 7:00 pm
Hayes Township Hall
9195 Major Douglas Sloan Road
Charlevoix, Michigan 49720
ZOOM

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

Meeting ID: 836 0148 1092

Passcode: 068828

+1 312 626 6799 US (Chicago)

1. Call to Order
2. Review and Approval of the Agenda
3. Declaration of Conflict of Interest (if any)
4. Public Comment (Unrelated to Agenda Items)
5. Continuation of Review of the Master Plan Advisory Committee Recommendations-
Future Land Use Map
6. Begin Review of Draft Edits to Zoning Ordinance (If Time Permits)
7. Public Comment
8. Planning Commission Comment
9. 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.
6. If a speaker is called out of order, that speaker will not be able to speak again at the same meeting except by special leave of the Planning Commission. If the speaker continues to disrupt the meeting or is disorderly, law enforcement will be called to remove the speaker.
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
July 18th, 2023
Regular Meeting
Zoom ID 836 0148 1092

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

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

Excused: Ed Bajos.

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

Audience: Ellis Boal, Jim McMahon, LuAnne Kozma, Shelly VanWart, Tim Boyko, Jeff Tashjian, Winnie Boal, Deb Narten, Mel Narten, Dee Hutcheson, Bill Henne, Betty Henne, Mel Czechowski, Carol Umlor, Anthony Dinz, Todd Peterson, and Jim Pemberton.

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

REVIEW AGENDA:

Ms. Morehead made a motion, supported by Mr. Burnett, to approve adjournment of the July 18th 2023 Planning Commission meeting no later then 9:00 pm.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffitts, Matt Cunningham, Rex Greenslade, and Marilyn Morehead

Nays: none **Motion Carries**

Ms. Morehead made a motion, supported by Mr. Cunningham to approve the agenda as corrected.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffitts, Matt Cunningham, Rex Greenslade, and Marilyn Morehead

Nays: none **Motion Carries**

DECLARATIONS OF CONFLICTS OF INTERESTS: None

APPROVAL OF MINUTES JUNE 20TH, 2023 REGULAR MEETING

Mr. Greenslade made a motion, supported by Ms. Morehead, to approve the June 20th, 2023, regular meeting minutes as corrected.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffitts, Matt Cunningham, Rex Greenslade, and Marilyn Morehead.

Nays: none **Motion Carries**

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APPROVAL OF MINUTES JUNE 27TH, 2023 SPECIAL MEETING MINUTES

Mr. Bulmann made a motion, supported by Ms. Morehead, to approve the June 27th, 2023, special meeting minutes as corrected.

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

Nays: none **Motion Carries**

PUBLIC COMMENTS UNRELATED TO AGENDA ITEMS:

Public comments opened at 7:10 pm.

Comments included:

- Resident stated Hayes Township is loved by many people. Which is why they are concerned about the discussion of reducing the acre limit in different zones.
- Resident feels the Township already has the best Zoning Ordinance for protecting the Shoreland. However, they did suggest strengthening the protection on retaining walls and excavating near the shoreland.
- Resident is concerned about the discussion regarding the Future Land Use Map.
- Resident complimented to Advisory Group for all their hard work. Also, would like to see the term "Mining Impaired" used in the Future Land Use Map.
- Resident supports the term "Mining Impaired" for the Future Land Use Map.
- Resident agrees to keep meeting within two hours, also stated the audience members are difficult to hear on zoom. Also, would like to see unrelated to agenda item public comments removed from the first public comments. Concerned the new language of the new zoning ordinance will change the protection of the shoreline and stated, excavation in the shoreland protection strip should be prohibited in all cases.

Public comments closed at 7:28pm

REPORT OF TOWNSHIP BOARD REPRESENTATIVE TO THE PLANNING COMMISSION:

Next meeting July 14th, 2023.

REPORT OF ZONING BOARD OF APPEALS REPRESENTATIVE:

NA

ZONING ADMINISTRATOR REPORT:

Written report available at Hayes Township Hall.

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NEW BUSINESS-

REVIEW ADVISORY COMMITTEE REPORT AND FUTURE LAND USE MAP:

Ms. Morehead made a motion supported by Mr. Greenslade, to finalize discussion at next meeting.

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

Nays: none **Motion Carries**

The Planning Commission came to a consensus that all members will be prepared to discuss modifications in the Master Plan and on the Future Land Use Map at the next Planning Commission Meeting.

BEGIN REVIEW OF ZONING ORDINANCE DRAFT:

Ms. Morehead made a motion, supported by Mr. Greenslade to table discussion until next Planning Commission meeting.

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

Nays: none **Motion Carries**

OLD BUSINESS-

SET/CONFIRM PUBLIC HEARING DATES:

None

SET/CONFIRM DATE OF NEXT PLANNING COMMISSION MEETING:

Planning Commission Special Meeting for a site plan review of A Shoreland Protection Strip will take place July 25th, 2023, at 7:00 pm.

Next Planning Commission regular meeting will take place on August 15th, 2023, at 7:00 pm.

PUBLIC COMMENT: Public comments open 9:19 pm.

Comments included:

- Resident is disappointed in the discussion the Planning Commission had on the Mining portion of the Advisory Committee report, does not agree with deleting it from the report

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- Resident is concerned the Planning Commission is not considering the possibility of 30 more years of mining.
- Resident does not agree with removing the mining section from the Future Land Use map, agrees with changing the word “impaired”, however keep the section/definition the Advisory Committee recommended.
- Representative for Reith Riley stated Rieth Riley would like to keep the North side of 31 zoned as Industrial.

Public comments closed 9:26pm.

PLANNING COMMISSION COMMENT:

- Mr. Griffiths stated the Planning commission and/or Township cannot approach the residents’ concerns with the Reith Riley mineral extraction at this time. Planning Commission is looking towards the future and the Future Land Use Map is a tool to guide to Township.

ADJOURNMENT: Mr. Greenslade made a motion, supported by Mr. Bulmann, to adjourn the meeting at 9:30 pm.

Yeas: Derek Burnett, Steve Bulmann, 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
July 25th, 2023
Special Meeting
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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 Bulmann, Derek Burnett, Marilyn Morehead, Rex Greenslade and Matt Cunningham

Excused: Ed Bajos.

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

Audience: Janet Simon, Shelly Green VanWart, Marolyn Anderson, Kevin Willis, Pat Fary, Catherine Phelps, Daran Phelps, Jeff Harmon, Dianne McMahon, Betty Henne, Jim McMahon, Deb Narten, Danielle Hutchenson, Kim Fary, Sue Pike, Joellen Rudolph, Jim Rudolph, Tim Boyko, Susan Mcbrew, Chip Lorenger, LuAnne Kozma, Carol Umlor, Anthony Deir, Mel Czechowski, Jim Pemberton, Bob Ferguson, Mel Taylor, and Winnie Boal.

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

REVIEW AGENDA:

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

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

Nays: none **Motion Carries**

Ms. Morehead made a motion, supported by Mr. Bulmann to adjourn the meeting no later than 9:00pm.

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

Nays: none **Motion Carries**

DECLARATIONS OF CONFLICTS OF INTERESTS: None

PUBLIC COMMENTS UNRELATED TO AGENDA ITEMS:

Public comments opened at 7:02 pm.

Comments included:

- Resident's comments are attached to the minutes.
- Resident does not agree with changing the label 'mining impaired'. Feels the land should be labeled with concern.
- Resident suggested 'mining History' or 'mining reclaimed' would be better verbiage that all parties could agree on. They would like to see a lawsuit avoided.

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- Resident would like to thank the Advisory committee for all their hard work. However, they are concerned for the residents well water and the water in the surrounding creeks to the Reith Riley property.
- Resident is concerned there is no public comment towards the end of the meeting. Feels the mining impaired portion of the advisory committee report should be part of the Hayes Township Zoning ordinance.
- Deb Narten supports the Mining Impaired label, feels it best describes the land as it is damaged.
- Resident feels the Planning Commission should approve all the suggestions from the Advisory Committee especially the label of mining impaired. Does not feel one property owners' opinion should affect the Planning Commission's decision.
- Resident feels the Planning Commission should visit the Reith Riley pit for they feel it is dangerous. Also feels there should be a second public comment towards the head of the meeting.
- Resident feels the Township should not have any special meetings. They do not feel like the Township is working for the residents. And feels the 'mining impaired' label should be changed to 'stripped mining.'
- Resident feels Rieth Riley has stripped the land from mineral extraction and feels 'mining impaired' is what it should be labeled. Believes the Planning Commission should use the label that the Beckett and Raeder professional created for this section. Also, would like to thank the Advisory Committee for all their hard work.
- Resident suggest the Township advertise special meetings better.
- Resident feels the Township is receiving bad legal advice suggesting changing the advisory committee report and feels the Planning Commission should follow the advice of the Advisory Committee.

Public comments closed at 7:25pm

NEW BUSINESS-

SHORELAND SITE PLAN REVIEW: 7948 INDIAN TRAILS, CHARLEVOIX, MICHIGAN 49720:

Mr. Greenslade made a motion, supported by Mr. Bulmann to use the identified sections of the Site Plan Review that pertain to the application.

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

Nays: none **Motion Carries**

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Ms. Morehead made a motion, supported by Mr. Greenslade, to approve the Zoning Permit Application, Site Plan Review, for 7948 Indian Trails, Charlevoix Michigan 49720 with the condition the applicant discuss any additional plantings of deep-rooted shrubs with a Tip of the Mitt representative for approval.

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

Nays: none **Motion Carries**

CONTINUATION OF REVIEW ADVISORY COMMITTEE REPORT AND FUTURE LAND USE MAP:

Planning Commission discussion included, the desire for proper reclamation of gravel pits for future use; Public confusion between Future Land Use Map and zoning designations; County disapproves of negative designations on Future Land Use Maps; the intent of the Future Land Use Map is to show what the Township wants the future to look like (desired is to have Rieth Riley's property as AG, so why designate it "Mining Impaired"); The Advisory Committee envisioned the Rieth Riley property as a residential classification; consent judgement provides rules for property owners responsibility and court controls property

- The Planning Commission came to a consensus to label the area of the "Green pit" as Rural Residential on the Future Land Use Map with an asterisk explaining the conditions of current land use, the limitations of the consent agreement and what desired future uses are TBD and will be specifically defined.
- The Planning Commission came to a consensus to keep the Farm/Forest district as a 10-acre minimal.
- The Planning Commission came to a consensus to keep the language for Residential-Waterfront while identifying the different bodies of water within Hayes Township.
- The Planning Commission came to a consensus to include language for affordable housing (R2-R4) in the Residential – Settlement section of the Future Land Use Map.
- The Planning Commission came to a consensus to continue discussion of the definitions and asterisk language at the next meeting.

OLD BUSINESS-

SET/CONFIRM PUBLIC HEARING DATES:

None

SET/CONFIRM DATE OF NEXT PLANNING COMMISSION MEETING:

Planning Commission regular meeting will take place on August 15th, 2023, at 7:00 pm.

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PLANNING COMMISSION COMMENT:

Mr. Greenslade made a motion, supported by Ms. Morehead to amend the agenda, and add a second Public Comment.

PUBLIC COMMENT:

Open at 8:40pm

- Resident appreciates the discussion by the Planning commission tonight.
- Resident would like to know if the restoration of the Rieth Riley is contingent on the future use of the land.
- Resident appreciates the discussion by the Planning Commission. Feels it had a positive movement forward.
- Resident feels the discussion of the Planning Commission was a great step forward.
- Resident is concerned the Planning Commission did not consider the whole building within the Site Plan Review.
- Resident feels the Planning Commission had a very productive discussion.

Closed at 8:48pm

ADJOURNMENT: Ms. Morehead made a motion, supported by Mr. Greenslade, to adjourn the meeting at 8:48 pm.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffitts, Marilyn Morehead, Rex Greenslade, and Matt Cunningham.

Nays: none **Motion Carries**

Respectfully Submitted by:
April Hilton
Deputy Clerk/Recording Secretary

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Parcels, 007-112-030-00, 007-112-031-00, 007-112-033-00, 007-112-035-00 require further explanation. These parcels are currently zoned agricultural and are being used for sand and gravel extraction under the terms of a consent agreement.

On June 19, 1989, Hayes Township, H&D, Inc., and intervening neighbors resolved litigation in the Charlevoix County Circuit Court by entering into a consent judgment regarding the scope of future mining and reclamation of the property. The consent judgment, as amended, binds the successors, assigns, and affiliates of H&D.

At the end of the extraction process, the property is to be restored per the agreement with the results being inspected and approved by an environmental engineering firm. When restoration has been completed, the consent agreement contemplates the future use may be four 10-acre housing lots. Additionally, Hayes Township believes future land use options could include residential, commercial, open space and/or passive recreation, all of which would be subject to special land use conditions intended to minimize unfavorable impacts to adjacent residential land uses.



August 18, 2023

Ron Vanzee, Hayes Township Supervisor

Via Email

supervisorhayestownshipmi@gmail.com

RE: Mining Impaired

Dear Mr. Vanzee:

You have asked me to review and comment on the proposed classification of the Rieth-Riley gravel mine as "Mining Impaired" in the draft master plan. I would advise against using that term for several reasons. First, the term "impaired" implies that there is something wrong with the property. While I understand that there are some concerns over ground water and air quality, I am unaware of any testing that has revealed any contamination on that property. Giving a zoning classification a name that implies problems with the property can lead to claims of loss of value and interference with the ability to sell the property in the future. Second, it is my understanding that there are other gravel pits in the township that are not proposed to be classified as "Mining Impaired". If that is true, then treating the Rieth-Riley property differently than other similarly situated property could lead to an equal protection claim by the property owner. Finally, creating a separate zoning classification to a small parcel of property, even if applied to all gravel mines in the township, could lead to a claim of spot zoning. While spot zoning is not per se invalid, it does lead to increased scrutiny by any court reviewing a challenge to the change in zoning. While I can appreciate the desire to try to address concerns raised by the public, I would encourage the Planning Commission to use a more neutral term that is in line with the historic zoning classifications used in Hayes Township and the anticipated/desired future use of the property, rather than to use it to send a message to future buyers.

Thank you for your attention to this matter. Please do not hesitate to contact me with any questions you might have.

Very truly yours,

Todd W. Millar

TWM:krs

Future Zoning of the Gravel Pit, North of US-31

1 message

Jim McMahon <jim_mcmahon_jii@yahoo.com>

Sat, Aug 19, 2023 at 11:06 AM

To: "rwgriffits3@gmail.com" <rwgriffits3@gmail.com>, Derek Burnett <burnett.pc@outlook.com>, Rex Greenslade <greensladerex@gmail.com>, Steve Bulmann <steve@bulmanndock.com>, Matt Cunningham <trustee2@hayestownshipmi.gov>, "ctmartin55@gmail.com" <ctmartin55@gmail.com>, Marilyn Morehead <morehead.m@gmail.com>

Cc: Ron VanZee <zoning@hayestownshipmi.gov>, Kristin Baranski <clerk@hayestownshipmi.gov>

Dear Planning Commission Members,

The communities of Bay Shore and Michigan Shores are very concerned about how the mining of the two gravel pits has significantly changed the land. These lands have been severely damaged and are very sensitive after the many years of this mining. Please read the attached documents.

Attachments: At the beginning of the Hayes Township Master Plan Advisory Group deliberations, Mr. Mike Wilczynski, a certified professional geologist and hydrologist, transmitted a very detailed report, dated January 10, 2023, to Mr. John Iacoangeli of Beckett and Raeder (B&R) regarding preliminary hydrogeological assessments for the Bay Shore and Michigan Shores Communities. Also attached to this report below are figures and supporting documentation referenced in his report.

Findings: After a thorough review and in-depth discussions of Mr. Wilczynski's report and findings by the Advisory Group, its members found the evidence to be quite compelling. At least two Advisory Group meetings were devoted to the gravel mining areas and deliberations. The Advisory Group highly recommended a new zoning district of "Mining Impaired" for both mining areas, located to the south and north of US-31.

You will also find his report compelling.

The key finding and conclusion is that "Industrial Zoning" is not suitable for both of these mined areas. Furthermore, "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." (Please reference page 18 of the updated Future Land Use & Zoning Plan prepared by B&R.)

Discussion: As you well know, Rieth-Riley strongly disagreed with the "Mining Impaired" terminology in their attorney's June 27, 2023, letter. However, in fact, both gravel mines are literally impaired after nearly 60 years of mining the north pit and 35 years of mining the south pit.

Using the Advisory Group's recommendation, the Planning Commission recently established the "Rural Residential *" zoning code with the addition of an attached asterisk (*) to the gravel pit adjacent to Bay Shore. The asterisk (*) refers to the same appropriate wording shown under the definition of Mining Impaired as described above. **Thank you.**

Perhaps, some other terminology such as "Mining History" or "Mining Modified" could be used as a substitute term for the north gravel pit nearby Michigan Shores. **However, its definition described on page 18 of the aforementioned updated plan must survive your decision making.** Michigan Shores Subdivision and the surrounding lands must be protected from these dangerous mining areas, even after reclamation.

Previous Master Plans and Future Land Use Maps: Please recognize that the Master Plans of 2008 and 2014 had both the north and south gravel mining areas depicted as "Mixed Use Residential" after proper reclamation has been completed. Earlier Hayes Township Planning Commissions and Boards of Trustees recognized these facts and the dangers of mined lands.

Conclusion: "Mining Impaired" or some other substitute term such as "Mining History" or "Mining Modified" must be established, along with the definition of that terminology from the Advisory Group's report. **No zoning category for any property is guaranteed into perpetuity for anyone, by anyone.**

Our health, our ground water, our air, and our property values depend on no industrial zoning or other unsuitable uses for these two mined areas, even though they may be reclaimed. Reclaiming never puts the land back to its natural original state. Some damage always remains, though unseen. Reclaimed land is always inferior and flawed.

Thank you.

Jim McMahon
7377 Nine Mile Point Drive
Charlevoix, MI 49720
phone: 231-347-9829

2 attachments

 hydrgeoassessmenthayes.pdf
96K

HAYES TOWNSHIP PLANNING COMMISSION SPECIAL MEETING

Meeting Date: AUGUST 22, 2023

Location: Hayes Township Hall

Name	Would you like to be called on to speak during public comment?	
JIM McMAHON	☒ YES	☐ NO
DIANE McMAHON	☒ YES	☐ NO
DEB NARTE	☐ YES	☐ NO MAYBE
RUTH AUGUSTINE	☐ YES X	☐ NO ?
KEVIN WILLIS	☐ YES ?	☐ NO
Janeb Simon	☒ YES	☐ NO
Jean McCarthy	☐ YES	☒ NO
Mike McCarthy	☐ YES	☐ NO ?
Jo Ellen Rudolph	☐ YES	☐ NO maybe
Meissa Robinson	☐ YES	☐ NO
Joel Robinson	☐ YES	☐ NO
Winnie Boal	☐ YES	☒ NO
Andy Wilson	☐ YES	☒ NO
Carol Umbror	☐ YES	☒ NO
Betty Henne	☒ YES	☐ NO
Anthony Diaz	☐ YES	☒ NO
Jim Pemberton	☒ YES	☐ NO
Jim Rudolph	☐ YES	☐ NO
	☐ YES	☐ NO

