

AGENDA
HAYES TOWNSHIP, CHARLEVOIX COUNTY
PLANNING COMMISSION

NOVEMBER 21, 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. Pledge of Allegiance
3. Review and Approval of Agenda
4. Declaration of Conflict of Interest, if any
5. Review and Approval of Draft Minutes- October 17, 2023
6. Public Comment
7. Report of Township Board Representative to the Planning Commission
8. Report of Zoning Board of Appeals Representative to the Planning Commission
9. Zoning Administrator Report
10. New Business
 - Tom Darnton- Lake Charlevoix Assoc and Tip of the Mitt Study
11. Old Business
 - Continue Review of Zoning Ordinance Draft- Waterfront
12. Set/Confirm Public Hearing Dates
13. Set/Confirm Date of Next PC Meeting- December 12, 2023
14. Planning Commission Comment
15. Adjournment

Public Comment at Meetings of the Hayes Township Planning Commission

The Hayes Township Planning Commission values public input and offers opportunities for the public to comment at its meetings. 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 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 Public Comment. There is no provision for another audience member to 'donate' their three (3) minutes to another speaker. In the case where more than 45 members of the public wish to speak- time will be reduced to 2 minutes per 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
October 17th, 2023
Special Meeting
Zoom ID 836 0148 1092

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

Members present: Roy Griffiths (Chair), Derek Burnett, Marilyn Morehead, Rex Greenslade, CT Martin, Mark Snyder, and Matt Cunningham.

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

Audience: Deb Narten, Danielle Hutchenson, Doug Kuebler, Diane McMahon, Jim McMahon, LuAnne Kozma, Ellis Boal, Winnie Boal, Janet Simon, Mel Narten, Michael Hutchenson, Carole Melvin, Tim Boyko, Shelly VanWart and Wyatt Melvin.

PLEDGE OF ALLEGIANCE:

REVIEW AGENDA:

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

Yeas: Derek Burnett, Roy Griffiths, Matt Cunningham, Rex Greenslade, CT Martin, Mark Snyder, and Marilyn Morehead

Nays: none **Motion Carries**

Mr. Snyder made a motion, supported by Ms. Morehead, to approve the agenda as amended.

Yeas: Derek Burnett, Roy Griffiths, Matt Cunningham, Rex Greenslade, CT Martin, Mark Snyder, and Marilyn Morehead

Nays: none **Motion Carries**

DECLARATIONS OF CONFLICTS OF INTERESTS: None

APPROVAL OF MINUTES SEPTEMBER 19th, 2023 REGULAR MEETING

Mr. Martin made a motion, supported by Ms. Morehead, to approve the September 19TH, 2023, regular meeting minutes as corrected.

Yeas: Derek Burnett, Roy Griffiths, Matt Cunningham, Rex Greenslade, CT Martin, Mark Snyder, and Marilyn Morehead.

Nays: none **Motion Carries**

Hayes Township Planning Commission
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PUBLIC COMMENTS UNRELATED TO AGENDA ITEMS:

Public comments opened at 7:04 pm.

Comments included:

- An invite to the presentation from a geologist this Thursday.
- Protect Lake Charlevoix organization has sent some recommendations to the PC members regarding the Shoreland Protection strip.
- PC members consider the recommendations sent to the PC members by the Protect Lake Charlevoix organization. Also asked if any shoreland reviews have been written recently.
- Concern for the construction at the Rieth Riley pit is a threat to their wells; concerned the pits are being left open on multiple occasions.

Public comments closed at 7:14pm

REPORT OF TOWNSHIP BOARD REPRESENTATIVE TO THE PLANNING COMMISSION:

Next meeting November 13th, 2023.

REPORT OF ZONING BOARD OF APPEALS REPRESENTATIVE:

NA

ZONING ADMINISTRATOR REPORT:

Written report available at Hayes Township Hall.

Mr. VanZee stated as supervisor for the past seven years; he has either appointed or re-appointed each member of the Planning Commission. The reason he has done that is mainly because five of them live on the three major lakes in the township and two of the members make their living from the lakes. From recent comments made from the community, Ron VanZee asked the members of the Planning Commission if any of them have the intention to gut the ordinance and harm the lakes. The Planning Commission members responded that is not their intent. Ron VanZee then requested the members, use their expert opinion, to take their time, and discuss the Ordinance to make sure it is exactly how it needs to be to protect the lakes and community as a whole for Hayes Township.

New Business:

REPORT ON MTA PROFESSIONAL DEVELOPMENT RETREAT FOR PLANNING AND ZONING:

Hayes Township Planning Commission
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Mr. Greenslade found the Retreat covered all the bases the PC members are involved in. He found the discussion at the retreat labeled "Managing all the Pieces" was very insightful, especially for facing the challenges with enforcing the Ordinance.

Mr. Martin stated as a newer member to the Planning Commission, he found the training very enlightening, for the meeting covered various topics that the Planning Commission members encounter at meetings and within Hayes Township.

Mr. Griffiths stated the current issues that Hayes Township is confronted with, many townships throughout Michigan face the same issues.

REVIEW PC BYLAWS REGARDING AGENDA AND PUBLIC COMMENT:

Mr. Griffiths made a motion, supported by Mr. Greenslade, to approve a temporary change to the PC Bylaws to have an open public comment at the beginning of the meeting, as the only public comment period, through the December PC meeting to test the effectiveness of change.

Yeas: Roy Griffiths, Matt Cunningham, Rex Greenslade, CT Martin, Mark Snyder, and Marilyn Morehead.

Nays: Derek Burnett **Motion Carries**

Old Business:

REVIEW OF DRAFT EDITS TO ZONING ORDINANCE:

Planning Commission members discussed.

- Article III Definitions
- Article

Discussion included:

- Mr. Burnett found the difference between a Bed and Breakfast and Boarding Housing is determined by time. A Bed and breakfast are supposed to be a shorter length of stay compared to a Boarding House. Mr. Burnett is going to research further and bring a suggestion to the PC.
- Mr. Martin found the definition of "Family" is most consistent to be "a group of two or more persons related by birth, marriage or adoption that live together all such related persons are considered Family."
- Mr. VanZee found to be classified as a "Farm", it must be an operation for the better of the public and be the primary source of income. Mr. VanZee suggested to add a definition for "Hobby Farms". Mr. VanZee will use what he has found and bring definition suggestions to the Planning Commission for all Farm related definitions.

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- Mr. Greenslade found the Front Lot Line is determined by the line separating the lot from a private or public road. Rex suggested to include Lake Front Properties in this definition to read, "on a corner and through lots including shorefront or waterfront lots, the lot line separating such lots from road right away are front lot lines."
- Mr. Snyder suggest the PC determine an Ordinary High-Water Mark for the Hayes Township Ordinance.
- Mr. Snyder suggest having a meeting with the Zoning Admin to better understand the impact a few feet can have when changing the Waterfront Set back, for further education before deciding on the Ordinary High-Water Mark.
- Mr. Griffiths suggested for the PC to use higher authority recommendations such as EGLE, within the ordinance verse creating their own for Hayes Township.
- Mr. Griffiths suggested creating a specific site plan review set of criteria for waterfront shoreland protection strips, under the umbrella of special land use permit allowing the Planning Commission to hold a public hearing for each plan.
- Mr. Snyder suggested making a consist Ordinance with other townships in Charlevoix County.
- Mr. Martin stated the waterfront setbacks in the current ordinance is for every lake, stream, pond, wet land, etc. in the township. The PC member will discuss these setbacks further as it is a complex issue.
- Ms. Morehead will work with Ron VanZee to identify and present any issues for all the streams, wetlands and smaller creeks in Hayes Township.

Ms. Morehead made a motion, supported by Mr. Snyder, to table the Review of Draft Edits to the Zoning Ordinance until next meeting.

Yeas: Derek Burnett, Roy Griffiths, Matt Cunningham, Rex Greenslade, Mark Snyder, CT Martin, and Marilyn Morehead.

Nays: none **Motion Carries**

SET/CONFIRM PUBLIC HEARING DATES:

None

SET/CONFIRM DATE OF NEXT PC MEETING – November 21st, 2023.

Next Planning Commission regular meeting will take place on November 21st, 2023, at 7:00 pm.

PUBLIC COMMENT: Public comments open 8:20 pm.

Comments included:

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- Pleased with the meetings discussion and comments made by the PC members and Zoning Admin; residents and the PC members should work together and have the same goals
- PC should encourage audience input; no feedback from letters submitted by residents to the PC; second public comment at the meetings should be keep on the agenda; Supports the first public comment to be open to all topics
- Several lakes and streams within Hayes Township
- Support for the first public comment being open to all topics, however, disagrees with removing the second public comment period; PC members should research Traverse City Zoning Ordinance; definition for Bottomlands.

Public comments closed 8:29 pm.

PLANNING COMMISSION COMMENT:

Mr. Cunningham stated the Charlevoix County Planners Forum is scheduled for November 29th, 2023, at the public Library 4:00pm to 8:00 pm. Topics include, Planning and Zoning, Water Quality, Lake Charlevoix Shoreland Planning, Lake Charlevoix Septic Study, Master Planning implementation and what local officials can do for childcare.

Mr. Griffiths responded to the feed back for the PC to have open dialog with the audience.

Mr. Griffiths states he is unsure what the answer is, however, the members can only address these issues at the meetings and the deliberations among the members must take place during the time at the meetings. This makes it difficult to open the meeting to a large amount of dialog and input from the audience.

ADJOURNMENT: Ms. Morehead made a motion, supported by Mr. Snyder, to adjourn the meeting at 9:01 pm.

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

Nays: none **Motion Carries**

Respectfully Submitted by:
April Hilton
Deputy Clerk/Recording Secretary

**HAYES TOWNSHIP
ZONING ADMINISTRATOR REPORT
NOVEMBER 2023**

Issued zoning permit for a new single family dwelling with covered porch and covered patio at 06315 Church Road.

Issued zoning permit for a 18' x 46' accessory structure at 10367 Burnett Road.

Issued zoning permit for a deck replacement 4' x 68' 06675 Woods Creek Drive.

Issued zoning permit for a 35' x 16' deck and 5' x 25' walkway at 07050 Nine Mile Point.

Issued zoning permit for a new single family dwelling at 10575 Burnett Road.

Issued zoning permit for a 13.8' x 40' accessory structure at 10266 Boyne City Road.

Normal calls/questions concerning real estate transactions and general zoning questions.

At the October meeting I was ask to define Farm. As I indicated in tht meeting, I felt there were at least two categories to define separately, Commercial Farm and Domestic Farm.

Farm, Commercial: Structures, buildings and lands to support a, for profit, bona fide farming activity or the raising of livestock or small animals as a primary source of income

Farm Domestic: A parcel of land used or intended to be used for agricultural purposes on properties other than Commercial Farms. Domestic farming includes keeping farm animals as pets and raising animals for educational experience, raising crops, vegetables, flowers and general gardening activities. Dogs, cats and other typical household pets are not regulated as a Domestic Farm.

I feel that typical farm animals should not be allowed in residential districts except where parcels are significantly larger than minimum parcel size for that district, and a significant barrier is in place to protect the residential character of the district.

Farm Domestic animals may be allowed provided the number of animals, based on the following Farm Animal Unit chart is followed after determining number of units/acre allowed.

Farm Animal Unit: One horse, steer or heifer is 1.0 unit.

One Mature Dairy Cow is 1.4 unit.

One swine is 0.4 unit.

One sheep, goat, alpaca, llama is 0.1.

One chicken is 0.01 unit.

Lawrence R. Sullivan
Community Planning Assistance
222 Sherman Street
Charlevoix, Michigan 49720

Charlevoix Township Notice of Intent to Plan

From: Larry Sullivan, Planning Consultant
Date: November 1, 2023
Re: Master Plan Review and Update

Charlevoix Township is formally notifying you and the community you represent that it intends to review and update as it deems necessary, the Charlevoix Township Master Plan. The Charlevoix Township Planning Commission requests the cooperation, input and comments from your Planning Commission and governing body, as appropriate, during the course of our plan amendment process.

It is the intent of the Charlevoix Township Planning Commission to submit information to you in a digital format as we move forward in this process. If hard copies are your preferred method of receiving the materials, please provide us with the best mailing address where these materials should be sent. If receiving the materials in a digital format is acceptable, please provide an email address to which we can email the materials.

Please respond with your preferred email or US Postal Service mailing address to Community Planning Assistance at the address shown in the letterhead or via email to larrysullivan00@hotmail.com and include in the subject line "Charlevoix Township Plan Update".

Copies of all materials will also be available for review at the Charlevoix Township Hall.

We look forward to receiving your cooperation, comments and input as we move forward in this process.

From: Derek Burnett Burnett.pc@outlook.com
Subject: Definitions
Date: November 21, 2023 at 12:15 PM
To: Roy Griffiths rwgriffitts3@gmail.com



Bed and breakfast: sleeping accommodations for a night and a morning meal, provided in guest houses and small hotels

Boarding House: a house providing food and lodging for paying guests

I think the biggest defining difference we need to focus on is length of stay, and number of meals provided.

I would suggest defining length of stay to 3 or 4 days for a bed and breakfast, and only breakfast/brunch meals.

I would suggest defining a boarding house as a facility offering longer lengths of stay, and lunch/dinner meals on addition to breakfast.

I would ask that we also workout a number of dwelling units per definition. From what I can find, B and Bs are smaller in number of units, whereas a boarding house can be many more, and is generally a larger operation .

I found no issues with this months minutes.

Thanks, Derek B.

Article XII

Site Plan Review

12.1 Purpose

The site plan review and approval process is intended to insure that land uses comply with zoning district regulations, other regulations and standards outlined in this Ordinance, and applicable county, state and federal statutes.

12.2 When Required

Site plan review and approval is required for the following uses:

- a. For all uses in all zoning districts except as indicated below.
- b. For all special uses in all zoning districts.

Site plans shall be submitted with all applications for special use permits. The review of such site plans shall be concurrent with the Planning Commission's deliberations on the application for special uses.

- c. For PUD's.

A site plan shall be submitted at the time application is made for PUD approval. The review of the site plan shall be concurrent with deliberations on Planned Unit Developments.

- d. For all site condominium and condominium subdivisions subject to the provisions of the Condominium Act (P.A. 59 of 1978, as amended).
- e. For all platted subdivisions subject to the provisions of the Land Division Act (P.A. 591 of 1996, as amended).
- f. For waterfront shoreland protection strip plan review

12.3 When Not Required

Site plan review and approval is not required for the following:

- a. For single-family and two-family dwellings in any zoning district, with the exception of Accessory Dwelling Units (ADU's)
- b. For agricultural buildings associated with agricultural operations permitted by right in the Agricultural and Residential zoning districts, or
- c. For home occupations permitted as matter of right in any zoning district.

12.4 Prohibitions on Excavation and Construction Activities Before Site Plan Approval is Granted

No grading, removal of vegetation, filling of land, construction of buildings, building foundations, driveways, roadways, walkways, parking areas, or other improvements of any kind are permitted until a site plan has been approved in accordance with the provisions of this Article.

12.5 Responsibility for Site Plan Review

The Planning Commission has sole responsibility for the review and approval of site plans.

12.6 Optional Pre-application Conference

Before submitting an application for site plan review, applicants are encouraged to meet with the Zoning Administrator or Planning Commission to discuss the site plan review process, to present a preliminary or

conceptual site plan and to allow the Planning Commission to provide comments as to what portions of the site plan may be of special concern. This optional, informal conference is intended to allow applicants to present concepts to the Planning



Search mail



Date: Wed, Nov 1, 2023 at 1:30 PM

Subject: Greenbelt protection for streams and wetlands

To: Ron Van Zee <supervisor@hayestownshipmi.gov>, Roy Griffiths <rwgriffitts3@gmail.com>

Hi Ron and Roy,

Below is a summary of the meeting I had with Ron on Monday, Nov. 30 concerning what if anything should be in the zoning ordinance about greenbelt protection of streams in Hayes Township.

1. Wetlands are very well regulated by a combination of regulations set forth by the DNR and EGLE. So, we do not recommend any additional regulations.
2. Streams wholly or partially in Hayes Township. Only all season streams are subject to any regulation. According to the attached maps, there are only 2 streams that are subject to regulation. One stream, which is not named on the maps, traverses the land between the north end of Susan Lake to Lake Michigan. The other stream is a portion of Horton Creek which flows into Lake Michigan. For these two streams we propose the following greenbelt protection:
 - A. A greenbelt extending landward 15 to 20 feet from the stream bank as measured at the end of July when the stream is at its greatest width. In the Greenbelt the same regulations as those placed on lakes in Hayes Township (only native plants, deep rooted plants, no tree removal, no boat storage, no permanent structures, no septic tanks or platforms).
 - B. The Zoning Administrator will notify the landowners that are affected by these additions to the ordinance.
 - C. The Zoning Administrator can make the decision necessary to bring the greenbelts into compliance. The Shoreland Protection Strip Subcommittee will not be required to make determinations.
 - D. The streams will be included in the new zoning maps.

should be the four listed now, with the clarification we recommend on confining “retaining walls” to 3 foot high for purposes of walkways.

I. REVISE: **Ordinary High Water Mark** — The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On Lake Charlevoix **and Lake Michigan**, the ordinary high water mark shall be the legally established lake level of 582.3 feet IGLD 1985, and on Lake Michigan the ordinary high water mark shall be the legally established lake level of 581.5 feet IGLD 1985. **The ordinary high water mark is the line between upland and bottomland at the locations of land at elevation 581.5 feet IGLD 1985 at any human-caused alteration to the natural shoreline that converted uplands to bottomlands.**

[Strike-out indicates existing language, boldface indicates new language. The ordinance would not contain the boldface or strikeouts].

a. ADD: **“Bottomlands”** — The land area of an inland lake or stream that lies below the ordinary high-water mark and that may or may not be covered by water. (State’s definition. See MCL 324.30101(a).)

b. ADD: **“Disturb”** — *Land disturbing activity* means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation. The term shall not include excavation where excavation is prohibited specified by this ordinance.

c. ADD: **“Native Plants”** — Native plants are as defined by the Michigan Natural Shoreline Partnership.

d. ADD: **“Retaining walls”** — Small, at most 3-foot high structures made of natural materials for the purpose of stabilizing walkways to the shore on steep slopes. Retaining walls shall adhere to side setbacks so that they do not encroach on adjacent properties. Retaining walls shall not be used for retaining the shoreline, retaining a viewing deck, or retaining any other structure.

e. ADD: **“Undisturbed”** — Undisturbed means no construction, no earth-moving activities, no storage of materials, no tree, shrub or ground cover removal and no mowing. (Source: Protecting Michigan’s Lakes and Streams: A Guide for Local Governments.”

f. ADD: **“Uplands”** — The land area of an inland lake or stream that lies above the ordinary high-water mark.

g. ADD: **“Wetlands”** — A land or water feature, commonly referred to as a bog, swamp, or marsh, inundated or saturated by water at a frequency and duration sufficient to support, and that under normal circumstances does support, hydric soils and a predominance of wetland vegetation or aquatic life. A land or water feature is not a wetland unless it meets any of the following:

- (1) Is a water of the United States as that term is used in section 502(7) of the federal water pollution control act, 33 USC 1362.
- (2) Is contiguous to Lake Michigan, an inland lake or pond, or a stream.
- (3) Is more than 5 acres in size.
- (4) Has the documented presence of an endangered or threatened species under part 365 or the endangered species act of 1973, Public Law 93-205.
- (5) Is a rare and imperiled wetland. (Adapted from MCL 324.30301(n)).

h. RETAIN: **“Erected”**

i. RETAIN: **“Natural State”**

j. RETAIN: **“Shoreland Protection Strip.”** Strengthen by adding back in “shall remain in the natural state.”

k. RETAIN: **“Structure”**

Do **not** make exceptions to “structures” in the definition section. The proposed new definition would allow all sorts of structures in the Shoreland Protection Strip, such as fences, etc. The only types of structures allowed in the Shoreland Protection Strip

Uncontrolled use of shorelines and pollution of navigable waters will adversely affect the public health, safety, and general welfare and impair the tax base. The maintenance of safe and healthful conditions, prevention and control of water pollution, and protection of spawning grounds, fish and aquatic life and shoreland ecology, control of building sites, placement of structures and land uses, and preservation of shore vegetation and uplands soils are a public interest. Thus, owners of waterfront lots have an added responsibility regarding the preservation and protection of these natural resources, water quality and community scenic, and recreational, and ecological values. In Hayes Township, waterfront lots on lakes shall remain residential.

11. Prohibit boathouses on uplands within 100 feet of the Ordinary High Water Mark and on bottomlands.
12. Prohibit marinas. Remove language referring to marinas.
13. Prohibit permanent docks on the uplands and bottomlands.
14. Prohibit rip rap, seawalls and other shoreline retention structures that harden the shoreline.
15. Prohibit the installation and use of petroleum pumps on docks.
16. Prohibit asphalt and concrete paving within 100 feet of the Ordinary High Water Mark.
17. Constrain “retaining walls” to small, 2 or 3 foot-high structures for the purposes of stabilizing paths to the shore on steep slopes. Retaining walls shall adhere to side setbacks so that they do not encroach upon adjacent properties and are not used for purposes of retaining a flat area of shoreland, retaining a viewing deck, or retaining any other structure.
18. Revise the Shoreland Protection Committee and Waterfront Development Review section 3.14(8)(D) to apply to conforming and nonconforming waterfront properties alike; simplify the “triggering actions” by defining them as any modification of an existing structure that changes the dimensions and any new construction of any structure on a waterfront lot, to trigger a full Site Plan Review as in 5.03.3 by the Planning Commission with input from the Shoreland Protection Subcommittee; change the review process for addition or modification of walkways, retaining walls and patios/decks within 100 feet of the Ordinary High Water Mark to Planning Commission review with subcommittee input.
19. Include a setback on wetlands similar to setback to lakes and streams. (See Tip of the Mitt’s Gaps Analysis 2016 recommendation)
20. Require that septic systems be 100 feet back from OHWM of lakes, streams, and wetlands.
21. Establish that a “point of transfer” inspection requirement whereby septic systems on waterfront lots must be inspected and repaired/replaced to ensure they are operating properly before ownership is transferred. (See Tip of the Mitt’s Gap Analysis 2016 recommendation). Consider this requirement for any property in the Township, because so many parcels are near wetlands, creeks and streams.
22. Definitions Section in 2.0: We recommend the following definitions in the definitions section of the Zoning Ordinance:

Protect Lake Charlevoix Shoreland's Recommendations to Hayes Township Planning Commission for Waterfront Regulations in Zoning Ordinance

October 16, 2023

Who we are

Protect Lake Charlevoix Shoreland is a 501c4 social welfare non profit organization formed by five Hayes Township members in 2022 to advocate for shoreland protection, stop the township from allowing the Law boathouse project, and advocate for strong protections for the shoreland in zoning ordinances around Lake Charlevoix. See www.protectlakecharlevoixshoreland.org

Recommendations

1. Keep current ordinance essentially intact with the improvements listed below. It is a model ordinance according to the Michigan Lakes and Streams Association, for shoreland protection. Please refer often to the "Protecting Michigan's Inland Lakes: A Guide for Local Governments" which can be found at:

<https://mymlsa.org/government-and-legal-issues/protecting-michigans-inland-lakes-a-toolkit-for-local-governments/>

2. Integrate the amendment regarding the Michigan Shores and Susan Lake overlay districts into the ordinance, as was done by Beckett and Raeder in the discarded draft.

3. Keep the Shoreland Protection Strip definition as in the current Zoning Ordinance.

4. Do not decrease the size of the Shoreland Protection Strip. Keep it at the current 50 feet depth.

5. Do not vary the size of the Shoreland Protection Strip depending on slope steepness.

6. Keep the current structure setbacks at 100 feet for Lakes Charlevoix and Michigan and 80 feet for Susan Lake. Keep the 100 foot setback for rivers and streams.

7. The current ordinance language was interpreted (ruled on) by the Zoning Board of Appeals in August 2022 to mean that excavation of the Shoreland Protection Strip (first 50 feet of uplands) for boat basins and canals/channels is prohibited. Channels and boat basins are "structures" that are not allowed within 100 feet of the OHWM as well. Clarify the ordinance by adding this sentence to section 3.14(3) as a new subsection following subsection A: **"Excavation of the shoreland (uplands) within 100 feet of the Ordinary High Water Mark for any purpose, except for post-holes for 200-square foot viewing decks/patios and small retaining walls for stabilizing walkways, is prohibited."**

8. Keep the wording "tree root systems shall remain in place."

9. Keep minimum lot size for waterfront lots on Lake Charlevoix at 2 acres.

10. Add to the "Intent" section the following in red:

The waterways and lakes in and adjacent to the lands of Hayes Township are invaluable assets to the economy and quality of life, and therefore must be preserved in a natural fashion to maintain health of these waterways as well as the natural beauty of Northern Michigan.

Construction of all buildings and improvements, including roadways, walkways, parking areas, landscaping, screening, and the like, shall be completed within 18 months of initiation of construction unless an extension has been granted by the Planning Commission as specified below.

12.7 Expiration of Approval

Unless a zoning permit has been issued within one calendar year (365 consecutive days) of the date of site plan approval, approval shall expire and be of no effect unless the applicant and Planning Commission have mutually agreed to a six-month extension of approval. The Planning Commission may, by mutual consent with the applicant, grant additional six-month extensions at its discretion.

12.8 Resubmittal Required In Event of Expiration

If an approved site plan has expired as set forth above, no zoning or building permits for the development or use of the subject property shall be issued until a new application for site plan review has been filed and approved by the Planning Commission as is required for any application for site plan review.

12.9 Inspection and Certification Requirements

In the event improvements associated with the site were designed by an architect or engineer, the applicant shall, following completion of construction, provide a statement, prepared by his or her engineer, certifying that all improvements have been constructed in compliance with approval as granted.

The Planning Commission may, as a condition of approval, assign such inspection duties to the Township's own independent professionals. In such cases, the cost for such inspections shall be borne by the applicant.

12.10 Performance Guarantees

A performance guarantee in an amount equal to 1.25 times the cost of constructing improvements as determined by the applicant and verified by the Planning Commission or authorized consultant may be required to ensure completion of improvements subject to approval under this Article.

When a performance guarantee is required, it shall be deposited with the Township Clerk prior to the issuance of a zoning permit authorizing construction of approved buildings and improvements or prior to issuance of an occupancy permit in those cases where the guarantee is being required for improvements delayed due to weather conditions. The Township shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest-bearing account.

If a performance guarantee is in the form of a cash deposit, it shall be rebated periodically by the Township on application by the applicant in reasonable proportion to the ratio of work completed on the required improvements.

enjoyment of surrounding property for uses permitted in this ordinance. All buildings, structures, driveways, internal circulation routes, parking and storage areas shall be designed and located so as to minimize potential adverse effects and impacts on adjacent and nearby properties.

- c. **Preservation of Natural Features and Natural Landscape**
Natural features (woodlots, wetlands, watercourses, ponds, shorelines, attractive vegetation etc.) shall be preserved and protected to the greatest extent possible. As many natural features of the landscape shall be incorporated into the design and layout of the site as possible so as to buffer it from adjacent incompatible land uses, to preserve the character of the surrounding area and community as a whole and to control soil erosion and stormwater runoff.
- d. **Drainage Provisions**
Special attention shall be given to proper site drainage so that stormwater runoff will not affect neighboring properties or overload watercourses in the area. Stormwater management systems shall be designed in accordance with professionally accepted principles, and shall provide on-site retention or detention facilities designed to hold runoff from a 50-year frequency storm event. Naturally occurring and pre-existing drainage ways shall be used for the movement of stormwater.

Discharge of stormwater runoff from any site which may contain oil, grease, toxic chemicals, or other hazardous substances or polluting materials is prohibited unless measures to trap pollutants meet the requirements of the Michigan Department of Environmental Quality, based upon professionally accepted principles.
- e. **Soil Erosion**
Proposed developments or uses shall not result in soil erosion or sedimentation problems.
- f. **Screening and Buffering**
Screening and buffering, in the form of native vegetative landscape plantings, existing vegetation, screen fences, and the like, may be required at the discretion of the Planning Commission to insure compatibility between a site and adjoining land uses.
- g. **Emergency Vehicle Access**
All buildings, groups of buildings, and uses shall be arranged to allow emergency vehicle access to all improved areas during all seasons of the year under all weather conditions.
- h. **Pedestrian and Vehicular Circulation**
Proposed driveway entrances and exits, parking areas, service drive and other internal circulation routes are located and arranged so as to insure the safety and convenience of pedestrian and vehicular traffic. If proposed by an applicant, or required at the discretion of the Planning Commission, or as otherwise provided in this Ordinance, pedestrian and bicycle pathways shall be insulated as completely as reasonably possible from the vehicular circulation system.
- i. **Compliance with Applicable County, State and Federal Statutes**
Site plans shall conform to all applicable requirements of state and federal statutes. Site plan approval and an occupancy permit may be conditioned on the applicant receiving necessary state and federal permits applicable to wetlands, lakes, streams, floodplains, hazardous substances, groundwater discharges, stormwater discharges, and the like.

12.5 Certification of Approved Site Plan

Three copies of an approved site plan shall be signed and dated by the applicant and Zoning Administrator. One copy shall be provided to the applicant, one shall be retained by the Zoning Administrator as part of the Township's permanent zoning file and one shall be made part of the Planning Commission's permanent record of proceedings on the site plan.

12.6 Completion Requirements

The site shall be developed so as not to impede the normal and orderly development, improvement or

12.2 Planning Commission Options for Action

The Planning Commission shall approve, approve with conditions or modifications, or deny an application for site plan approval within a reasonable period of time following the Planning Commission's first consideration of same. The Planning Commission's decision shall be based on a finding of fact that shall be incorporated into a statement containing the conclusions relative to the standards for site plan approval outlined below and which specifies the basis for the decision and any conditions imposed.

If the Planning Commission finds that the site plan complies with the provisions of this Article, the application and site plan must be approved. If the Planning Commission finds that the application and site plan do not comply with the provisions of this Article, then the application may be approved with conditions or denied.

At any point during its deliberations on an application, the Planning Commission may request that an applicant modify the site plan or present additional information deemed necessary before a decision on a proposed special use is granted. In such cases, the Planning Commission shall table consideration of the application until the amended site plan or additional information is made available by the applicant.

12.3 Conditional Approval

Reasonable conditions may be required with the approval of a site plan by the Planning Commission. These conditions may include those necessary to 1) ensure that public services, such as police, fire, ambulance and similar services are capable of accommodating increased service or facility loads caused by the proposed land use or activity 2) protect the natural environment and conserve natural resources and energy 3) ensure the use proposed on the site plan is compatible with adjacent uses of land and 4) promote the use of land in a socially and economically desirable manner.

When required, such conditions shall:

- a. Be designed to protect natural resources, the health, safety, welfare and social and economic well-being of those who will use the land use or activity under consideration, as well as those residents and landowners immediately adjacent to the proposed land use, and the community as a whole;
- b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use; and
- c. Be necessary to meet the intent and purpose of the Hayes Township Land Use Plan and Hayes Township Zoning Ordinance, and to ensure compliance with the standards for site plan approval outlined below.

If the Planning Commission denies an application for site plan approval, the reason(s) for such denial must be included in the Planning Commission's record of proceedings on the application.

12.4 Standards for Site Plan Approval

The Planning Commission's decision to approve, approve with conditions, or deny a site plan shall be based on the following criteria:

- a. Compliance with Zoning District Regulations
All buildings, structures, uses and improvements shall comply with land use, lot area, setback, parking, sign, landscaping, screening and other regulations and standards established by zoning district regulations and all other applicable regulations contained in this Ordinance.
- b. Organization of Elements
All buildings, uses and improvements illustrated on the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character and use of adjoining property and the type and size of buildings.

B Waterfront Shoreland Protection Strip Site Plans

Site plans shall illustrate the following features and information, unless waived by the Planning Commission for good cause:

- a. North arrow, scale, and date of original submittal and last revision;
- b. A legal description of the property;
- c. The location of proposed and/or existing lot lines and dimensions of same
- d. A grading plan showing finished contours at a minimum interval of 2 feet, and correlated with existing contours so as to clearly indicate cut and fill required (all finished contour lines are to be connected to existing contour lines at or before the lot lines);
- e. A detailed description of measures to be taken to control soil erosion and sedimentation during and after completion of grading and construction operations. This description shall include the location of proposed retaining walls, dimension and materials of same, fill materials, typical vertical section, and plans for restoration of adjacent properties, where applicable;
- f. The location and type of significant vegetation, including woodlots and individual trees twelve inches and larger in diameter at breast height;
- g. The location and elevations of existing water courses and water bodies, including county drains, man-made surface drainage ways, 100-year flood plains, and wetlands;
- h. The proposed location of accessory structures, buildings, and uses, including, but not limited to, all flagpoles, light poles, storage sheds, transformers, air conditioners, generators, and similar equipment (details of the method of screening, where applicable, shall be included);
- i. The design and dimensions for all exterior lighting, including any element relative to shielding light spillover onto adjacent properties and road-ways;
- j. The location and design of all sidewalks, walkways, bicycle paths, and areas for public use;
- k. The location and specifications for all fences, walls, and other screening features with cross sections;
- l. The location and specifications for all proposed perimeter and internal landscaping, and other buffering features (for each new landscape material, the proposed size at the time of planting must be indicated). All vegetation to be retained on the site must also be indicated, as well as its typical size by general location, or range of sizes as appropriate;
- m. All other information requested by the Shoreland subcommittee

- f. The location of proposed and/or existing lot lines and dimensions of same;
- g. Building setbacks;
- h. A grading plan showing finished contours at a minimum interval of 2 feet, and correlated with existing contours so as to clearly indicate cut and fill required (all finished contour lines are to be connected to existing contour lines at or before the lot lines);
- i. A detailed description of measures to be taken to control soil erosion and sedimentation during and after completion of grading and construction operations. This description shall include the location of proposed retaining walls, dimension and materials of same, fill materials, typical vertical section, and plans for restoration of adjacent properties, where applicable;
- j. The location and type of significant vegetation, including woodlots and individual trees twelve inches and larger in diameter at breast height;
- k. The location and elevations of existing water courses and water bodies, including county drains, man-made surface drainage ways, 100-year flood plains, and wetlands;
- l. The location of existing and proposed buildings, as well as the length, width, height, and area (in square feet) of each building;
- m. The location of all existing buildings or structures within 50 feet of the subject property;
- n. The proposed location of accessory structures, buildings, and uses, including, but not limited to, all flagpoles, light poles, storage sheds, transformers, air conditioners, generators, and similar equipment (details of the method of screening, where applicable, shall be included);
- o. The name, location, dimensions, and associated right-of-way of all existing and proposed streets (public or private) and typical cross section of same (cross section shall show surface, base, and sub-base materials); location and typical details of curbs; location, dimensions, and details of all passing lanes and deceleration/acceleration tapers or lanes; and the location, width, surface elevations, radii, and grade of all access points to the site;
- p. All driveways located within 100 feet of the site;
- q. The location and design of parking areas and number of parking spaces and unloading areas, including information on proposed curbing, barrier-free access design, and dimensions for parking spaces, circulation aisles, and unloading spaces;
- r. The design and dimensions for all exterior lighting, including any element relative to shielding light spillover onto adjacent properties and road-ways;
- s. The location and design of all sidewalks, walkways, bicycle paths, and areas for public use;
- t. The location, design, sizing, and easements related to all existing and proposed utility systems to be located on the site, including, but not limited to:
 - 1. Water lines and fire hydrants;
 - 2. Storm sewers;
 - 3. Sanitary sewer lines;
 - 4. Septic systems, if applicable; and
 - 5. Stormwater retention and detention areas.
- u. The location, size, and specifications of all signs (freestanding and signs placed on or attached to buildings);
- v. The location and specifications for all fences, walls, and other screening features with cross sections;
- w. The location and specifications for all proposed perimeter and internal landscaping, and other buffering features (for each new landscape material, the proposed size at the time of planting must be indicated). All vegetation to be retained on the site must also be indicated, as well as its typical size by general location, or range of sizes as appropriate;
- x. The location, size, and specification for screening of all trash receptacles and other solid waste disposal facilities; and
- y. The number of employees on largest shift (If shifts overlap, indicate the number of employees for the largest 2 shifts which overlap).

good cause:

- a. North arrow, scale, and date of original submittal and last revision;
- b. A vicinity map;
- c. A legal description of the property;
- d. The acreage of the property subject to the application;
- e. The zoning classifications of the subject parcel and adjoining parcels, including those parcels which are adjoining but are separated from the subject property by a road right-of-way;

Commission, and to enable the Planning Commission to inform applicants of the Township's land use policies and other matters of specific interest or concern.

Statements made by applicants or the Planning Commission during pre-application conferences shall be for informational purposes only and not be legally binding.

12.7 Application and Review Process

Applications for site plan review shall be submitted to the Zoning Administrator not less than twenty (20) days before the meeting at which the applicant wishes the Planning Commission to consider the application. Applications submitted less than twenty (20) days prior to such meetings shall not be accepted for consideration and will only be eligible for consideration at the Planning Commission's following monthly meeting.

Applications must be accompanied by the materials and information described below:

- a. A completed application form and application fee;
- b. An escrow fee. The Planning Commission may require the applicant to deposit money in escrow to cover actual costs of engineering, legal and planning consulting services during the review of applications; and
- c. Fourteen copies of a site plan complying with the requirements of this Subsection. The site plan shall be an accurate, reproducible drawing at an accurate, reasonable scale showing the land subject to the application and all land within 100 feet of the land subject to the application.
- d. For waterfront shoreland protection strip site plan reviews, applications must be received not less than thirty days before the meeting at which the applicant wishes the Planning Commission to consider the application. Applications submitted less than thirty (30) days prior to such meetings shall not be accepted for consideration and will only be eligible for consideration at the Planning Commission's following monthly meeting.

Upon receipt of a completed application and site plan, the Zoning Administrator shall distribute copies of the site plan to all of the following agencies for review and comment:

1. The Charlevoix County Soil Erosion and Sedimentation Control Officer,
2. The Charlevoix County Drain Commissioner,
3. The Charlevoix County Road Commission and, if appropriate, the Michigan Department of Transportation,
4. The Northwest Michigan Community Health Agency,
5. Hayes Township fire and ambulance service providers,
6. The Michigan Department of Environmental Quality and/or Michigan Department of Natural Resources and
7. Charlevoix County Planning Department.
8. For waterfront shoreland protection strip site plan review the plan will be distributed only to the Shoreland subcommittee.

Comments from reviewing agencies must be received in writing by the Zoning Administrator before the site plans will be distributed to the Planning Commission for consideration. In the event reviewing agencies have no comments or concerns, agency representatives may indicate same on their copies of the site plan with an appropriate comment and signature.

Upon receipt of agency comments, the Zoning Administrator may 1) forward the site plan to the Planning Commission for formal review or 2) return the site plan to the applicant for revisions as may be required for compliance with this Article. In the event a site plan is returned to an applicant, it shall be forwarded to the Planning Commission only following its revision in response to agency comments.

12.8 Content of Site Plans

Site plans shall illustrate the following features and information, unless waived by the Planning Commission for

HAYES TOWNSHIP PLANNING COMMISSION

Meeting Date:	NOVEMBER 21, 2023
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Location:	Hayes Township Hall
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