

AGENDA
HAYES TOWNSHIP, CHARLEVOIX COUNTY
PLANNING COMMISSION

March 12, 2024 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- February 13, 2024, March 6, 2024
6. Public Comment – 3minute session
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 – Review of Zoning Ordinance edits, continue Supplemental Site Development Standards and section X (ZBA) time permitting
11. Old Business
12. Set/Confirm Public Hearing Dates
13. Set/Confirm Date of Next PC Meeting- April 16, 2024
14. Public Comment – 1 minute session
15. Planning Commission Comment
16. Adjournment

Public Comment at Meetings of the Hayes Township Planning Commission

The Hayes Township Planning Commission values public input and offers an opportunity 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 a clarifying question, 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. For the first Public comment period, 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. For the second public comment session speakers are limited to 1 minute each.
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.

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

Members present: CT Martin, Marilyn Morehead, Rex Greenslade, Mark Snyder, Matt Cunningham, and Roy Griffitts (Chair)

Excused: Derek Burnett

Also, present: April Hilton (Deputy Clerk/Recording Secretary), Ron VanZee (Zoning Administrator).

Audience: LuAnne Kozma, Jeff Harmon, Tim Boyko, Jim McMahon Joellen Rudolph, Janet Simon, Shelly VanWart, and Ellis Boal.

PLEDGE OF ALLEGIANCE:

REVIEW AGENDA:

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

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

Nays: none **Motion Carries**

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

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

Nays: none **Motion Carries**

DECLARATIONS OF CONFLICTS OF INTERESTS:

None

APPROVAL OF MINUTES January 16th, 2024 REGULAR MEETING

Ms. Morehead made a motion, supported by Mr. Martin, to approve the January 16th, 2024, regular meeting minutes as corrected.

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

Nays: none **Motion Carries**

PUBLIC COMMENTS:

Public comments opened at 7:05 pm.

Comments included:

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- Stated they have sent their brief on the Rieth Riley Pit to the Commission members. They would like to see the Hayes Township by Laws and Policy menu created on the Township Website. Would also like to see office hours posted on the website.
- Thanked Marilyn for her comments at the Board meeting the evening before. Thanked Rex for his time on the Zoning Board of Appeals. Spoke about a previous ZBA Case and stated their opinion for the outcome.
- Stated the fight with Reith Riley in the past year has been expensive for all parties involved and a risk for the residents living near the Gravel pit. Suggested to the Planning Commission to research other townships dealing with the same situation and investigate what they are doing to handle the situation.
- Stated they are opposed to the changes discussed about combining AG and RR zoning, because they are concerned with the uses permitted under AG and RR do not meet the rational explained in the ordinance. Stated they are concerned when combining AG with RR the Township will potentially open itself up to more lawsuits. Stated they understand their comments may come across as critical, however they do apricate what the township is doing and the work they are putting into the Zoning Ordinance Draft.
- Supported previous comments to keep AG zoning throughout the township. Does not support a combination of AG and RR zoning in the same area. Appreciates everything the Board members and Planning Commissioners are doing.

Public comments closed at 7:20 pm

REPORT OF TOWNSHIP BOARD REPRESENTATIVE TO THE PLANNING COMMISSION:

Next meeting March 11th, 2024, at 7:00pm.

REPORT OF ZONING BOARD OF APPEALS REPRESENTATIVE:

N/A

ZONING ADMINISTRATOR REPORT:

Written report available at Hayes Township Hall.

Ron presented maps generated by Equalization showing the shorelines of all three lakes. Ron presented an application from a property owner on Lake Charlevoix, concerning an application submitted to EGLE and Army Corp. The Letter informs the homeowner will need a Special Use Permit to repair a Retaining Wall that is below sea level and with this repair they are looking to reclaim some property. The basis for the permit is to prevent erosion, currently the permit does not reflect restoration of the shoreline protection strip. Zoning Administrator will reply back to EGLE that the Hayes Township Zoning Ordinance requires a Shoreline Protection Strip of 50 feet.

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Planning Commission Comments Included:

- Homeowner should not be allowed to rebuild Seawall or hardening on the shoreline.
- It is important to use the same process the commission always has when going forward through this process. Also, work with Tipp of the Mitt and Lake Charlevoix Association.
- The pictures from the application indicate the ordinary high-water mark.
- Noted in the Application to EGLE the applicants last name is misspelled.
- The Township has not received permit application regarding a Special Use Permit only a notice from EGLE.
- The Township gives the property owner a chance to comply prior to a formal application.
- Application is on EGLE website available to the public; Planning Commission was requested by a member of the public to state the applicant's name.
- Application has been on EGLE website for some time, the applicant originally applied for the lower-level permit, however, EGLE required a higher level of permit based on the amount of work proposed.
- Member of the public argued it is public information for the Planning Commission to state the applicant's name. The applicant's name is Chris Narten at 06605 Woods Creek Dr. application submission number 8PZ-B5Q6-295QR.

New Business:

REVIEW OF ZONING ORDINANCE EDITS (PUD/SUP/SITE PLAN REVIEW AND SUPPLEMENTAL SITE PLAN DEVELOPMENT STANDARDS TIME PERMITTING:

- Zoning Administrator will research the first line in 6.1 Purpose; for verbiage if AG and RR are combined.
- A Planned Unit Development (PUD) allows clustered housing while accommodating open space upon approval.
- PUD early discussion included:
 - Health department requirement of 1 acre per septic tank.
 - Possibility of multiple resident's septic system.
 - Less than ten-acre lot size (5 acres) if affordable housing development (affordable housing yet to be defined).
 - If intent of Township is to make housing accessible for younger generations, than perhaps consider less acreage for a PUD.

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- Planning Commission will reach out to Housing North to invite them back with the most recent studies regarding local housing needs.
- Planning commission came to a census they will consider reducing the PUD acre requirement to 5 acres for affordable housing development.
- Add "Shoreline Protection strip regulations" under 6.2.
- Planning Commission discussion expanding public notice requirements.
- Planning Commission came to a census a PUD requires at least twelve copies of the completed application.
- Under mixed use PUD's; step 6; increase the number of days the county has for review of the Planning Commission recommendation.
- Add "Shoreline Protection Strip Regulations" under 6.8 where accruable.
- Planning Commission will consult with BRI for formula for Density and Open Space Requirements.
- Planning Commission came to a census to change the total open space requirement to 50%.
- Planning Commission discussed Layout of Residential Lots and Non-Residential Uses.
- Planning Commission will reach out to BRI for information on setbacks.

Old Business:

SET/CONFIRM PUBLIC HEARING DATES:

N/A

SET/CONFIRM DATE OF NEXT PC MEETING –MARCH 12th, 2024.

Next Planning Commission regular meeting will take place on March 12th, 2024, at 7:00 pm.

PUBLIC COMMENT:

Public Comment Opened at 8:48

Comments Included:

- Questioned why the Planning Commission is considering consulting Beckett and Raeder again. Concerned with changing some of the standards within the ordinance.
- Stated concern for the properties near the Reith Riley's Green Pit.
- Stated they believe builders do not make money building affordable housing, which is one of the issues with affordable housing.

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Public Comment Closed at 8:52

PLANNING COMMISSION COMMENT:

Mr. Greenslade stated he believes tonight's meeting was successful and productive.

Ms. Morehead stated she would like the Planning Commission to schedule some special meetings to work on the zoning ordinance edits.

Mr. Snyder made a motion, supported by Mr. Greenslade to set a special meeting on March 6th, 2024, at 5:30 pm to continue the Zoning Ordinance draft edits.

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

Nays: none **Motion Carries**

ADJOURNMENT: Ms. Morehead made a motion, supported by Mr. Snyder, to adjourn the meeting at 9:00 pm.

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

Nays: none **Motion Carries**

Respectfully Submitted by:
April Hilton
Deputy Clerk/Recording Secretary

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CALL TO ORDER: Vice Chairperson Roy Griffiths called the meeting to order at 5:30 p.m.

Members present: Roy Griffiths, CT Martin, Marilyn Morehead, Mark Snyder, and Matt Cunningham.

Excused: Derek Burnett, and Rex Greenslade.

Also, present: April Hilton (Deputy Clerk/Recording Secretary), Ron VanZee (Zoning Administrator) and Kristin Baranski.

Audience: Andrew Wilson, LuAnne Kozma, Stan Boris, and Ellis Boal.

PLEDGE OF ALLEGIANCE:

REVIEW AGENDA:

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

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

Nays: none **Motion Carries**

DECLARATIONS OF CONFLICTS OF INTERESTS:

None

PUBLIC COMMENTS UNRELATED TO AGENDA ITEMS:

Public comments opened at 5:32 pm.

Comments included:

- Improves look good. Other comments are attached to minutes.

Public comments closed at 5:35pm

CONTINUE WORK ON THE ZONING ORDINANCE EDITS:

- Waiting for information and standard regulations from the State of Michigan before moving forward with the Renewable Energy portion of the Special Use Permit section.
- The Commission came to a consensus to change the distance to 300 feet for all notifications required throughout the ordinance.
- Add item I a Special Use Permit for a waterfront property will require a Site Plan Review. Roy Griffiths will work with BRI to write up the language for this item.

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- Made editorial corrections throughout the sections of tonight's discussion.
- Commission came to a census to add a Site Plan Review process for ADU's.
- Add language regarding scheduling and conducting a public hearing.
- Under the discretion of the Planning Commission a Performance Guarantee may be required.
- For every Special Use Permit category should have specific Supplemental Site Standards.
- 9.1 B the Owners of a Bed and Breakfast must resident in the home they use as the Bed and Breakfast. An ADU can not be used.
- Change the Language for the Public Phone Requirement to state "Must have access to a source for contacting Emergency Services available".
- Also make a requirement for there to be an administrator building where customers come to Check in and check out for Campgrounds.
- Item J may be able to be deleted, commission members will look into State Regulations for Campgrounds.
- Will reach out to the Cemetery Committee for the State regulation information for cemeteries.

PUBLIC COMMENT (1 MIN LIMIT):

Public comments opened at 6:32 pm

Comments included:

- Requested the second Comment time go back to 3 minutes. Asked why the Commission keeps referring to the Bay Township Ordinance.
- Requested the Commission to look into changing the set back for renewable energy.

Public comments closed at 6:37pm

PLANNING COMMISSION COMMENT:

ADJOURNMENT: Ms. Morehead made a motion, supported by Mr. Martin, to adjourn the meeting at 6:38 pm.

Yeas: Roy Griffiths, Marilyn Morehead, Matt Cunningham, and CT Martin.

Nays: none **Motion Carries**

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73 Respectfully Submitted by:

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75 April Hilton

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77 Deputy Clerk/Recording Secretary

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**OFFICE OF ZONING ADMINISTRATOR
09195 MAJOR DOUGLAS SLOAN ROAD
CHARLEVOIX, MICHIGAN 49720
231.547.6961
WWW.HAYESTOWNSHIPMI.GOV**

MARCH 2024 ZONING ADMINISTRATOR REPORT

Issued zoning permit for 10' X16' AND 12' X 14' attached decks at 06595 Red Pine Trail.

Issued zoning permit for a 30' x 60' accessory structure on Lot K, Summerhill Way.

Issued zoning permit for an attached roof structure and in ground hot tub at 06497 Woods Creek Drive.

Working with property owners on adjacent properties concerning setback requirement on Shrigley Road. Sent letter to correct.

Working with contractor for shoreland restoration/installation plan on Woods Creek Drive as result of notice of EGLE/USACE joint application.

Received and reviewing zoning permit application for new single family residence on Mulberry Lane. Implementing Shoreland Review Committee and waiting on Health Department Permit.

Received and reviewing application for rezone from Rural Residential to Agricultural on Burgess Road.

Received and reviewing application for Special Use Permit for outdoor display, indoor show room and sales on US 31 N/North Star Drive.

Received and reviewing application for single family residence on Pincherry Road.

Working with property owner concerning easements on Pa Ba Shan Trail.

Working with contractor proposing addition to residence on Boyne City Road outlining Shoreland Review process requirements.

Response to Hayes Board of Trustees on Hayes *Voice* article on “Litigation Spawned by the Law Project” claimed to be written by the Township “Council”

The March 2024 issue of the Hayes *Township Voice*, mailed to every resident, and downloadable at <https://www.hayestownshipmi.gov/wp-content/uploads/2024/03/Hayes-Township-Voice-March-2024.pdf>, reports on Township litigation resulting from plans of the Law family to excavate and build a boat basin and boathouse/event center capable of seating 350 guests, as part of a 500-acre corporate resort, some of which they have been building. However, their land is zoned R-1, “low-density residential” which is supposed to be “relatively quiet,” on Lake Charlevoix. The Laws claimed they are abandoning their boathouse plans. But if they still intend to use residential land for corporate activities, this violates the Zoning Ordinance and the Township must vigorously enforce against such non-residential uses.

The *Voice* complains of legal expenses incurred in defending three suits filed by LuAnne Kozma and even complains of Zoning Board of Appeals (ZBA) cases brought by her (and two other residents) which were supported by 50 additional residents, two organizations and one tribal government who made public comments in favor of protecting the shore, upholding the ordinance, and against a corporate resort.

The *Voice* does not mention that the Laws sued the Township in 2022, to overturn one of the ZBA interpretation decisions where Kozma, Irene Fowle and Elisabeth Hicklen prevailed. The ZBA held that our Zoning Ordinance does indeed prohibit excavation of the shoreland for a boat basin or channel. Despite all this, the Laws still wanted to excavate the shore and build that large building over the water. Six months later in 2023, they abandoned the lawsuit.

The reasons Kozma and neighbors Fowle and Hicklen requested Interpretations of the Zoning Ordinance in the first place, is because Township officials had violated the Zoning Ordinance permitting the project and asserting the expired permits remained valid. In 2019, the Planning Commission approved a “shoreland landscaping plan” for the Laws which included a large excavated boat basin and canal cut some 200 feet back into the lake’s shoreland. In July 2020, the Zoning Administrator issued a zoning permit for a 2-story stone boathouse and event center building over that excavated boat basin. In 2021 when we and our neighbors found out about the project, we realized the permits had expired according to the Zoning Ordinance, and told the Township so. Tip of the Mitt Watershed Council argued the same.

However, Township officials insisted in meetings that September that the permits were not expired, the Township approvals were still good, and the Laws could move

for April. These goals were accomplished during the suit.

We have a currently-pending suit contesting one erroneous ZBA Interpretation regarding the horizontal location of the Ordinary High Water Mark after excavation of an artificial boat basin. Its decision would allow current owners of artificial boat basins or channels in the Township to build buildings directly over the water of a lake, which violates the state statute requiring all R-1 zoned properties to live by the same setback rules. The Interpretation created an automatic variance for future buildings, which it cannot do.

The ZBA ruled simply from the gut, citing zero facts in doing so, in violation both of the Zoning Ordinance and state law. We are in Court seeking an order that the ZBA find facts for its decision, and in doing so might rule differently. Everyone knows this: You have a right, every time, to a decision based on facts. The Township and Circuit Court have so far argued only that Kozma has no standing.

Our response is we and every other Township shoreline owner have standing when the Interpretation is about something which will govern all of them this year, next year, and the years after. The Township has three pre-existing artificial basins, where according to the ZBA Interpretation the owners would be free to build structures over the water despite the 100-foot setback rule. Other shoreline owners cannot. But everyone should be prohibited, equally. It is a legitimate question on which the Courts should rule.

The complained-of litigation expenses could have been avoided if the Township had just done the right thing from the start, and enforced our Zoning Ordinance, protected Lake Charlevoix and its shoreland and said “no” to the Laws.

We don’t see the Township wanting to comply while this Zoning Administrator continues to ignore, manipulate, and not enforce the Zoning Ordinance and while the Planning Commission entertains changes to the Zoning Ordinance that would allow the project. The ordinance does not permit commercial use for a corporate resort inside the R-1 residential zone.

Residents will remain vigilant. See page 5.

LuAnne Kozma, Ellis Boal
9330 Woods Road
Charlevoix MI 49720
March 11, 2024

Supporters who wrote or spoke on the record at ZBA public hearings in support of the interpretations by Kozma, Fowle and Hicklen:

Little Traverse Bay Bands of Odawa

Indians

Michigan Loon Preservation Association

Tip of the Mitt Watershed Council

Chris Boal

Ellis Boal

Scott Boal

Stewart and Susan Boal

Winnie Boal

Tim Boyko

Jason Brabbs

Stephen Brede

Jessica Catt

William and Diane Conklin

Melvin Czechowski

Omar Feliciano

Frank Fowle

Noah Fowle

William Fowle

Jonathan Friendly

Penny Hardy

Betty and Bill Henne

Bill Hicklen

Paul Hoadley

Danelle and Mike Hutcheon

Anne Kantola

Debra Kochin

Greg Kozma

Natalie Kozma

Maggie Leonard

Margie Marks

Jim McMahon

Ayrie Moore

Lucy Moore

Chris and Debbie Narten

Marylee Pakieser

Anne Perry

Bud Pope

Sandra Pritchard

Susan Rankin

Jim & JoEllen Rudolph

Dale Scott

Nancy Solomon

Laurie Sommers

Shelly VanWart

Elliott Weissbluth

Mike and Maureen Whitehead

HAYES TOWNSHIP PLANNING COMMISSION REGULAR MEETING

Meeting Date:	March 12 th 2024	Location:	Hayes Township Hall
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