

Hayes Township Planning Commission
June 17th, 2025
Regular Meeting
Hayes Township Hall
9195 Major Douglas Sloan Rd.
Charlevoix, MI 49720

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

Members present: CT Martin, Roy Griffiths (Chair), Rex Greenslade, Alexander Curley, Mark Snyder, Matt Cunningham, and Carey Cuddeback.

Also, present: Ron VanZee (Zoning Administrator), Todd Millar (Township Attorney).

Audience: Bill Conklin, Doug Kuebler, David Zipp, LuAnne Kozma, Ellis Boal, Kevin Willis, Jonathan Scheel, Diane Conklin, Mark McCol, Bob Jess, Tim Boyko, Jim McMahon, Diane McMahon, David Kemme, Betty Henne, Kathy Simon, Carol Umlor, and Rick Lobenherz.

REVIEW AGENDA:

Township Attorney Todd Millar suggested the Planning Commission postpone the agenda item Public Hearing – Correcting errors in the DeWitt Marine Special Use Permit until the July Planning Commission meeting following request from newly appointed attorney for DeWitt Marine.

Remove item# 5 Public Hearing – Correcting errors in the DeWitt Marine Special Use Permit with intent to schedule it for the July Planning Commission meeting.

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

Yeas: Alexander Curley, Rex Greenslade, Roy Griffiths, CT Martin, Mark Snyder, Carey Cuddeback, and Matt Cunningham.

Nays: none **Motion Carries**

DECLARATIONS OF CONFLICTS OF INTERESTS:

None

PUBLIC COMMENTS: Public comments opened at 7:06pm.

Comments included:

- Stated they have 20 years in Planning and Zoning, 8 years spent as Hayes Township Zoning Administrator. Stated the national level news has been covering court cases involving processes. Stated they do not have a problem with the Planning Commissions business however, have a problem with the process that granted DeWitt a permit. Recommends transparency.

- Stated he is a member of Northern Lakes Economic Lines and they talk about and support the blue economy. The blue economy is everything that has to do with the lakes, and improving the economy around the northern lakes. Supports the boat display on US 31.

Hayes Township Planning Commission
June 17th, 2025
Regular Meeting
Hayes Township Hall
9195 Major Douglas Sloan Rd.
Charlevoix, MI 49720

- Stated they feel the process was not followed correctly which led to tonight's reschedule, and feel the same thing happened last year when the permit was originally passed with the lack surveys that were to scale.
 - Stated after reading the Township Attorney's letter, they are unsure why the Planning Commission approved the Special Use Permit in the first place. Would like to know exactly what was wrong with the notice.
 - Stated they are detailed oriented. Correspondence attached.
 - Stated they share the concern for the North side of Charlevoix being too developed, which is why they placed a portion of their land into conservancy. However, in the portion along US 31 that is zoned Commercial the Township should consider allowing business development.
 - The Planning Commission will not be addressing the Public Hearing tonight. However during the Public comment period the public can speak freely.
- Public comments closed at 7:21pm

APPROVAL OF MINUTES MAY 20TH, 2025 REGULAR MEETING

Mr. Curley made a motion, supported by Ms. Cuddeback, to approve the May 20th, 2025, regular meeting minutes as corrected.

Yeas: Alexander Curley, Rex Greenslade, Roy Griffiths, CT Martin, Mark Snyder, Carey Cuddeback, and Matt Cunningham.

Nays: none **Motion Carries**

REPORT OF TOWNSHIP BOARD REPRESENTATIVE TO THE PLANNING COMMISSION:

Matt Cunningham gave a report on Board of Trustees activities. Board of Trustees will be holding a Budget Hearing on June 23rd, 2025. Next regular scheduled Board meeting is July 14th 2025.

REPORT OF ZONING BOARD OF APPEALS REPRESENTATIVE TO THE PLANNING COMMISSION:

The ZBA next scheduled meeting is July 23rd 2025 at 7pm to review a variance request.

ZONING ADMINISTRATOR REPORT:

Ron VanZee presented a written report. Report is available on the Hayes Township website and for review at the Township Hall.

Mr. VanZee clarified there are two applications that have been received for consideration by the ZBA. Upon receipt of these applications the ZBA chairperson was notified of the applications and asked to reach out to ZBA members including alternates, to confirm when a quorum could be available. ZBA has set a meeting date for July 23rd 2025. At this time only one

Hayes Township Planning Commission
June 17th, 2025
Regular Meeting
Hayes Township Hall
9195 Major Douglas Sloan Rd.
Charlevoix, MI 49720

application for a variance request is on the agenda. The second application has not been completed by the applicant.

NEW BUSINESS

ZONING ORDINANCE WORK GROUP UPDATE – CAREY CUDDEBACK:

Ms. Cuddeback stated the Work group has their first meeting tomorrow. They will be discussing the scope of the process and begin their work with the consultant.

MASTER PLAN EDITING PROCESS UPDATES – REX GREENSLADE:

Mr. Greenslade stated he has been working on reformatting the text of the Master Plan text to facilitate easy editing. He is awaiting feedback from the other planning commission members and will be working on implementing their suggestions into the new format.

OLD BUSINESS:

SET/CONFIRM PUBLIC HEARING DATES:

Mr. Snyder made a motion, supported by Mr. Cunningham to reschedule the Public Hearing for correcting errors in the DeWitt Marine Special Use Permit for July 15th 2025.

Yeas: Alexander Curley, Rex Greenslade, Roy Griffiths, CT Martin, Carey Cuddeback, Mark Snyder and Matt Cunningham.

Nays: none Motion Carries

SET/CONFIRM DATE OF NEXT PC MEETING –JULY 15th, 2025.

Next Planning Commission regular meeting will take place on July 15th, 2025, at 7:00 pm.

PUBLIC COMMENT:

Public Comment Opened at 7:35pm

Comments included:

- Stated they were the Zoning Administrator when the stretch along US 31 was changed to Commercial zoning. He would like to see the area as a thriving and developed business area.
- Stated they would like the appeal to be heard before July 23rd 2025. Would like the Planning Commission to direct the Zoning Administrator.
- Roy Griffiths stated the Planning Commission does not oversee the Zoning Administrator and cannot direct as requested.

Hayes Township Planning Commission
June 17th, 2025
Regular Meeting
Hayes Township Hall
9195 Major Douglas Sloan Rd.
Charlevoix, MI 49720

- Stated they have respect for Mr. Lobenherz, however have a difference in opinion from him. Would like to see a survey presented by DeWitt Marine as well as a wetland study. Suggested DeWitt request a variance.
 - Stated they have listened to several compliments regarding DeWitt Marine. However, they find DeWitt attorney's request for postponement as a way to stall.
 - Would like to know what was incorrect in the posting of the notice.
- Public Comment Closed at 7:42pm

PLANNING COMMISSION and STAFF COMMENT:

Mr. Snyder stated it would be nice if there was more appreciation for the Planning Commission efforts to do the best they can for the Township.

Ms. Cuddeback stated this is a volunteer board and every member puts in many hours of training and additional work outside meetings. She feels offended by the negative comments towards the planning commission members at every meeting.

Mr. Griffiths stated it is fair to say being a Planning Commission member puts you in the position to take negative comments from the public.

Mr. Snyder stated he would like to see citizens as a whole working together more.

ADJOURNMENT: Ms. Cuddeback made a motion, supported by Mr. Curley, to adjourn the meeting at 7:46pm.

Yeas: Alexander Curley, Rex Greenslade, Roy Griffiths, CT Martin, Carey Cuddeback, Mark Snyder and Matt Cunningham.

Nays: none **Motion Carries**

Respectfully Submitted by:
April Hilton
Deputy Clerk/Recording Secretary

To: Hayes Township Planning Commission
From: LuAnne Kozma, 9330 Woods Road, Charlevoix MI 49720
June 17, 2025

Re: Comments for Public Hearing on DeWitt Marine

In May 2024 the Planning Commission approved DeWitt Marine's Special Use Permit for phases 1, 2 and 3 with the express condition: **"provided that all phases comply with the Hayes Township zoning ordinance."**

Today's Rehearing process must comply with our Zoning Ordinance in Section 9.04 that says the PC "may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:"

Subsection A —the applicant made misrepresentations concerning a material issue, that PC relied on.

Subsection B — there have a material change in circumstances... which occurred after the public hearing

Subsection C — the Township attorney by written opinion states that PC decision was "clearly erroneous."

So under which of these subsections are you proceeding today?
Where is the written Township attorney opinion?

Going back to your decision of last May:

Your conditional approval requiring that all phases 1, 2 and 3 comply with the ordinance, means that:

1. Should an element of the approved plan not comply, approval for the Special Use Permit does not exist.
2. Lack of a landscaping plan, for example, as required by Sections 5.03(3)(l) and importantly, 3.24, means the project does not comply.
3. No impact statement as required by Section 5.03(3)(P).
4. No identification of wetlands or other environmental features, as required by Section 5.03(3)(F).

5. Lack of a certified survey, required by Section 5.03(3)(C), means the project does not comply.

6. And totally inaccurate scale drawings and “site plans” as required in Section 5.03(3)(D) are un-approvable.

The PC **did not waive the requirement of a certified survey in May 2024.** Instead you accepted the shoddy Phase 1, 2 and 3 images as the “survey.” This was a completely erroneous thing to do.

This is what was said at your meeting on May 6, 2024:

Roy Griffiths: Site Plan Review, [proceeds to recite section 5.03, paraphrasing. Goes over 1.D.] Any special use permit being a reason for full site plan review. Under “site plan data required,” subsection 3], Name, address and property owner? Done. The date, north arrow, scale, and name of the individual or firm responsible for preparing said plan? The scale must be at least one inch for 50 feet for parcels under 3 acres and not less than 1 inch equals 100 feet for parcels 3 acres or more.

And I believe that, go ahead—I believe that the drawings that we have are at that scale. A certified survey of the property prepared and sealed by a professional licensed surveyor showing a minimum boundary lines of the property, to include all the legal dimensions and legal description. I think this, well it's not signed, but I think this is the survey. (VanZee: I think so.) And the lots are surveyed on the equalization map. It would be better if we had a licensed surveyor showing it, but, did you get this from—who did you get this drawing from? Is that from—

Van Zee: I think from Equalization.

Griffitts: This one with the lines colored in, number 14, it shows that markers in the—

Van Zee: Yes, that actually came from Equalization. And part of the application that came in. That is correct.

Griffitts: But it's got everything on it except for who performed it.

Van Zee: Who performed it. We'll have to go to larger drawings to get that information—

Griffitts: Okay.

Planning Commissioners, get out your rulers.

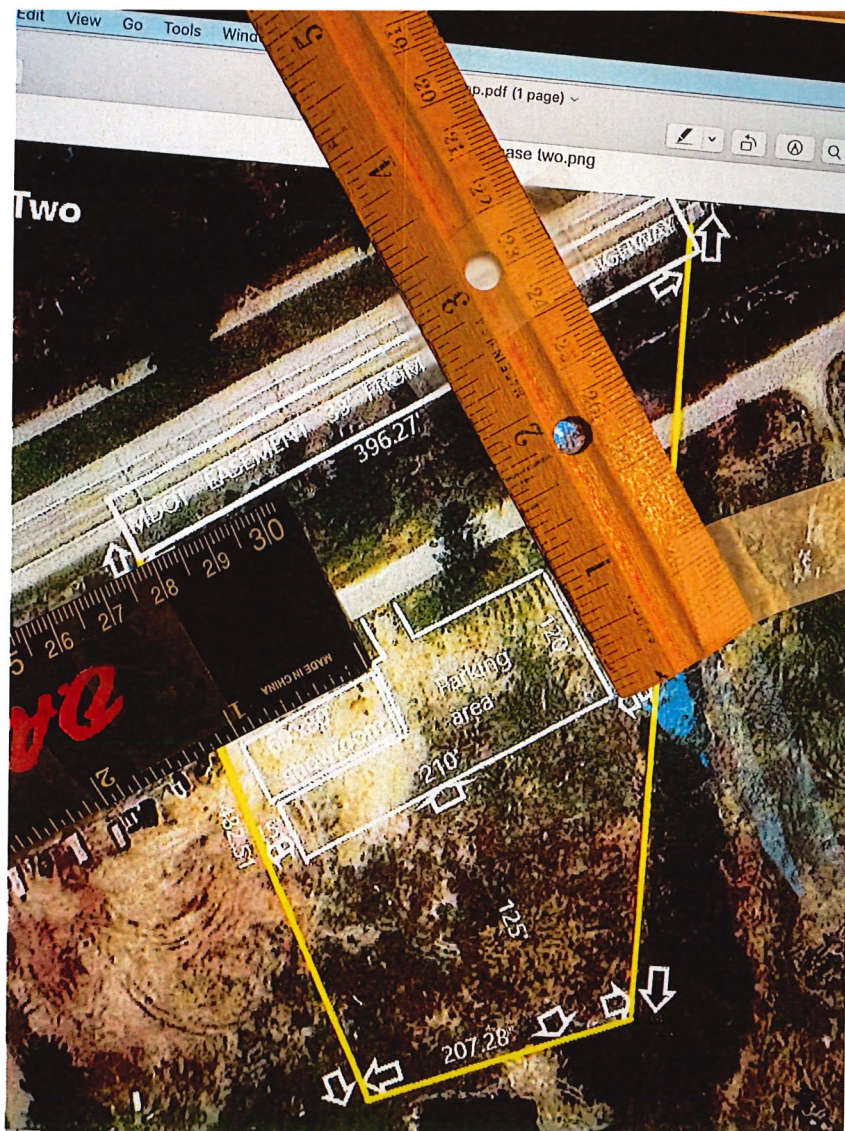
The phase maps show quite a few different scales, inaccurate building sizes, erroneously calculated setbacks depicted, and erroneous parcel boundary measurements. Nothing about these “drawings” comply with the ordinance in Section 5.03(3)(B) requiring “a scale of at least one inch = fifty (50) feet for parcels under three (3) acres and not less than one(1) inch = one hundred (100) feet for parcels three (3) acres or more.”

DeWitt is using 2 parcels that are each about 2 acres in size. If the PC

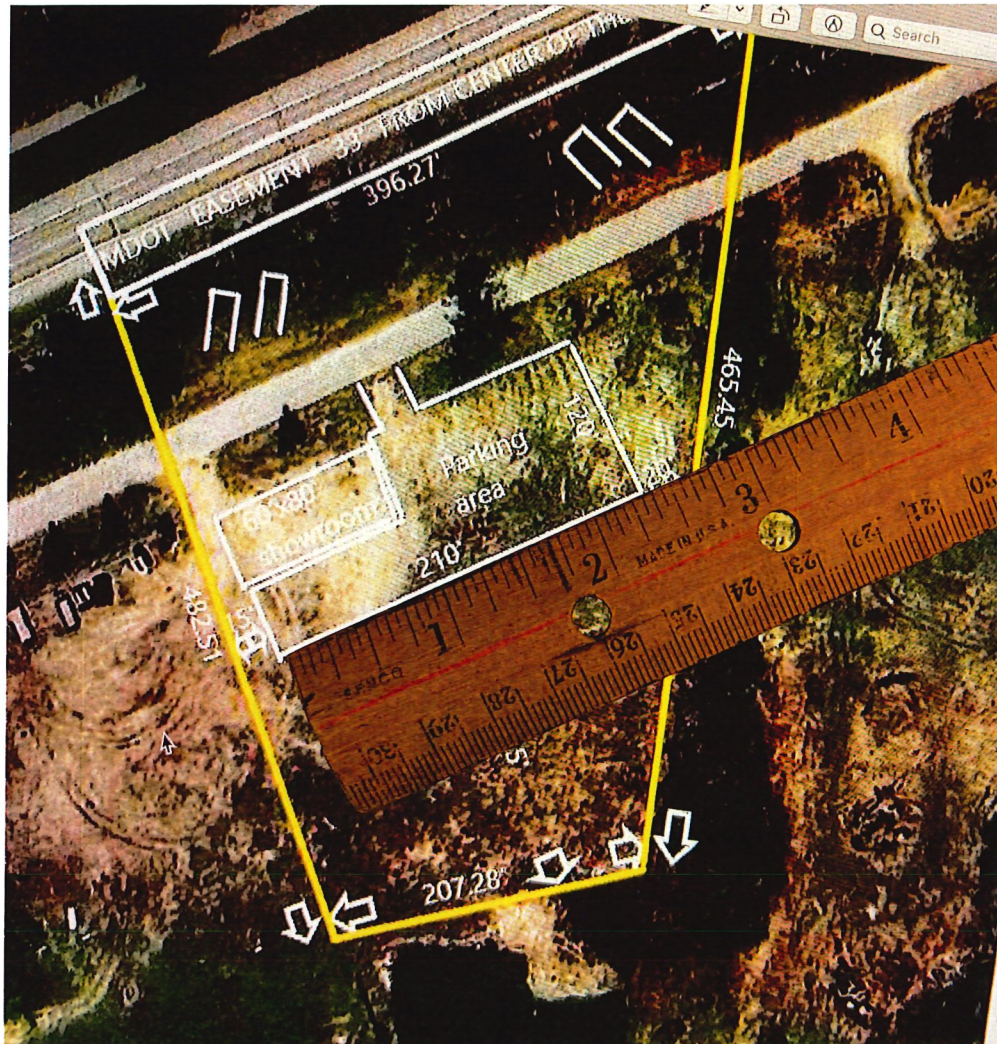
considers this project one “parcel” the scale 1 inch = 100 feet applies.

First, the two parcels’ boundary measurements are completely false and inaccurate.

Blowing up the Phase 2 map so that one measurements equals 1 inch, we see that the 120 foot width of the parking lot equals 1 inch. However the 80 foot side of the proposed showroom **also** = 1 inch.

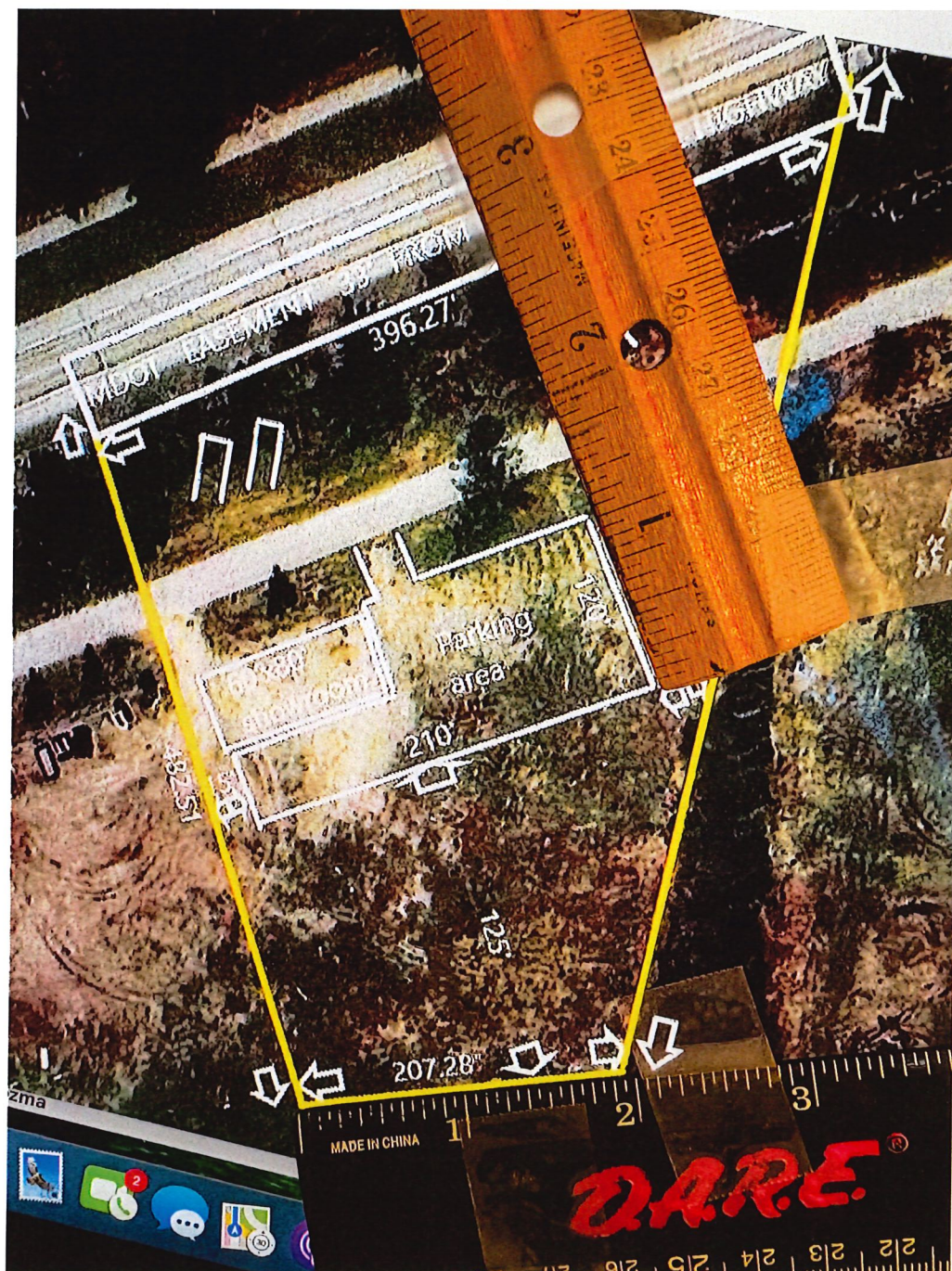


On the same Phase 2 map at the same size, the 210 foot length of the parking lot is a little over 2 inches, at a scale of about 1 inch = 92.3 feet:

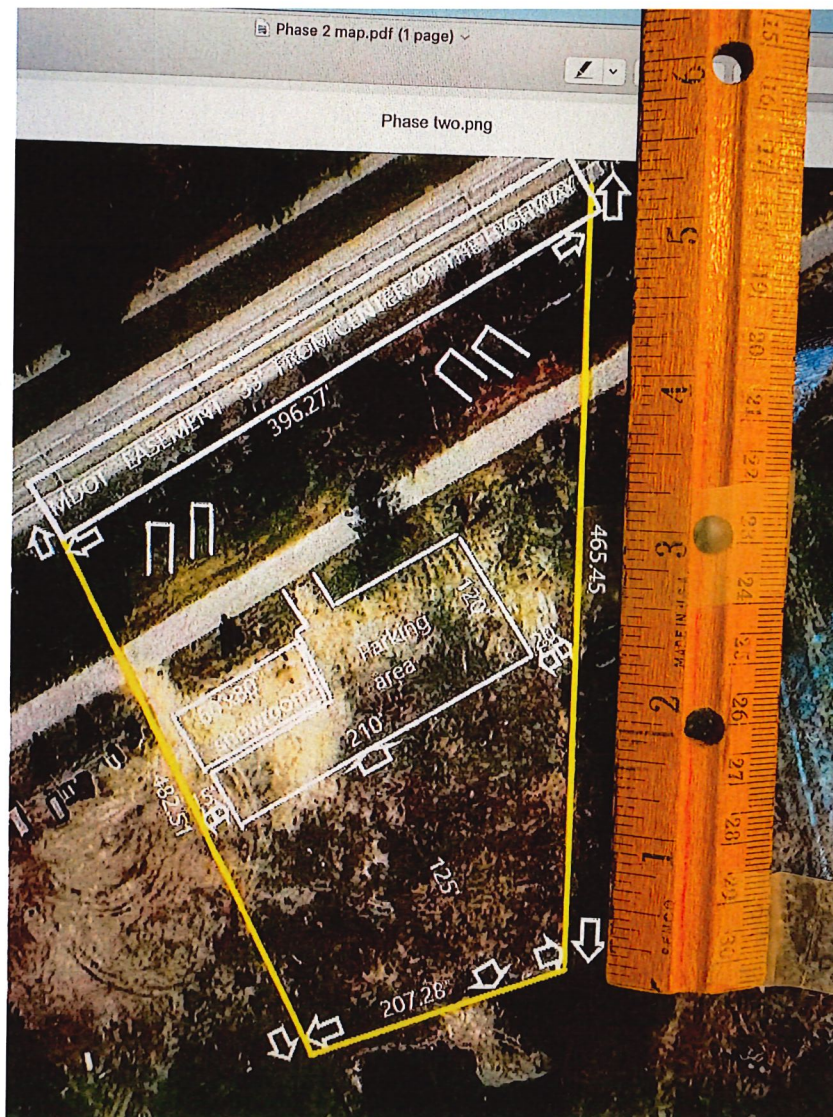


Now look at the lot sizes.

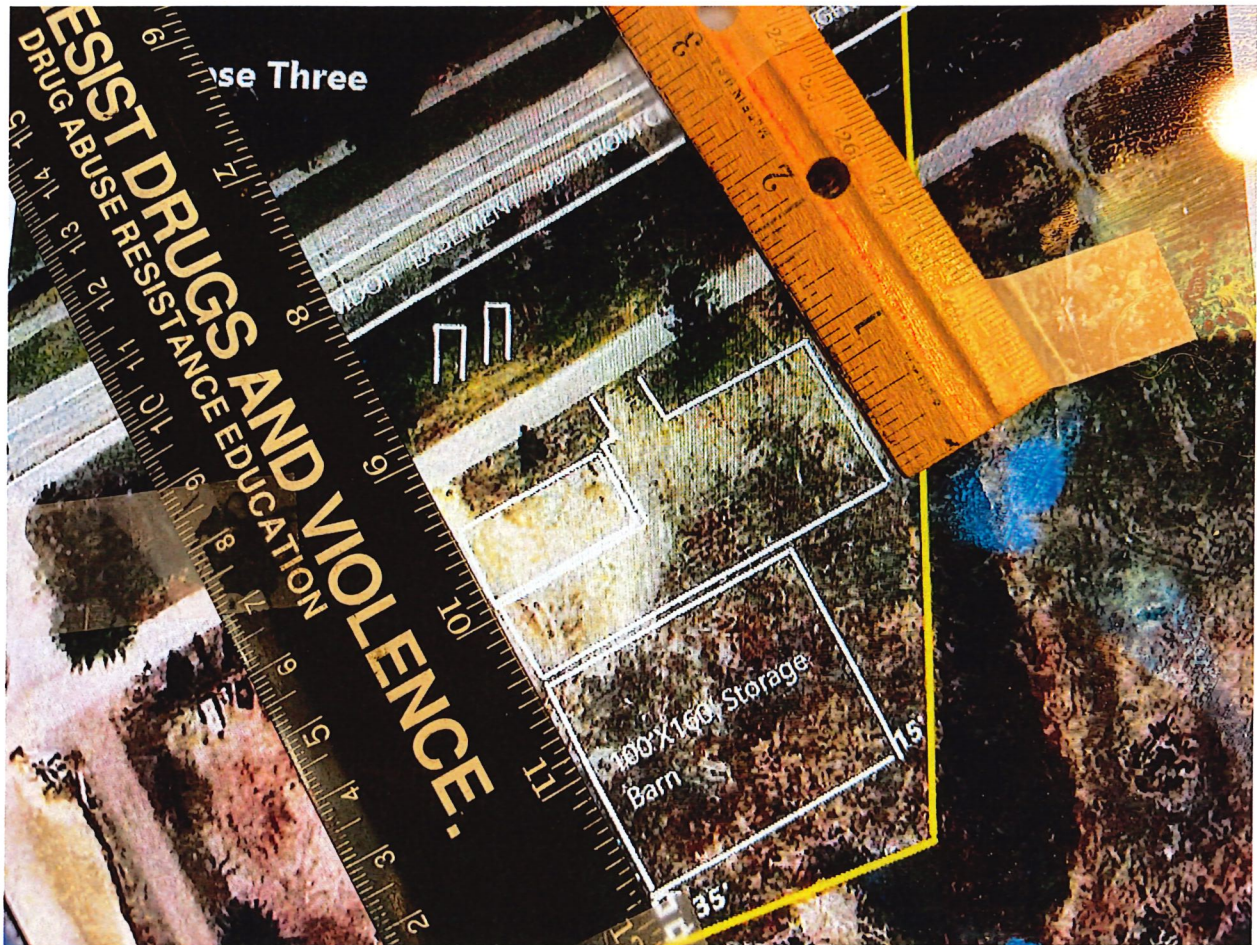
The bottom lot measurement is a little less than 2 inches, to represent a lot line supposedly a little over 207 feet. (Actually it says 207.28" that is, INCHES. This is just totally incompetent and unreliable.)



The two lot measurements on the East and West show a larger measurement for the West lot line (482.51) and a smaller measurement for the East lot line. The opposite should be true. The East lot line is a lot longer in size. Yet it depicts the East lot line as 465.45 feet. And, when measured with a ruler on the same size of the Phase 2 map, the East lot line is about 5.5 inches long. That would be a scale of 1 inch = about 84 feet. However, if you measure on the Charlevoix County parcel map, that lot line is actually over 630 feet long.



Yet the Phase 3 map indicates that a 100' x 160' storage building could be built in that location, with a required 35' rear setback to spare! No, that math does not add up. You cannot fit a 100 foot or 160 foot side of a building plus a 35 foot setback in a space that is just 125 feet. And just look at these not-to-scale of 1 inch = 100 feet the Phase 3 maps shows that building.



No measurements are accurate.

This is why surveys by certified surveyors are required by our Ordinance. These erroneous plans and buildings are not approvable by the PC.

In addition, the PC's decision in May that the project SHALL COMPLY with the Zoning Ordinance rules out any variances by ZBA. A dimensional variance, which can only be given by the ZBA—not the Planning Commission—is an express permission to NOT comply with a dimensional requirements of the ordinance. The exact opposite of complying. DeWitt cannot *comply* with the ordinance by getting future variances that would allow them to *not comply*!

I ask the PC rescind or declare the earlier approval of the Special Use Permit approved in May 2024 as no longer in effect. Phases 2 and 3 are un-approvable as submitted.

Thank you.

LuAnne Kozma
9330 Woods Road



April Hilton <deputyclerkhayes@gmail.com>

Fwd: Please share my email response (DeWitt) with PC members

1 message

Roy Griffiths <rwgriffitts3@gmail.com>

Tue, Jun 17, 2025 at 2:29 PM

To: April Hilton <deputyclerkhayes@gmail.com>

Begin forwarded message:

From: Jim McMahon <jim_mcmahon_iii@yahoo.com>
Subject: Please share my email response (DeWitt) with PC members
Date: June 17, 2025 at 5:37:44 AM EDT
To: "C. T. Martin" <ctmagnetics@aol.com>
Cc: Roy Griffiths <rwgriffitts3@gmail.com>

Good morning, C.T.,

Please share my DeWitt email response to you with other members of the planning commission. I think it contains some worthwhile planning insights. Many people living throughout the nearby Charlevoix area want attractive entrances to the city - it says something about us as a community. The content of my email is below. Thank you.

Jim McMahon

Email response:

Thank you, C.T., for your investigation and measurements of the property and for your question.

About 10 years ago, a group of citizens came together to "fix up" the entrances of the south side of Charlevoix town.

The entrances to Charlevoix looked very commercial, clear-cut, and dull. This group raised lots of money for the project, worked with willing businesses, made professional suggestions for improvement, and planted many large trees.

So, after that project, Krist came in and clear-cut all the trees (even the newly planted trees) at the north and south ends of Charlevoix. Dry Harbor has no trees, just lots of boats and more boats. About 20 years ago, the Lutheran Church (now the evangelical church) built their church and clear-cut their trees. After lots of negative feedback, they planted six (6) sticks. The AmericInn clear-cut their trees. DeWitt or the property owner of that site cut most of their trees. Well, that's so much for trying to maintain a beautiful entrance to Charlevoix (my sarcastic view of commercial use of Charlevoix's entrances).

I believe everybody can get what they want if everyone is willing to work together and meet in the middle. A business doesn't have to be "in your face" to sell products. People will find out where to get the best products and service for the best price. It doesn't require clear cutting all of the trees and native landscaping.

Regarding dry marinas, Charlevoix already has six (6) retail sales and service dealers within its general geography. What I'm concerned about is maintaining our pleasant, natural landscaping without all the signage and displays. I'm concerned about the wetlands and run-off that surround this whole development starting from DeWitt to the new nursing home.

I thought the new nursing home was a welcome addition - they seemed to want to maintain the scenic natural character view from US-31. They also made every effort to maintain the surrounding wetlands in good health. Also, their night-sky lighting was very well done as depicted in their photo of their Midland facility.

Is this DeWitt Marine business the best use of this site, considering the wetlands and their insistence to put in all of these buildings, blacktop, and large boat displays?

6/17/25, 2:31 PM

Gmail - Fwd: Please share my email response (DeWitt) with PC members

This entire development area is very fragile. Care must be taken and it's probably not the best use of this space.

My goodness, I'm not against commercial businesses. But good and diligent planning, managed development, and concern for the natural environment must be strongly considered. Both can co-exist, but only if everyone agrees to work together and to be transparent.

Again, thank you for asking.

Jim McMahon



zoning hayestownshipmi <zoninghayestownshipmi@gmail.com>

Planning Commission: DeWitt Marine Development on US-31

1 message

Jim McMahon <jim_mcmahon_iii@yahoo.com>

Wed, Jun 11, 2025 at 8:03 PM

To: Roy Griffiths <rwgriffitts3@gmail.com>, Mark Snyder <snyderhpt@outlook.com>, Rex Greenslade <greensladerex@gmail.com>, "C. T. Martin" <ctmagnetics@aol.com>, Carey Cuddeback <clcuddebackpc@gmail.com>, Alexander Curley <acurley.pc@gmail.com>, Matt Cunningham <trustee2@hayestownshipmi.gov>, Kristin Baranski <clerk@hayestownshipmi.gov>

Cc: Ron VanZee <zoning@hayestownshipmi.gov>

Re: Reconsideration (Rehearing) of DeWitt Marine Special Use Permit

Dear Planning Commission Members:

I am unable to attend the planning commission meeting on June 17 due to a scheduled medical procedure I'm having on that same day at Munson Hospital in Traverse City. There are very serious failures, issues, and apparent zoning ordinance violation(s) with DeWitt Marine's current land development.

As the Planning Commission develops its **"Findings of Fact"**, I ask you to specifically consider **all elements** contained in the following sections of the Hayes Township Zoning Ordinance:

Section 3.19 Access Management

Section 3.20 Outdoor Lighting

Section 3.21 Signs

Section 5.03 Site Plan Review (All Districts), especially 5.03.3 and 5.03.5

Section 6.02.4.E Compatibility with Natural Environment

Below are some specific failures, issues, and apparent violations.

1. There is **no "certified survey"** of the property prepared and sealed by a professional licensed surveyor" **specific to this site development**. Please reference Section 5.03.3.C.
2. The Site Plan Data **does not include** the following items in the documentation:
 - a. dimensions of abutting rights-of-way
 - b. required setbacks with dimensions
 - c. watercourses and water run-off paths
 - d. wetlands, including those on abutting properties
 - e. man-made drains including the mechanically dug trench located parallel to both US-31 and the service drive
 - f. remaining items within Section 5.03.3 that are too numerous to list here.
3. The MDOT right-of-way for US-31 is 75 feet (on the road's south side) from the actual road centerline. The MDOT "temporary use permit" **does not** supersede Hayes Township's Zoning Ordinance per Mr. Andy Perkette of MDOT's Gaylord TSC.
4. Section 3.19.1 specifically states that "Development of highway corridor property, regardless of zoning district, shall have a minimum front yard setback of fifty (50) feet from the road right-of-way." Therefore, the setback for development is 125 feet from the road centerline (i.e., 75 feet + 50 feet = 125 feet total setback).

5. The newly constructed **four (4) pontoon boat display pads are clearly in non-compliance with this 125 feet total setback**. These four boat display pads with their higher elevation, fill, gravel, and landscaping railroad ties are development of highway corridor.

6. **No professional wetlands information has been provided**. Michigan EGLE mapping charts show many wetland areas scattered throughout this general commercial development area.

Professionally-certified information must be provided. Specifically, there is no wetlands information provided for the following abutting properties, Sections 5.03.3.F and 5.03.3.N:

- a. directly south of the DeWitt property
- b. directly east of the DeWitt property
- c. northeast of the DeWitt property where the pooled water resides (see **question** below)
- d. between the service drive and the mechanically dug (water) trench where the boat display pads were constructed.

Question: In item 6(c) above, water had been retained (pooled) for many months until some time after June 1st, 2025. From a US-31 vantage point, it now appears the wetland water has been drained away. What caused this wetland water drainage? Was it a modification to the mechanically dug trench? Where did the water go?

Wetland observations:

a. From a US-31 vantage point, I have personally and easily witnessed the wetland pooled water.

b. Both prior to and during the construction of the four pontoon boat display pads in 2024, I observed standing water in the pontoon boat display pad areas.

c. The presumed mechanically dug trench can be easily seen from US-31 and it is certainly within the combined 125 feet right-of-way/setback area. Could it be that this trench drains the pooled water away from the wetland? Have the proper EGLE permits been obtained to drain wetlands? **Rather than saying, "It's not our job to enforce EGLE regulations", Hayes Township should ask EGLE for an official ruling at the applicant's expense.**

7. It appears that "existing trees and site vegetation" were removed at some time and the ground was filled-in and elevated when the boat pads were constructed **contrary** to the preservation guidelines in Sections 3.19.5.D, 5.03.5.A.2, and 5.03.5.A.3.

8. There are **no specific** Outdoor Lighting and Signs information provided. Sections 3.20 and 3.21.

9. **Master Plan Surveys:** The Hayes Township Master Plan surveys conducted during the latter part of 2024 and prepared during the early part of 2025, **as well as prior surveys**, provide very detailed feedback from Hayes Township property owners about how they want to see and experience Hayes Township and its development. The last paragraph in the executive summary states **"The survey results indicate a strong community desire to preserve the scenic and rural character of Hayes Township while accommodating managed growth and development."** The DeWitt Marine commercial development appears to be in direct non-conformance with this strong community desire, as well as the **Compatibility with Natural Environment** standard, Section 6.02.4.E.

Conclusion: All aspects of DeWitt Marine's commercial site development and ongoing proposed operation must be thoroughly investigated and the **Findings of Fact** well documented, prior to the careful and prudent review by the Hayes Township Planning Commission. **This Special Use Permit application is unacceptable!!!** Significant project development **failures in many areas must be satisfactorily addressed**. Thank you.