

Hayes Township Planning Commission
July 15th, 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: Jim McMahon, Tim Boyko, Diane Conklin, Kevin Willis, Kim Fary, Bill Conklin, Betty Henne, Darcy Phelps, Catherine Phelps, David Kemme, Steve Hassell, Carol Umlor, and LuAnne Kozma.

REVIEW AGENDA:

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

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 HEARING – CORRECTING ERRORS IN THE DEWITT MARINE SPECIAL USE PERMIT:

Mr. Griffiths asked Todd Millar if Dewitt's absence from the meeting would affect the Planning Commission's ability to hold this rehearing.

Mr. Millar stated that Dewitt's not being present does not change anything.

Mr. Griffiths asked Todd Millar if the Planning Commission should run through the process as if they were reviewing a new application.

Mr. Millar recommended hearing it as a new case.

Chair opened public hearing at 7:03 pm

The purpose of the public hearing is to discuss and hear public comment regarding the errors in the Dewitt Marine Special Use Permit granted on May 6th 2024.

Public Comment opened at 7:04 pm.

Comments included:

- Read from the correspondence attached.
- Supports correspondence attached. Appreciates the Planning Commission re-hearing this Special Use Permit.

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- Stated they are concerned about the mistakes made in the original hearing, requested clarification whether it was the MDOT permission or the setback determination that was the source of confusion at the original hearing.

Public Comments closed at 7:13 pm

Public Hearing Closed at 7:14 pm

Mr. Griffiths stated at the original hearing that road right of way was thought to be 33 feet from the center of the road per the state law passed in the early 1900s. This spring, a conflict arose in Traverse City when the DNR proposed campground improvements that clashed with East Bay Township's Planning Commission. The township attorney asserted, "The township rules prevail." After finding this out, Hayes Township staff contacted Todd Millar, Hayes Township Attorney, for his opinion on whether or not the Township's Zoning Ordinance supersedes MDOT's control of the property in the road right of way. Todd explained that the Planning Commission did make an error, which triggered the rehearing process and tonight's meeting. Mr. Greenslade stated that when it comes to setbacks along US 31, the Zoning Ordinance is confusing when you include an easement in the calculation.

Mr. Snyder said the easement was intended to assist with curb cuts along US 31 and preserve residents' preferred views. With that, he feels the land owner is getting punished now for an easement road that was created with the intent to do what the public desired.

Mr. Griffiths stated that recognizing where the setback measurements start, they will need to request a new site plan for consideration, particularly for the requested phases 2 and 3, which include the buildings. The temporary building in phase one is placed well within the setbacks. The Planning Commission requests Todd Millar's opinion on whether or not the Planning Commission could suspend phases 2 and 3.

Mr. Millar stated that, with it being a complete rehearing of the special use application, the Planning Commission has the power to revoke any decision made at the original hearing. The Planning Commission came to a decision to suspend phases two and three of the Special Use Permit for DeWitt Marine.

Mr. Griffiths cited Article VI; special use permit, and planned unit development, starting with section 6.01 Purpose. Article VI: Special Use Permit and P.U.D.

Adopted: October 12, 2009

Hayes Township Zoning Ordinance

Effective: October 31, 2009

SECTION 6.01 PURPOSE

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It is the purpose of this Article to specify the procedure and requirements for the review of special land uses, as specified in this Ordinance. Uses classified as special land uses are recognized as possessing unique characteristics (relative to location, design, size, public infrastructure needs, and other similar characteristics), which require individual review and approval standards in order to safeguard the general health, safety, and welfare of the Township.

Mr. Griffiths reviewed 6.02. 4 Standards for granting Special Use Permit, for phase one only.

Section 6.02. 4 Standards for granting Special Use Permit

The Planning Commission shall approve, or approve with conditions an application for a special land use permit only upon finding that the proposed special land use complies with the following standards:

A. Allowed Special Land Use

The property subject to the application is located in a Zoning District in which the proposed special land use is allowed. Zoning District Commercial

YES

B. Compatibility with Adjacent Land Uses

1) The proposed use subject to a special use permit shall be designed, constructed, operated and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.

YES

2) The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public road or seen from any adjacent land owned by another person.

YES

3) If deemed necessary by the Planning Commission, the hours of operation that the special use is allowed to operate, be open or otherwise occur, shall be imposed as a condition of approval to ensure compatibility with the surrounding land uses.

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NO

C. Public Services

1) The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

YES

2) The proposed special land uses will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

YES

D. Economic Well-Being of the Community

The proposed special land use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole.

YES

E. Compatibility with Natural Environment

The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the Township or the natural environment as a whole.

YES

F. Compliance with Specific Standards

The proposed special land use complies with all applicable specific standards required under this Ordinance.

NO

G. Conditional Approvals

The Planning Commission may impose reasonable conditions with the approval of a special use permit, pursuant to Section 9.03 of this Ordinance.

YES (FOLLOW THE SIGNAGE SECTION OF THE ORDINANCE AND ALL OTHER RESTRICTION OF THE ORDINANCE)

H. Performance Guarantee Required

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The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a special use permit, pursuant to Section 9.06 of this Ordinance.

NO

The Planning Commission reviewed the standards for granting site plan approval for phase one of the Special Use Permit Application.

A. The Planning Commission shall approve, or approve with conditions, an application for a site plan only upon a finding that the proposed site plan complies with all applicable provisions of this Ordinance and the standards listed below, unless the Planning Commission waives a particular standard upon finding that the standard is not applicable to the proposed development under consideration and the waiver of that standard will not be significantly detrimental to surrounding property. The Planning Commission's decision shall be in writing and shall include findings of fact, based on evidence presented on each standard. These standards are listed in subsections 1-11 listed below.

1.) All elements of the site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development of surrounding property for uses permitted in the Ordinance. **NO**

2.) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas. **NO**

3.) Special attention shall be given to proper site drainage so that storm waters will not adversely affect neighboring properties. **NO**

4.) The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as

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appropriate, for the protections and enhancement of property and for the privacy of its occupants. **NO**

- 5.) All buildings or groups of buildings shall be so arranged as to permit emergency access by some practical means to all sides. **MUST OBTAIN APPROVAL FROM FIRE MARSHALL THAT PLAN IS ACCEPTABLE.**
- 6.) Every structure or dwelling unit shall have access to a public street, private road, walkway or other area dedicated to common use. **YES**
- 7.) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height. **YES.**
- 8.) Exterior lighting shall be arranged as follows:
- a.) It is deflected away from properties. **YES**
 - b.) It does not impede the vision of traffic along adjacent streets. **YES**
 - c.) It does not unnecessarily illuminate night skies. **YES**
- 9.) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrians or bicycle pathways in area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right of way. **YES**
- 10.) All streets shall be developed in accordance with any adopted Township private road standards, or if a public road, the County Road Commission specifications.
NO ROADS BEING DEVELOPED.
- 11.) Site plans shall conform to all applicable requirements of state and federal status and the Hayes Township Master Plan, and approval may be conditioned on the applicant receiving necessary state and federal permits before the actual zoning permit authorizing the special land use is granted. **NO**
- B.) The Planning Commission shall seek the recommendations of the Fire Chief, the Charlevoix County Road Commission, the County Health department and the Michigan

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Department of Natural Resources, where applicable.

YES. (CONFIRM FIRE CHIEF'S RECOMMENDATIONS)

Mr. Greenslade made a motion, supported by Mr. Martin that the Hayes Township Zoning Ordinance setback conditions apply, allowing phase one of the Special Use Permit to proceed under the following conditions:

1. Rescinded phases 2 and 3 of the DeWitt Marine Special Use Permit
2. DeWitt to remove boats located in the setback (ROW) immediately
3. DeWitt to remove the boat pads in setback (ROW) within 30 days
4. DeWitt to restore within 30 days, the landscape in the setback (ROW) area to the condition prior to installation of the boat pads. All new plantings to be approved by the Zoning Administrator
5. Allow DeWitt Marine to provide the Planning Commission with a new application with all supporting documentation to reconsider phases two and three within 60 days.
6. If all conditions are not met, the complete Special Use Permit of all phases will be rescinded.

A roll call was taken.

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

Nays: none **Motion Carries**

PUBLIC COMMENTS: Public comments opened at 8:40pm.

Comments included:

- Stated with using Google Maps you can see the previous plantings on the lot. Important to throw out applications in the future that are not complete, in order to avoid errors.
- Would like to know what professional sources the planning commission is using for scientific research for permitted projects within the Township. Concerned for the welfare of the Bay shore area. Feel the township is accommodating wealthy non-residents over existing residents.
- Stated the chair does not have the right to determine what a resident says during a public hearings public comment period. Feel the chairs of all the board within Hayes Township do not know how to properly run a meeting.
- Supports the decision that was made during the Public Hearing in regards to DeWitt Marine. Resident feels the Township does not give enough attention to the Bay Shore area.

Public comments closed at 8:51pm

APPROVAL OF MINUTES JUNE 17TH, 2025 REGULAR MEETING

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Mr. Greenslade made a motion, supported by Ms. Cuddeback, to approve the June 17th, 2025, regular meeting minutes as presented.

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. Next regular scheduled Board meeting is August 11th 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.

NEW BUSINESS

MASTER PLAN – DISCUSSION OF FUTURE LAND USE AND ZONING DISTRICTS:

The Planning Commission reviewed and discussed the advisory committees suggestions for the future land use section of the master plan.

Mr. Greenslade made a motion, supported by Mr. Snyder to table the discussion of the future land use and zoning districts section until the next regularly scheduled Planning Commission meeting.

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

Nays: none **Motion Carries**

OLD BUSINESS:

SET/CONFIRM PUBLIC HEARING DATES:

NONE

SET/CONFIRM DATE OF NEXT PC MEETING –AUGUST 19th, 2025.

Next Planning Commission regular meeting will take place on August 19th, 2025, at 7:00 pm.

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PUBLIC COMMENT:

Public Comment Opened at 9:27pm

Comments included:

- Stated they were on the Advisory Committee and feels the heading "Mining Impaired" was very important because it shows the rating of the land in poor and damaged.
- Stated the township spent a large sum of money with the advisory committee and BRI to create the suggestions presented to the Planning Commission tonight. Feel the Planning Commission did not consider their suggestions enough. Suggested the planning commission reference the Planning Enabling Act.
- Requested clarification on what the Planning Commission discussed changing under "Mining Impaired" section.
- Stated the public is very concerned about the "Mining Impaired" section.

Public Comment Closed at 9:35pm

PLANNING COMMISSION and STAFF COMMENT:

Mr. Martin stated the advisory committee was not designed to only focus on a specific area of the township, however, the township as a whole. Also, he and other members of the Planning Commission have the master plan on their desk and study it all the time.

Mr. Griffiths stated at one point Beckett and Raeder suggested the Planning Commission draw big color orbs on the map. It is not site specific, and there is no requirement that it needs to be. When individual properties request to rezone they have to fit within the general context of the future land use. Also it seems the Bay shore Community believes the Township to have the ability to control personal property owned by others. However, in the US as he knows it, people are treated as innocent until they're proven guilty. This understanding was confirmed by an attorney in attendance. The issue in Bay shore regarding the storage barn is a ZBA issue and the Planning Commission is not involved.

Mr. Curly stated that as a Bay Shore Resident, he feels it is not about the control over what other people do on their property, however the residents of Bay shore feel they do not have the same voice as others in the township due to them not having much money.

ADJOURNMENT: Mr. Greenslade made a motion, supported by Ms. Cuddeback, to adjourn the meeting at 9:40pm.

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

Nays: none **Motion Carries**

Respectfully Submitted by:

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April Hilton

Deputy Clerk/Recording Secretary