

Exhibit 21
Email, Morehead to Kozma
7-23-21



LuAnne Kozma <luannekozma@gmail.com>

Scott Law's planned boathouse: approval by Planning Commission?4 messages

LuAnne Kozma <luannekozma@gmail.com>

Fri, Jul 23, 2021 at 11:49 AM

To: Marilyn Morehead <morehead.m@gmail.com>

Cc: Ellis Boal <ellisboal@voyager.net>

Hi Marilyn,

How are you both? Hope your summer is going well. I got my hip replacement surgery, finally! and am recuperating and recovering.

I have some questions for you about this planned/proposed marina and boathouse planned by near neighbors of ours, uber-wealthy Scott and Debra Law. They own a bunch of property two doors over from the Fowles. Giant house. Horrible rip rap wall instead of a natural shoreline. Currently they have two or three boats out on large docks on the shore.

They got permission from EGLE, despite Tip of the Mitt's strong opposition.

They also need a permit from the Army Corps of Engineers. That is pending and time is very short for getting any new comments to them.

Questions for you: How did they receive permission from Hayes Township for this, and when? Doesn't it break the Hayes Township shoreline ordinance to dig out and remove the shoreline and excavate a marina and alter the lake? What about the shoreline vegetation and erosion, wetlands protection, all that?

What materials did the planning commission review to make their decision?

Attached are the Tip of the Mitt letters against it, the EGLE permit already granted, and the Army Corps public notice.

Did the planning commission have any or all of these materials in hand when making decisions?

Tip of the Mitt is very strongly against the project, as am I. Ellis, too.

Thanks,

LuAnne

4 attachments



TOMWC Comments on Application Submission Number HP1-9DXD-DQG6D.pdf
143K



TOMWC Comments on Application Submission Number LRE-2020-01805-41-S20.pdf
157K



WRP026483 - 10034 Anglers Cove.pdf
13198K



20200180541S20 .pdf
7280K

Marilyn Morehead <morehead.m@gmail.com>
To: LuAnne Kozma <luannekozma@gmail.com>
Cc: Ellis Boal <ellisboal@voyager.net>

Tue, Jul 27, 2021 at 3:12 PM

Hi LuAnne,

First, sorry to not reply sooner. I received this at a busy time, and wanted to clearly look at the documents and to talk to Ron VanZee, the Hayes Twp Zoning Administrator before replying.

The history as I know it. I was part of a site visit to the area of the proposed marina, boathouse in the fall of 2019 before the pandemic, I believe. At the time the area was an old road bed that had no functioning shoreline protection strip. In addition, any property owner of shoreline has the right to have 20% of that available for walks, viewing areas. In other words, not susceptible to the prohibitions outlined in the shoreline protection strip regulations in the zoning ordinance. Since the boathouse structure was outside the 50 ft. shoreline protection strip, it was not prohibited by our zoning ordinance. I was not happy with this resolution, but had no basis to object, based on my understanding of our zoning ordinance. Secondly the alternative proposed was the equivalent of a small island of seasonal docks that would stick out in the lake and would also be destructive to the lake bed and waters in terms of aquatic plants and fish. I wish I'd had the comments of the Tip of the Mitt Watershed Council at that time. As originally established, our site review committee for maintaining the shoreline protection strip was supposed to have a member of Tip of the Mitt, and/or the Lake Charlevoix Association to be an advisory member, but due to illness and retirement, that Tip of the Mitt person was no longer participating. Finally, we in Hayes Township have many problems with property owners establishing riprap and sea walls to stop rising lake waters, especially after the high waters of 2020. Few if any of these have been constructed with permits from the township, and we generally find out about them after the fact.. And to point out the elephant in the room, it's difficult to find an appropriate means of forcing them to comply with the few restrictions we place on them.

I will also say that I am very dismayed at a lot of what is happening on the Law property, but don't know how to go about challenging it. Apparently the owners don't care if their neighbors object to anything they do. They act like Kings and autocrats. It's quite frustrating.

The Army Corps and EGLE rarely reject a request for a permit, so it is not surprising that they granted these. Currently we are redoing our entire zoning ordinance. There will be a public townhall meeting sometime this fall. It will be advertised in local newspapers and on the township hall door, and website. So watch for it.

Glad you got your hip replacement! I know you will feel stronger and better once it heals and you've finished physical rehab.

We are doing fine; enjoying our new grandson born last November.

Marilyn

[Quoted text hidden]

LuAnne Kozma <luannekozma@gmail.com>
To: Marilyn Morehead <morehead.m@gmail.com>
Cc: Ellis Boal <ellisboal@voyager.net>

Tue, Jul 27, 2021 at 3:31 PM

Hi Marilyn,

The ACE has not yet decided on the permit! But they will decide very soon, so we need to get in comments THIS WEEK. ie, by Friday I think. This was just a verbal recommendation by the ACE person, April Champion.

EGLI approved the permit.

I think you should write comments to ACE and object as a planning commissioner, citing whatever you can, plus the Clean Water Act violations Tip of the Mitt points out.

I am very confused about the Hayes Township ordinance though. The project proposed is not just a boathouse. It's a dug-out marina that totally excavates and obliterates the shoreline. Otherwise, there is no "boat" house, it would just be a house. Talk about no shoreline protection! It removes the 50 feet of shoreline from the lake. You can't get worse than that.

What if everyone built marinas around the lake and dug out shoreline into the 50 foot zone and kept altering Lake Charlevoix this way?

This is like the billionaire space race, only it's a "my helicopter pad/private jet/boathouse marina is bigger than yours" race.

Question: Did Hayes Twp actually review the marina plan? Or just a structure? If Hayes only reviewed a boathouse, then I don't think Hayes did due diligence to look at the environmental impact of the excavation project.

Because of the much lower water this year, their plans would have to dig much deeper, much more dredging. I allege it's a completely different project than the one outlined in 2020 during the high water mark.

Why didn't Hayes township hold a public hearing on something this major? I don't recall seeing this as an agenda item, but, then I don't look at each meeting agenda.

The Laws do act without any regard for neighbors.

The seawall will also alter the lake and shoreline of all the near neighbors, including us.

If they got "boathouse" approval from Hayes, but got "environmental" permits from EGLE, and excavation and dredging and boardwalk permits from ACE, that is what's called "segmenting" the one big project into smaller projects, and that violates National Environmental Policy Act, NEPA.

I think that's what I'm going to be putting into my comments, as well as the Clean Water Act violations.

They're also planning to put down "geotextiles" into the artificial channel, which breaks down into microplastics.

LuAnne

[Quoted text hidden]

LuAnne Kozma <luannekozma@gmail.com>

Sun, Aug 8, 2021 at 5:32 PM

To: Winnie Boal <wlboal@gmail.com>, Ayrie Moore <ayrie.moore@gmail.com>

FYI, my exchange with Marilyn.

LuAnne

[Quoted text hidden]

Exhibit 22
Compiled Excerpts from historical versions of
Hayes Township Zoning Ordinance
1973 to 2018

**HAYES TOWNSHIP
INTERIM
ZONING ORDINANCE**

**SUBMITTED
AUGUST 10, 1973**

**ADOPTED
AUGUST 27 1973**

**PREPARED BY THE HAYES TOWNSHIP
ZONING BOARD**

FOR THE CONSIDERATION BY THE PEOPLE OF HAYES TOWNSHIP

**HAYES TOWNSHIP ZONING BOARD
CHARLEVOIX COUNTY, CHARLEVOIX, MICHIGAN**

**LILLIAN BERGMAN, CHAIRMAN
BRUCE GREEN
EDWARD SHANAHAN
BLANCHE SMITH, SECY.**

ZONES Section 9.03

Nothing in this Ordinance shall be construed to prevent an owner or proprietor from maintaining his residence within the same property as contains an authorized business or occupational use of such property.

ROADSIDE AUTOMOTIVE SHELTERS Section 9.04

Temporary Winter roadside shelters authorized provided they are so located as not to interfere with road visibility and snow plow operations and are used exclusively as winter automotive shelters. Automotive, as used in this section, shall include any two axle automotive equipment.

GREEN BELT ZONE Section 9.05

All land abutting on lakes, or streams shall be so improved as to maintain at least fifty percent (50 percent) of the natural vegetation along the water's edge and twenty-five (25) feet distant therefrom. Any dwelling shall be located at least fifty (50) feet from the water's edge at high water. A boat house or bath house, or combination, permitted at water's edge provided no more than twenty percent (20 percent) of shore frontage is so used. Side yard requirements apply.

SIZE OF PREMISES Section 9.06

Each parcel of land, including, two or more contiguous descriptions of one ownership, upon which a building is hereafter erected shall be large enough to ac-

(30) days.

rs, agricultural areas for each areas except residential.

Section 8.03

ved on the trailer for which place.

required for occupancy of a t or tenant, over thirty days.

it shall be submitted to the l shall include:

ar of the premises and the reof.

er and occupants and the of the trailer.

the owner or occupant of cation of the trailer on the of the water, sanitary and ies of the dwelling by the

lth officer in evidence that nitiation facilities of the ance with all applicable

feet in depth, and such yard shall be kept open and unobstructed for access of fire fighting equipment.

FLOOR AREA Section 9.08

No commercial or business building shall hereafter be erected or altered having a ground floor area of less than six-hundred (600) square feet.

HEIGHT OF BUILDINGS Section 9.09

Except for District A-1 for agricultural purposes and as otherwise provided herein, no building shall hereafter be erected or altered exceeding a height of thirty-five (35) feet.

ADMINISTRATION AND ENFORCEMENT ARTICLE X

ZONING ADMINISTRATOR Section 10.01

The provisions of this Ordinance shall be administered by the township board of Hayes township in accordance with the provisions of Act 184 of the public act of 1943 as amended and hereinafter referred to as, the township rural zoning act.

The provisions of this ordinance shall be administered and enforced by a Township Zoning Administrator. Said Administrator shall be appointed by the Township Board and subject to such conditions and rate of compensation as said Township shall determine as reasonable. For the purpose of this Ordinance, he shall have the power of a police officer.

CERTIFICATES OF APPROVAL AND COMPLIANCE Section 10.02

All buildings and residences for Agricultural purposes on land zoned A-1 are exempt from Certificates of Approval. No building or structure subject to provisions of this Ordinance shall hereafter be erected, altered, reconstructed, used or moved on any premises until a Certificate of Approval has been issued by the Township Zoning Administrator. No such certificate shall be required for any building under construction at the time of enactment of this ordinance. This Ordinance shall be subject to the provisions of the Township Zoning Ordinance.

re-application and on payment of one-half ($\frac{1}{2}$) of the original fee, subject, however, to provisions of all ordinances in effect at the time of renewal.

Within ten (10) days after receiving written notification of compliance with the provisions of this ordinance, from the owner, or agent, the Zoning Administrator shall inspect the premises and issue the owner or agent, a certificate of compliance if the building, structure, and use are in conformity with said ordinance.

For each Certificate of Approval, the established fees shall be paid to the township treasurer who shall place the same in a separate fund to be known as the Hayes Township Zoning Ordinance Fund. This fund shall be used solely for the administration of the ordinance as directed by the Township Board. No certificate will be valid until the required fee has been paid. No separate fee shall be required for accessory building or structures when application therefor is made at the same time as the principal building or structure. No fee shall be required for a Certificate of Compliance.

The building permit fee shall be established by the Township Board.

It shall be the duty of an architect, contractor, or any other person having charge of erection, construction or movement of a building or structure, subject to the provisions of this ordinance, before undertaking any such work, to determine that a proper Certificate of Approval has been granted therefor, and any such person or agent performing any work in violation of the provisions of this ordinance shall be deemed guilty of violation in the same manner and to the same extent as the owner of the premises.

Any building or structure which is erected or altered, and any use of land which is begun or changed in violation of any provision of this ordinance is hereby declared to be a nuisance per se.

Any person, firm, corporation or other organization which violates, disobeys omits, neglects or refuses to comply with or receive the enforcement of any

ZONING BOARD OF APPEALS ARTICLE XI

CREATION Section 11.01

There is hereby created a Zoning Board of Appeals which shall be constituted and shall perform its duties and exercise its power as provided by the Township Rural Zoning Act, and by the purpose and provision of this ordinance.

PETITION PROCEDURES Section 11.02

Application to the Board of Appeals shall be filed in writing to the Township Clerk, who will give notice of a public hearing on the application to a newspaper of general circulation in the township the cost of which shall be borne by the applicant. If it should appear that the application is not in accord with the purposes and provisions of this ordinance then such application shall be denied.

MEMBERSHIP Section 11.03

The Board of Appeals shall consist of three (3) members as provided by section 18 of the township rural zoning act. Members of said board shall be removable by the Township Board for non-performance of duty, or mis conduct in office, after a hearing by said board upon such charges.

AMENDMENT PROCEDURES ARTICLE XII

AMENDMENT PROCEDURE, NOTICE OF HEARING, COURT DECREE, SECTION 12.01

Amendments or supplements to the zoning ordinance may be made from time to time in the same manner provided in the township rural zoning act for the enactment of the original ordinance, except that the public hearing conducted by the township board shall not be necessary unless a request is made in writing by a property owner. If an individual property is proposed for rezoning, the property shall be conspicuously posted. The township zoning board shall also give a notice thereof to the owner of the property in question to all persons to whom any

shall certify that all provisions of this ordinance and other applicable laws and requirements are to be complied with. The application shall be filed prior to the intended initiation of any work on the premises, and shall be accompanied by:

A blueprint or pen and ink sketch to scale in duplicate showing the location and dimensions of the premises including the boundary lines of all parcels of land under separate ownership contained therein; the size, dimensions, location of the premises, and height of all buildings or structures to be erected or altered; the width and alignment of all abutting streets, highways, alleys, easements and public open spaces; the front yard dimensions of the nearest buildings on both sides of the proposed building or structure. Such other information as may be required to determine compliance with the ordinance.

Whenever the building, structure, or uses as set forth in the application are in conformity with the provisions of this ordinance, the Zoning Administrator shall issue a certificate of approval within thirty (30) days of the filing thereof. If actions of the Board of Appeals is required, the Zoning Administrator shall issue such certificate within ten (10) days of such action, when approved. In case a certificate is refused, the cause shall be stated in writing to the applicant within ten (10) days.

Any certificate of approval, under which no work is done within twelve (12) months from date of issuance, shall expire by limitation; but shall be renewable upon

more than one-hundred (\$100.00), together with the cost of prosecution, or shall be punished by imprisonment in the county jail for not less than five (5) days nor more than ninety (90) days for each offense, or may be both fined and imprisoned as provided herein at the discretion of the court. Each and every day during which an illegal erection, alteration, maintenance or use continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this ordinance.

The Township Board, The Board of Appeals, the Prosecuting Attorney of the County, or any owner or owners of real estate within the Zoning District in which such building, structure or premises is situated may institute injunction, mandamus, abatement or any other appropriate action, or proceedings to prevent, enjoin, abate, or remove any unlawful erection, alteration, maintenance or use. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by the law.

VALIDITY Section 10.03

This ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be applicable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this ordinance and each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

of all single and two family dwellings within 300 feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenants name is not known, the term occupant may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with zoning board prior to the hearing. The notice shall be made at least eight days prior to the hearing provided by Section 9, of the township rural zoning act stating the time, place, date and purpose of the hearing. It shall only be necessary to publish the section or sections to be amended in or added to the zoning ordinance. Any amendment for the purpose of conforming a provision thereof to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the township board and the amendment published without referring the same to any other board or agency provided for in this act.

ZONING ORDINANCE

HAYES TOWNSHIP

CHARLEVOIX COUNTY

MICHIGAN

JULY 1, 1974 - EFFECTIVE DATE
as amended - 1979

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accordance with the provisions of Act 184 of the Public Acts of 1943, as amended through 1978 and hereinafter referred to as, "the Township Rural Zoning Act".

Section 1.03 - Authority

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the State of Michigan, Township Rural Zoning Act, Act 184 of the Public Acts of 1943,

ARTICLE III DISTRICTS Section 3.01 Kinds of Districts	ARTICLE IV ZONE DISTRICT REGULATIONS Section 4.01 "R-1", Residential, Single Family Section 4.02 "R-2", Residential, Single Family Section 4.03 "R-3", Residential, Single Family & Two Family Section 4.04 "R-4", Multiple Family Residential Section 4.05 "R-5", Mobile Home Park Residential Section 4.05A "R-6", Mobile Home Subdivision Section 4.06 "C-1", Resort Commercial Section 4.07 "C-2", General Commercial Section 4.08 "C-3", Highway Commercial Section 4.09 "I-1", General Industrial Section 4.10 "I-2", Heavy Industrial Section 4.11 "CR", Conservation Reserve Section 4.12 "A-1", Agricultural Section 4.13 Zone District Regulations	ARTICLE V GENERAL PROVISIONS	ARTICLE VI SPECIAL USE PERMITS Section 6.01 Permit Required for Certain Uses Section 6.02 Procedure Section 6.03 Basis of Determination Section 6.04 Conditions and Safeguards Section 6.05 Reapplications Section 6.06 Permit Required for "Planned Unit Development" Section 6.07 Record of	ARTICLE VII ZONING ADMINISTRATION AND ENFORCEMENT Section 8.01 Application Section 8.02 Zoning Permits Section 8.03 Zoning Permit Application Section 8.04 Certificate of Approval Section 8.05 Amendments Section 8.06 Filing Fees Section 8.07 Enforcement Section 8.08 Interpretation and Conflict Section 8.09 Validity Section 8.10 Repeal of Prior Ordinances Section 8.11 Effective Date	ARTICLE VIII ZONING ORDINANCE HAYES TOWNSHIP CHARLEVOIX COUNTY, MICHIGAN Introductory Statement An Ordinance to establish zoning districts in the unincorporated portion of Hayes Township, Charlevoix County, Michigan, and to provide for the regulation, government, and administration thereof, in the conservation of property	Section 1.01 - Title This Ordinance shall be known as the "Hayes Township Zoning Ordinance", and will be referred to herein as "this Ordinance".	Section 1.02 - Purpose The purpose of this ordinance is to promote the public health, safety, morals and general welfare, to encourage the use of lands in accordance with their character and adaptability and to limit the improper use of land, to avoid the overcrowding of population, to provide adequate light and air, to lessen congestion on the public roads and streets, to reduce hazards to life and property, to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; thereof.	Section 1.03 - Definitions The following rules of construction apply to the text of this Ordinance: a) The particular shall control the general. b) In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control. c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive. d) Words used in the present tense shall include the future, the words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary. e) The word "building" includes the word "structure", or "structure" includes any part thereof. f) A "building", or "person" includes a corporation as well as an individual. g) The words "used" or "occupied", as applied to any land or building, shall be	ARTICLE II RULES APPLYING TO TEXT AND DEFINITIONS Section 2.01 - Rules Applying to Text The following rules of construction apply to the text of this Ordinance: a) The particular shall control the general. b) In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control. c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive. d) Words used in the present tense shall include the future, the words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary. e) The word "building" includes the word "structure", or "structure" includes any part thereof. f) A "building", or "person" includes a corporation as well as an individual. g) The words "used" or "occupied", as applied to any land or building, shall be
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dwelling units.

- 2) Total number of units proposed.
- 3) Number of bedrooms per unit in multiple family developments.
- 4) Areas to be used for open space and recreation.

N) Such other information regarding the development area that may be required to determine conformance with this Ordinance.

Information provided as part of the development plan requirements shall be used to evaluate the compatibility of the proposed project to the surrounding land uses, potential future uses in the area, and the township as a whole.

Following the submittal of the development plan, the Township Planning Commission shall have sixty (60) days in which to act. This time may be extended if additional time is agreed upon with the developer of the land and the Township Planning Commission.

Section 5.12 - Greenbelts

A greenbelt, as defined herein, shall be required for any commercial or industrial use that abuts a residential or agricultural use on either the side yard or the rear yard. In all instances, this shall be provided as part of the side or rear yard requirements. If waived in writing by adjacent residential or agricultural property

area may not permit more than one (1) single family home, cottage, condominium or apartment to the use of each fifty (50) feet of lake or stream frontage in such common lakefront or stream area as measured along at the water's edge of normal high water mark of the lake or stream. This restriction is intended to limit the number of users of the lake or stream frontage to preserve the quality of the waters, and to preserve the quality of recreational use of all waters within the Township.

This restriction shall apply to any parcel regardless of whether access to the water shall be gained by easement, common fee ownership, single fee ownership or lease.

The Zoning Board of Appeals may, upon petition and after notice and hearing as provided in Article VII, vary or modify the strict application of this provision if it shall determine that undue hardship will otherwise result and the spirit and intent of this Ordinance will be preserved by such variance or modification. The Board of Appeals may, as a condition of such variance or modification, impose such conditions upon the use of the lands and lakefront or streamfront as it shall deem necessary to preserve the spirit and intent of this Ordinance.

- C) Marine Sewage Pump-Out Facility
Any dock facility providing dockage for four (4) or more boats with marine sewage

unless it is in conformity with the following provisions and unless a permit is obtained for such use.

B) Notwithstanding any part of this Ordinance to the contrary, the following regulations shall apply to the erection of all signs.

- 1) No sign shall project over the right-of-way except in cases where signs are affixed to a structure that is built on the property line of a lot. Said sign shall not project more than six (6) inches beyond the face of the wall to which it is attached.
- 2) Signs not exceeding four (4) square feet in area may be utilized for traffic regulation or direction.
- 3) No sign shall be erected upon the inside of a curve of a street which may cause any interference to sight distance.
- 4) No sign shall be so placed as to interfere with visibility or effectiveness of any official traffic sign or signal, or with driver vision at any access point or intersection.
- 5) No sign shall contain, include or be illuminated by a flashing light.
- 6) All illumination, unless otherwise approved by the Board of Appeals, shall not have the source of light visible beyond the property lines of the parcel upon which the sign is located.

7. If any provisions of any other ordinance, statute or law of the State of Michigan impose greater restrictions than herein set forth, then the provisions of such ordinance or statute shall

shall not be visible from square feet in area, and no more than one (1) such sign per lot or building is permitted.

- 2) Signs not over twenty (20) square feet in area with a maximum height of eight (8) feet which denotes the person-

4) District: C-1, C-2, C-3, I-1, I-2, I-3, A-1

* Sign Type:

Freestanding directory signs advertising businesses or activities conducted, an area of interest, or a service available on the premises. Such signs shall not exceed thirty two (32) square feet, and there shall be no more than one (1) sign for each street upon which the property faces.

5. District: C-1, C-2, C-3, I-1, I-2, I-3

* Sign Type:

Directory signs affixed to, or painted on a building

advertising businesses or activities conducted, an area of interest, or a service available on the premises. The total area of such signs shall not exceed ten (10) percent of the area of the building face upon which it is mounted. In addition, the signs shall not exceed the maximum height limitations permitted in the zoning district.

Where a sign projects more than three (3) inches from the face of the building, it shall be at least ten (10) feet above the ground at its lowest level.

6) District: I-3, A-1

* Sign Type:

Signs advertising a general grand or product, an area of interest, a business conducted, or a service available.

square feet in area, and no more than one (1) such sign per lot or building is permitted.

- 2) Signs not over twenty (20) square feet in area with a maximum height of eight (8) feet which denotes the person-

firm, architect, engineer, contractor, or agency where construction work is being performed. Such sign shall be removed by the owner or agent within ten (10) calendar days after completion of the project.

- 3) Non-illuminated sign advertising a customary home occupation or professional service not to exceed six (6) square feet and attached flat against a building wall. No more than one (1) such sign for each business or service is permitted.
- 4) Signs inside a building.
- 5) Temporary non-illuminated signs advertising sales, bazaars and other events provided such signs shall not exceed eight (8) square feet and shall be removed after a period not to exceed sixty (60) days.
- 6) Nameplates not to exceed two (2) square feet, each identifying owners of property.

E) Application for a sign permit shall be made and submitted to the Zoning Administrator on appropriate forms furnished by the Administrator. A fee shall accompany the application, based on the following table:
1. Freestanding or pole sign: 15¢ per square foot with a minimum of two (2) dollars.

for the greenbelt if, after public hearing and notice, the Planning Commission finds that there would be no adverse effects upon the neighboring property resulting from the waiver or omission.

Section 5.13 - Shoreland Protection Strip

No building or structure, except docks or launch ramps, shall be erected closer than fifty (50) feet from the shoreline at normal high water level of any lake, stream or creek within the township. In addition, a strip of land thirty-five (35) feet wide from the normal high water mark bordering the body of water shall be maintained in trees and shrubs in their natural state. Trees and shrubs may be pruned, however, to afford a view of the water.

A) Limitation of Boat Dockage

Not more than one (1) mooring, slip or dock space for each fifty (50) feet of lake frontage may be provided for mooring or dockage of boats in any zoning district in the Township.

B) Limitation of "Funnel Development"

Any development in any zoning district which shares a common lakefront or stream

out facility which shall be capable of providing pump-out service to a Health Department approved sewage disposal facility.

Section 5.14 - Restoration of Unsafe Buildings

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure defined unsafe by the Building Inspector, except as limited by Section 5.19 hereof.

Section 5.15 - Continued Conformance with Regulations

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements, including the proper maintenance and repair of screening arrangements, for a building or use specified within this Ordinance shall be a continuing obligation of the owner of such building or property on which such building or property or use is located.

Section 5.16 - Signs

A) The regulations set forth herein shall apply and govern signs in all zoning districts. No sign may hereafter be erected, moved or structurally altered

permitted in the following zoning districts.

Where requirements of a specific zone district and a general regulation differ, the specific shall prevail.

- 1) District: R-1, R-2, R-3, C-1, C-3, A-1, CR

*Sign Type:

On-premise sign advertising a public or quasi-public use. Such sign shall not exceed twelve (12) square feet in area. There shall be no more than one (1) sign for each street upon which the property faces.

- 2) District: R-1, R-2, R-3, R-4, R-5, A-1

*Sign Type:

A freestanding sign advertising a recorded subdivision or development. Such sign shall not exceed thirty-two (32) square feet in area and, if illuminated, the light source shall not be visible from adjacent properties. Signs shall be placed no closer than ten (10) feet from a street right-of-way.

- 3) District: R-3, C-2

*Sign Type:

On-premise sign advertising the permitted professional or office use. Such sign shall not exceed six (6) square feet, and, if illuminated, the light source

exceed two hundred and fifty (250) square feet in area, and they shall conform to the height, yard and setback requirements of the zone in which they are located. All such signs shall be three (3) feet or more above the ground. Further, such signs shall be spaced not closer than one thousand (1,000) feet to any other billboard on one (1) side of a street or road, or on opposite sides shall be no closer than five hundred (500) feet laterally distant along the right-of-way from any other billboard and shall not be closer than five hundred (500) feet from any major arterial intersection.

10¢ per square foot with a minimum of two (2) dollars.

Section 5.17 - Vehicular Parking Space and Access Thereof

A) For each dwelling, business, commercial, industrial, or similar building hereafter erected or altered, and located on a public highway in the township, and including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable off-street parking in accordance with the following schedule:

USES REQUIREMENTS

Residential:

two (2) spaces per dwelling unit.

Commercial, Service and Office Use:

three (3) square feet of parking per square foot of gross floor area.

Industrial Uses:

three (3) square foot of parking per square foot of gross floor area, excluding warehouse.

Drive-Inn Business: five (5) square ft.

In case of a use not specifically mentioned, the requirements of off-street parking facilities shall be the same as for the

Please Return

TO:

CHARLEVOIX COUNTY
PLANNING DEPARTMENT
COUNTY BUILDING
CHARLEVOIX, MICHIGAN 49720

Bay

HAYES TOWNSHIP

ZONING ORDINANCE

*Charlevoix County
Michigan*

*July 1, 1974 - Effective Date
as amended- 1979 - 1985*

ct.
with
ion.

1973
July 1, 1974
effective date
as amended
1979-1985

Planning Commission shall have sixty (60) days to review the application. This time may be extended if additional information is required from the developer of the land and the Town.

SECTION 5.12 - GREENBELTS

A greenbelt, as defined herein, shall be required for any commercial or industrial use that abuts a residential or agricultural use on either the side yard or the rear yard. In all instances, this shall be provided as part of the side or rear yard requirements. If waived in writing by adjacent residential or agricultural property owners, the greenbelt may be omitted or a fence substituted for the greenbelt if, after public hearing and notice, the Planning Commission finds that there would be no adverse effects upon the neighboring property resulting from the waiver or omission.

SECTION 5.13 - SHORELAND PROTECTION STRIP

No building or structure, except docks or launch ramps, shall be erected closer than fifty (50) feet from the shoreline at normal high water level of any lake, stream or creek within the township. In addition, a strip of land thirty-five (35) feet wide from the normal high water mark bordering the body of water shall be maintained in trees and shrubs in their natural state. Trees and shrubs may be pruned, however, to afford a view of the water.

A. Limitation of Boat Dockage

Not more than one (1) mooring, slip or dock space for each one hundred (100) feet of lake frontage may be provided for mooring or dockage of boats in any zoning district in the Township.

B. Limitation of "Funnel Development"

Any development in any zoning district which shares a common lakefront or stream area may not permit more than one (1) single family home, cottage, condominium or apartment to the use of each one hundred (100) feet of lake or stream frontage in such common lakefront or stream area as measured along at the water's edge of normal high water mark of the lake or stream. This restriction is intended to limit the number of users of the lake or stream frontage to preserve the quality of the waters, and to preserve the quality of recreational use of all waters within the Township. This restriction shall apply to any parcel regardless of whether access to the water shall be gained by easement, common fee ownership, single fee ownership, single fee ownership or lease.

The Zoning Board of Appeals may, upon petition and after notice and hearing as provided in Article VII, vary or modify the strict application of this provision if it shall determine that undue hardship will otherwise result and the spirit and intent of this Ordinance will be preserved by such variance or modification. The Board of Appeals may, as a condition of such variance or modification, impose such conditions upon the use of the lands and lakefront or streamfront as it shall deem necessary to preserve the spirit and intent of this Ordinance.

C. Marine Sewage Pump-Out Facility

Any dock facility providing dockage for four (4) or more boats with marine sewage holding tanks on board shall provide a marine sewage pump-out facility which shall be capable of providing pump-out service to a Health Department approved sewage disposal facility.

D. Shoreland Protection Strip Replanting Requirement.

A planted strip of land thirty-five (35) feet wide from the normal high water mark, bordering the body of water. The replanted strip shall consist of a mix of deep rooted trees (either deciduous or evergreen) and woody shrubs, with not less than thirty per cent of the replanting consisting of deciduous or evergreen trees.

Spacing Requirements: Deciduous trees shall be no further apart than 8' x 8', evergreens (pine, spruce and cedar) no further apart than 6' x 6' and woody shrubs no further apart than 3' x 3'.

SECTION 5.14 - RESTORATION OF UNSAFE BUILDINGS

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure defined unsafe by the Building Inspector, except as limited by Section 5.19 hereof.

~~1973~~
July 1, 1971
effective date
as amended
1979-1985

CHARLEVOIX COUNTY
PLANNING DEPARTMENT
COUNTY BUILDING
CHARLEVOIX, MICHIGAN 49720

gld
replaced June 1996

HAYES TOWNSHIP

ZONING ORDINANCE

*Charlevoix County
Michigan*

*July 1, 1974 - Effective Date
as amended - 1979-1989*

Updated 12-8-95

SECTION 5.13 SHORELAND PROTECTION STRIP

A. Shoreland Protection Strip

No building or structure, except boardwalks, docks and launch ramps shall be erected closer than one hundred (100) feet from the shoreline at the maximum or maximum recorded (IGLD) high water level of any lake, stream or creek within the Township; except Susan Lake which shall have a minimum setback of eighty (80) feet. The maximum recorded water level, International Great Lakes Datum (IGLD) shall apply to Lake Michigan and Lake Charlevoix. In addition, a strip of land fifty (50) feet wide from the maximum or maximum recorded (IGLD) high water mark bordering the body of water shall be maintained in trees and shrubs in their natural state. If there is a dispute IGLD shall be determined by a registered land surveyor, paid for by the land owner. The vegetation and the soil shall not be altered or disturbed within the shoreland protection strip, as herein described. Trees and shrubs may be pruned, however, to afford a view of the water.

Any cluster of dwellings or multiple family dwellings, including condominiums, must be approved by the Planning Commission through a site plan review and the shoreline setbacks may be increased up to 150 feet, or more, to compensate for the increased density and impact on the shorelines. The lowest floor, or the basement floor, of any structure shall not be less than 590 feet above sea level, International Great Lakes Datum (IGLD). (Amended 1/10/94) For lakes with no established high water mark a minimum elevation of 5 feet above the existing water level shall be required. Filling of land to meet these requirements is prohibited.

B. LIMITATION OF BOAT DOCKAGE (Amended 12/23/92)

Not more than one (1) mooring, or one (1) slip, or one (1) dock space for each one hundred (100) Feet of lake frontage, as measured along the water's edge of the natural shoreline at the normal high water mark of the lake, may be provided for mooring or dockage of boats in any zoning district in the Township. "One (1) mooring," or "one (1) slip," or "one (1) dock space," as used herein, means space for a single boat which is powered by an engine, including a sailboat powered by an auxiliary engine. This Ordinance does not intend to limit, and there is no limit on the number of rowboats, dinghies, rubber boats, canoes or small sailboats which may be kept and used on lake or stream frontage provided that no such boat shall have engine power of any kind other than hand or foot power. In computing the number of Feet of natural shoreline, as above described, the measurement shall be along the water's edge of normal high water mark of the lake at the natural shoreline undisturbed by an excavation, channel, lagoon or canal. The measurement shall not be made along any man-made channel, lagoon or canal.

HAYES TOWNSHIP

ZONING ORDINANCE

CHARLEVOIX COUNTY, MICHIGAN

July 1, 1974 - Effective Date
As Amended - 1989 - May 10, 1999

PRINCIPAL OR MAIN USE: The primary or predominant use of the premises.

RECREATIONAL VEHICLE - A motorized or non-motorized vehicle, or prefabricated portable structure designed and intended for use as a temporary living quarters for recreational, camping or travel use.

RIDGELANDS - The top of a long, linear hill. Those lands which have the unique character of defining a linear high area for a particular landscape. They usually accompany valleys. A topographical map (one that shows the contours of the land) shall be examined to identify property containing ridgeland.

RIGHT-OR-WAY: A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

SHORELINE PROPERTY - That land which abuts a lake, river, or stream at the ordinary high water mark.

SIGN: Any announcement, written declaration, pictorial representation, emblem, flag, illustration, insignia or any figures of similar character which is a structure or any part thereof or is attached to, painted, or in any other manner represented on a building or structure and is used to announce, direct attention to, or advertise and is visible from outside a building. Signs shall include billboards but shall not include illustrations, pictorial representations or other similar items within a building.

SITE CONDOMINIUM SUBDIVISION - A division of land, on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act of 1967 (P.A. 288 of 1967, as amended).

SITE CONDOMINIUM UNIT - That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.

STORY: That portion of a building included between the surface of any floor and surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it and exclusive of any mezzanine, balcony or basement.

STORY - HALF: An uppermost story lying under a sloping roof having an area of at least two-hundred (200) square feet with a clear height of seven feet six inches (7'6"). For the purpose of this ordinance the usable floor area is only that area having at least four feet (4') clear height between the floor and ceiling. Does not exceed two-thirds of the floor area in the story directly below.

STRUCTURE: Anything constructed, erected or to be moved to or from any premises,

SECTION 5.13 - LAKEFRONT ZONING

Waterfront property owners have a special obligation to their communities to help preserve the quality of the water. The rationale for a shoreland protection strip has been documented in Lakeland reports from the University of Michigan Biological Station at Douglas Lake. These reports are available through the Cooperative Extension Service of Charlevoix County.

As these reports point out, the deep roots of a shoreland protection strip, which includes some trees as well as low shrubbery, hold the silt and sediments carried by rain and other runoff, prevent erosion, and draw nutrients, produced by septic seepage, out of the soil before it reaches the lakes, streams or creeks. They also point out that shoreland protection strips can provide aesthetically pleasing wind and sound breaks, create a habitat for birds and wildlife and make property more attractive. Without such protection unwanted algae begins to appear along the shore bottom leading to a gradual change in the ecology of the lakes, streams or creeks, even creating undesirable habitat for sports fish.

A. SETBACK REGULATIONS

1. STRUCTURE SETBACK

No building or structure, except boardwalks, docks and launch ramps shall be erected closer than one hundred (100) feet from the shoreline at the maximum or maximum recorded (IGLD) high water level of any lake, stream or creek within the Township; except Susan Lake which shall have a minimum setback of eighty (80) feet. The maximum recorded water level, International Great Lakes Datum (IGLD) shall apply to Lake Michigan and Lake Charlevoix.

Any cluster of dwellings or multiple family dwellings, including condominiums, must be approved by the Planning Commission through a site plan review and the shoreline setbacks may be increased to compensate for the increased density and impact on the shorelines.

The lowest floor, or the basement floor, of any structure shall not be less than 590 feet above sea level, International Great Lakes Datum (IGLD). For lakes with no established high water mark a minimum elevation of 5 feet above the existing water level shall be required. Filling of land to meet these requirements is prohibited.

2 SHORELAND PROTECTION STRIP

A strip of land fifty (50) feet in depth from the maximum or maximum recorded (IGLD) high water mark bordering the body of water, placed so as to be parallel to the body of water, shall remain in the natural state. If there is a dispute IGLD shall be determined by a registered land surveyor, paid for by the land owner. Under no circumstances shall fertilizer, pesticides, or herbicides be used in the Shoreland Protection Strip.

If native vegetation already exists along the shoreline, it shall not be altered or disturbed within the Shoreland Protection Strip as herein described. These plants are ideally suited for the conditions on the property. Pruning of trees, shrubs, or any other vegetation is prohibited except for parts of the trees, shrubs, or vegetation that are already dead. If dead trees, shrubs, or vegetation is pruned or trimmed the deep roots must remain.

B. LIMITATION OF BOAT DOCKAGE

Not more than one (1) mooring, or one (1) slip, or one (1) dock space for each one hundred (100) Feet of lake frontage, as measured along the water's edge of the natural shoreline at the normal high water mark of the lake, may be provided for mooring or dockage of boats in any zoning district in the Township. "One (1) mooring," or "one (1) slip," or "one (1) dock space," as used herein, means space for a single boat which is powered by an engine, including a sailboat powered by an auxiliary engine. This Ordinance does not intend to limit, and there is no limit on the number of rowboats, dinghies, rubber boats, canoes or small sailboats which may be kept and used on lake or stream frontage provided that no such boat shall have engine power of any kind other than hand or foot power. In computing the number of Feet of natural shoreline, as above described, the measurement shall be along the water's edge of normal high water mark of the lake at the natural shoreline undisturbed by an excavation, channel, lagoon or canal. The measurement shall not be made along any man-made channel, lagoon or canal.

C. LIMITATION OF FUNNEL DEVELOPMENT

Not more than one (1) single family home or cottage or one (1) condominium unit or one (1) apartment unit shall use or be permitted to use each one hundred (100) Feet of lake or stream frontage as measured along the normal high water mark of the lake or stream. This restriction is intended to limit the number of users of the lake or stream Frontage to preserve the quality of the waters, avoid congestion, and to preserve the quality of recreational use of all waters and recreational lands within the Township. This restriction shall apply to any parcel

HAYES TOWNSHIP

ZONING ORDINANCE

Charlevoix County, Michigan

July 1, 1974 – Effective Date

Text: As amended through February 2008

Zoning Map:

Amended 3-25-08 (effective date)

Amended 8-28-09 (effective date)

LOT - INTERIOR: A lot other than a corner lot.

LOT - REAR: A lot line which is opposite and most distant from the front lot line and, in the case of an irregular shaped lot, a line at least ten (10) feet in length within the lot, parallel to and at the maximum distance from the side lot line.

LOT SIDE: Any boundary line not a front lot line or a rear lot line.

LOT - THROUGH: A lot, other than a corner lot, having frontage on more than one (1) street.

LOT WIDTH: The distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

LOT OF RECORD - A lot in a described subdivision, or a parcel of land recorded by metes and bounds, that has been recorded in the office of the Register of Deeds for Charlevoix County prior to the effective date of this Ordinance.

MOBILE HOME - A structure of a type and quality conforming with all Federal and State mobile home construction and safety standards, which is transportable in one or more sections and designed to be used as a dwelling with or without a permanent foundation.

MOBILE HOME PARK: Any site, field or tract upon which three (3) or more occupied mobile homes are harbored, either free of charge or for revenue purposes, including any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile park which site, lot, field or tract shall be licensed and regulated by the Michigan Department of Commerce.

MOTEL: Groups of furnished rooms or separate structures providing sleeping and parking accommodations for transient tourist trade, commonly known as hotels or motor courts.

MOTOR VEHICLES - Any wheeled vehicle which is, or is designed to be self-propelled.

NATURAL STATE: (6/12/89) An area where bedrock soil and vegetation is left undisturbed and void of structural improvements. An area that is untouched and undisturbed by man. An area that is declared a natural state will remain as it presently is, without improvements, mowing, removal of trees and shrubs or contouring, filling or removal of soil. Previous land use may show the effects of human use such as fences, foundations, orchards, etc. These may be considered for inclusion as a natural state at the discretion of the planning commission if and only if there is no further use of improvement of these effects. If any of these previous effects are to be utilized they will not be considered as a natural state.

NONCONFORMING USE: Any use, whether a building or other structure or a tract of land, which does not conform to the applicable use regulations for the district, either at the effective date of this Ordinance, or as a result of a subsequent amendment thereof.

OPEN SPACE: Land not used for any of the following: Parking and loading spaces, road right-of-ways, building coverage, sewage disposal areas, water-well houses, related uses.

OWNER: A person holding any legal, equitable, option or contract interest in land.

PLANNING COMMISSION: See Hayes Township Planning Commission.

PERSONS: "Persons" includes any individual, political subdivision, estate, trust, or body of persons, whether incorporate or not, acting as a unit.

PRINCIPAL OR MAIN USE: The primary or predominant use of the premises.

RECREATIONAL VEHICLE - A motorized or non-motorized vehicle, or prefabricated portable structure designed and intended for use as a temporary living quarters for recreational, camping or travel use.

RIDGELANDS - The top of a long, linear hill. Those lands which have the unique character of defining a linear high area for a particular landscape. They usually accompany valleys. A topographical map (one that shows the contours of the land) shall be examined to identify property containing ridgeland.

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STORY - HALF: An uppermost story lying under a sloping roof having an area of at least two-hundred (200) square feet with a clear height of seven feet six inches (7'6"). For the purpose of this ordinance the usable floor area is only that area having at least four feet (4') clear height between the floor and ceiling. Does not exceed two-thirds of the floor area in the story directly below.

STRUCTURE: Anything constructed, erected or to be moved to or from any premises, which is permanently located above, on, or below the ground, including signs and billboards.

TELECOMMUNICATION TOWERS AND FACILITIES OR TOWER: All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio

will be placed shall be landscaped in accordance with a landscaping plan and specifications designed to accomplish the objectives of this Article.

5. Landscaping shall be installed within one year of completion of the building or structure.
6. All landscaping shall be hardy native plants. Withered and/or dead plants shall be replaced within a reasonable period of time, though in no case later than one (1) growing season.
7. Deciduous or evergreen trees shall be a minimum of five (5) feet in height, and shrubs shall be a minimum of two (2) feet in height, at the time of planting.
8. Plantings shall be grouped or clustered to provide maximum visual effect.
9. All parking, loading, storage, and outdoor service areas shall be screened by a landscaped buffer planted with native deciduous and evergreen trees and shrubs to create a vegetative screen which achieves total visual obstruction between adjoining property(s) used as residential.
10. This requirement may be modified by the planning commission or zoning administrator as it applies to buffers planted parallel to a front lot line or road right-of-way.
11. Fences may be substituted for buffers provided they meet:
 - a. Objectives of this Section.
 - b. Are of durable materials.
 - c. Approved by Planning Commission or Zoning Administrator.

SECTION 5.13 - LAKEFRONT ZONING

Waterfront property owners have a special obligation to their communities to help preserve the quality of the water. The rationale for a shoreland protection strip has been documented in Lakeland reports from the University of Michigan Biological Station at Douglas Lake. These reports are available through the Cooperative Extension Service of Charlevoix County.

As these reports point out, the deep roots of a shoreland protection strip, which includes some trees as well as low shrubbery, hold the silt and sediments carried by rain and other runoff, prevent erosion, and draw nutrients, produced by septic seepage, out of the soil before it reaches the lakes, streams or creeks. They also point out that shoreland protection strips can provide aesthetically pleasing wind and sound breaks, create a habitat for birds and wildlife and make property more attractive. Without such protection unwanted algae begins to appear along the shore bottom leading to a gradual change in the ecology of the lakes, streams or creeks, even creating undesirable habitat for sports fish.

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C. LIMITATION OF FUNNEL DEVELOPMENT

Not more than one (1) single family home or cottage or one (1) condominium unit or one (1) apartment unit shall use or be permitted to use each one hundred (100) Feet of lake or stream frontage as measured along the normal high water mark of the lake or stream. This restriction is intended to limit the number of users of the lake or stream Frontage to preserve the quality of the waters, avoid congestion, and to preserve the quality of recreational use of all waters and recreational lands within the Township. This restriction shall apply to any parcel regardless of whether access to the water shall be gained by easement, common Fee ownership, single Fee ownership or lease. This restriction shall not apply to a "Public Access Site" as hereafter described.

D. MARINE SEWAGE PUMP-OUT FACILITY

Any dock facility providing dockage for four (4) or more boats with marine sewage holding tanks on board shall provide a marine sewage pump-out facility which shall be capable of providing pump-out service to a Health Department approved sewage disposal facility.

E. MODIFICATION BY THE ZONING BOARD OF APPEALS.

The Zoning Board of Appeals may, upon petition and after notice, and hearing as provided in Article VII, vary or modify the strict application of this section (5.13 A-D) if it shall determine that undue hardship will otherwise result and the spirit and intent of this Ordinance will be preserved by such variance or modification. The Board of Appeals may, as a condition of such variance or modification, impose such conditions upon the use of the lands and lake front or stream front as it shall deem necessary to preserve the spirit and intent of this Ordinance.

F. PUBLIC ACCESS SITES

Land abutting a lake or stream, which land is under the possession and control of a governmental agency including Hayes Township, the County of Charlevoix, the Charlevoix County Road Commission, the State of Michigan, or other governmental agency, and which governmental agency allows public access across the site to the lake or stream abutting the site, is herein described as a "Public Access Site." Such Public Access Sites may be owned or leased by the public agency, or dedicated to the use of the public, but shall, in any case, be under the exclusive control of one or more public agencies which have the authority to impose regulations and restrictions upon the use of the site and upon access to the abutting lake or stream.

The restrictions of this Section 5.13(A-B) shall not apply to a "Public Access Site," as above described, provided that such sites are subject to governmental control enabling the controlling governmental agency to limit boat docking, moorage and boat launching, prohibit overnight mooring, camping, vehicle parking, and other controls upon use of the site.

The governmental agency shall have the authority to impose such controls and restrictions upon the use of Public Access Sites and the abutting waters as are deemed necessary to protect the lake or stream and adjoining properties from pollution, congestion, other damage, or unreasonable impositions upon the use and enjoyment of

others using the site, using other private property in the proximity of the site, or the waters which the site abuts.

If not otherwise prohibited by law, the Hayes Township board shall also have the authority to pass ordinances and adopt rules restricting the use of such Public Access Sites and the use of the abutting lake or stream in such manner as is deemed necessary in the future to protect the lake or stream, the users thereof, and properties in the proximity thereof from pollution, congestion, other damage or unreasonable imposition upon the use and enjoyment of others. Such ordinances may designate different rules, regulations and restrictions for each individual Public Access Site as shall be deemed appropriate for the protection of the particular site, the waters, or private property in the proximity of the particular site.

G. SHORELAND PROTECTION STRIP REPLANTING AND RESTORING REQUIREMENT.

If the vegetation and/or soil is altered or disturbed within the Shoreland Protection Strip the following conditions shall be met:

1. Any and all fill material placed within the Shoreland Protection Strip shall be removed. Organic Soil may be added as needed to provide for growth of new vegetation.
 2. A strip of land fifty (50) feet wide from the maximum or maximum recorded (IGLD) high water shall be replanted. The replanted strip shall consist of native vegetation, trees no less than 5 feet in height, and shrubs, as best suited to soil conditions on the property, as recommended by the Cooperative Extension Service of Charlevoix County.
- H. Property owners may apply to the Zoning Administrator for permission to clear a section of the lake front for recreational purposes under the following conditions:**
1. The cleared area does not exceed 25% of the total frontage on the lake, and consists of no more than 50 linear feet and maximum depth of 50 ft. per parcel.
 2. A shoreline protection strip or green belt of 50 feet in depth shall be maintained, or planted, if none exists, behind the area to be cleared.
 3. In areas where steep grades are evident, access paths to the body of water shall meander or curve or be built in such a manner as to prevent erosion.

SECTION 5.14 - RESTORATION OF UNSAFE BUILDINGS

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure defined unsafe by the Building Inspector, except as limited by Section 5.19 hereof.



Hayes Township



Zoning Ordinance

Adopted: October 12, 2009

Effective: October 31, 2009

Including Amendments Effective:
March 24, 2012

Planning Assistance Provided by:
M. C. Planning & Design
504 Liberty St., Petoskey, MI 49770
(231) 487-0745
mcampbell@mcplanningdesign.com

Sexually Oriented Business: A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.

Shopping Center: A group of commercial establishments, planned, developed, owned, and managed as a unit, with off-street parking provided on the property, and related in its location, size and type of shops to the trade area which the unit serves. Three or more retail stores and services, so arranged or planned, shall qualify as a shopping center for zoning purposes.

Shoreland Protection Strip: A strip of land fifty feet in depth from the maximum or maximum recorded (IGLD) high water mark bordering the body of water, placed so as to be parallel to the body of water, shall remain in the natural state.

Sign: A structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out of doors on behalf of or for the benefit of any product, place activity, individual, firm, corporation, institution, profession, association, business or organization.

Sign, Animated: Any sign having a conspicuous and intermittent variation in the illumination of the physical position of any part of the sign.

Sign, Freestanding or Ground: A sign supported by permanent uprights or braces in the ground.

Sign, Off Premise: Any sign relating to subject matter not conducted on the premises on which the sign is located.

Sign, On Premise: An advertising sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises.

Sign, Outdoor business or Informational: A freestanding, overhanging or wall mounted sign located outside a structure on which is displayed information pertaining to a product, use, occupancy, function, service or activity located within that structure on the same property as the sign, or at a location different than the property on which the sign is located.

Sign, Overhanging: A sign that extends beyond any structure wall and is affixed to the structure so that its sign surface is perpendicular to the structure wall.

Sign, Portable: A sign that is designed to be transported, including but not limited to signs:

- With wheels removed;
- With chassis or support constructed without wheels;
- Designed to be transported by trailer or wheels;
- Converted A- or T- frame signs;
- Attached temporarily or permanently to ground, a structure, or other signs;
- Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in normal day-to-day operations of that business;

- D. Mobile homes shall not be used as an accessory building.
2. Replacement of lawfully existing non-conforming mobile homes shall be allowed provided the site and age of replacement would be in greater compliance with the Zoning Ordinance, and is located in compliance with the applicable district setbacks. The replacement would not increase the non-conformity or would not be contrary to the intent of the Ordinance and shall comply with the additional standards A-D listed above in subsection 3.11.1.

Section 3.12 Recreation al Vehicles

Temporary occupancy of travel trailers, motor homes and other similar vehicles shall not exceed ninety (90) days in any calendar year and shall not be connected to utility, water supply and sanitary sewer. No more than two (2) recreational vehicles shall be allowed on parcels with an existing dwelling unit. They are to be located in a side or rear yard and the placement must comply with district setbacks. In the event that two or more recreational vehicles occupy a parcel for longer than the ninety (90) day limit, they shall then be required to be stored within an enclosed structure.

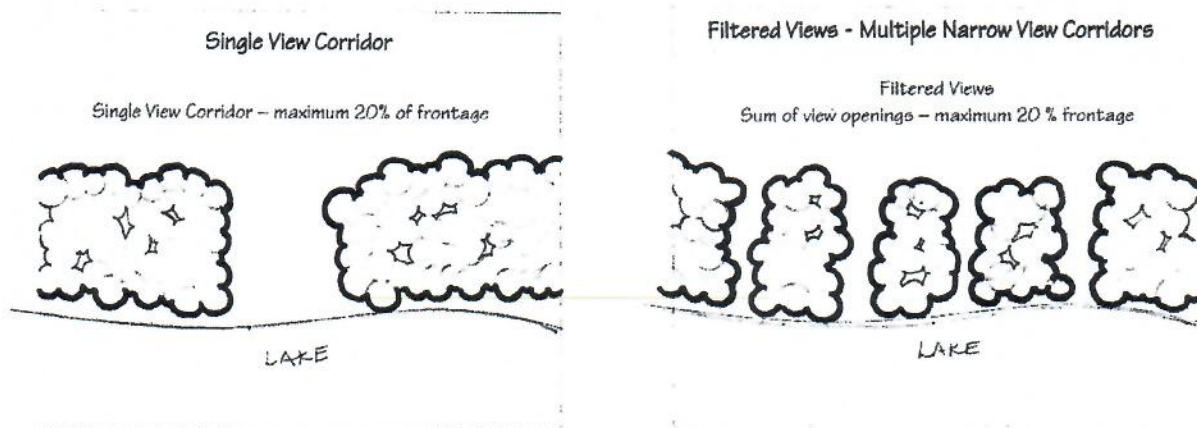
Section 3.13 Animals

The keeping of poultry, pigs, horses or other such livestock is allowed in the Agricultural and Rural Residential Districts. In other districts, provided the parcels of land are five (5) acres or greater in size, the keeping of poultry, pigs, horses or other such livestock is allowed, as provided for under the Michigan Right to Farm Act.

Section 3.14 Waterfront Regulations

1. Intent:
- A. 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. 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 values; therefore a shoreland protection strip shall be required on all waterfront lots.
 - B. For any new construction or renovation of a nonconforming structure located on a waterfront lot, the establishment, restoration and/or maintenance of a shoreland protection strip shall be required. The shoreland protection strip shall include all of the land area located within fifty (50) feet of the high water mark of a lake or a stream abutting or traversing the property in question. The purpose of the strip is to protect the lake by preventing soil erosion, providing a filter for the removal of pesticides, fertilizers and other potential water pollutants, and to maintain a visual barrier. Within the shoreland protection strip, the following development or use restriction shall apply:
2. Setback area regulations:
- A. No structures, except for launching ramps and docking facilities including steps and retaining walls, shall be allowed within one hundred (100) feet of the shoreline on Lake Michigan and Lake Charlevoix, and within eighty (80) feet of Susan Lake at the maximum recorded high water level, and such excepted facilities shall meet the side yard setback for the district in which they are located.

- B. The use of asphalt, concrete, wood or other similar surfaces shall be limited to walkways or stairs necessary for water access, and shall not exceed four (4) feet in width.
- C. The use of pesticides, herbicides and fertilizers is prohibited.
- D. Leaves, grass clippings and similar yard/garden wastes may not be burned or stored.
- E. Neither septic tanks nor septic system filtration fields may be located within the shoreland protection strip.
- F. Natural vegetation cover, including trees, shrubs or herbaceous plants shall be maintained on at least eighty percent (80%) of the lake or stream frontage within the shoreland protection strip. The vegetation on the remaining twenty percent (20%) may be cleared for a single view corridor; or selective trees removed to provide for a filtered view throughout the frontage, provided the cumulative total of the trees removed does not exceed the allowed twenty percent (20%) of the frontage. When trees are removed, root systems shall be left in place for shoreline stabilization. For purposes of this subsection, the natural vegetation coverage within the shoreline protection strip shall be determined by the sum of the area of the waterfront view blocked by all portions of each vegetation plant (trunk, limbs, and leaves) when viewed directly landward behind each plant.



- G. Pruning of trees, shrubs or other native vegetation is prohibited within the shoreland protection strip, except for the removal of dead portions of trees, shrubs or other vegetation. When dead trees, shrubs or other vegetation are removed, root systems shall be left in place for shoreline stabilization. No other trees or shrubs shall be removed.
 - H. Encourage removal of invasive species.
 - I. The shoreland protection strip shall be shown on any plot plan or site plan submitted for approval during the process of developing a water frontage parcel.
3. The shoreland protection strips shall not be altered under any condition, except to remove dead trees or shrubs or to remove invasive species. If the vegetation and/or soil within the shoreland protection strip is altered or disturbed, the following corrective measures shall be required:
- A. Any and all fill material placed within the shoreland protection strip shall be removed. Only soils or rocks, consistent with the composition of the pre-existing

- on-site soil and rocks, shall be allowed when necessary for growth of new vegetation. Placement of beach sand is prohibited.
- B. The shoreland protection strip shall be replanted. The replanted area shall consist solely of native vegetation and any replacement trees, similar in size and species to those removed. Any tree greater than 8 inches in diameter which was removed, shall be replaced at a rate of two trees for the first 8 inches in diameter, and one additional tree (8 inch in dia) for each additional 4 inches in diameter of the original tree removed (*i.e. if a 20" tree is removed—5 replacement trees would be required, 2 for the first 8" and 3 for the other [20"-8"] 12 inches of diameter of the removed tree.*) All replacement trees and shrubs shall be planted in a manner to resemble shorelands that have not been disturbed, and shall be suited to soil conditions on the property per recommendations by the Charlevoix Conservation District or the MSU Extension Service.
 - C. The shoreland protection strip shall not be replanted with invasive and/or exotic species such as: Phragmites, Purple Loosestrife, Reed Canary Grass, Crown Vetch, White and Yellow Sweet Clover, Russian Olive, Autumn Olive, Tartarian Honeysuckle and other invasive or exotic species as identified by the Tip of the Mitt Watershed Council
 - D. Where native shoreline vegetation does not exist, a combination of native vegetation shall be introduced in a naturalized planting pattern as exemplified by neighboring shorelands that have not been disturbed.
 - E. Any required replanting shall be installed and maintained in accordance with the requirement of Section 3.24.
4. **Limitation of Boat Dockage**
Not more than one (1) mooring, or one (1) slip, or one (1) dock space for each one hundred (100) feet of lake frontage, as measured along the water's edge of the natural shoreline at the normal high water mark of the lake, may be provided for mooring or dockage of boats in any zoning district in the Township. "One (1) mooring," or "one (1) slip", or "one (1) dock space," as used herein, means space for a single boat which is powered by an engine, including, a sailboat powered by an auxiliary engine. This Ordinance does not intend to limit, and there is no limit on the number of rowboats, dinghies, rubber boats, canoes or small sailboats which may be kept and used on lake or stream frontage provided that no such boat shall have engine power of any kind other than hand or foot power. In computing the number of feet of natural shoreline, as above described, the measurement shall be along the water's edge of normal high water mark of the lake at the natural shoreline undisturbed by an excavation, channel, lagoon or canal. The measurement shall not be made along any man-made channel, lagoon or canal.
5. **Limitation of Funnel Development**
Not more than one (1) single family home or cottage or one (1) condominium unit or one (1) apartment unit shall use or be permitted to use each one hundred (100) feet of lake or stream frontage as measured along the normal high water mark of the lake or stream. This restriction is intended to limit the number of users of the lake or stream frontage to preserve the quality of the waters, avoid congestion, and to preserve the quality of recreational uses of all waters and recreational lands within the Township. This restriction shall apply to any parcel regardless of whether access to the water shall be gained by easement, common fee ownership, single fee ownership or lease. This restriction shall not apply to a "Public Access Site" as hereafter described.
6. **Marine Sewage Pump-out Facility**

Hayes Township
Ordinance Number 040918a of 2018
Adopted April 9, 2018

An Ordinance amendment to the Hayes Township Zoning Ordinance of Articles III and V pertaining to the waterfront. The Township of Hayes Ordains:

Section 1. Article III Section 3.14 Waterfront Regulations of the Hayes Township Zoning Ordinance is hereby amended in its entirety as follows:

Section 3.14 Waterfront Regulations

1. Intent
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. 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 values.
2. Setback Area Regulations
Except as provided herein, no structures (with the exception of a patio/deck, walkway, retaining wall, launching ramps and / or docking facilities including steps) shall be allowed within one hundred (100) feet of the Ordinary High Water Mark on Lake Michigan and Lake Charlevoix, and eighty (80) feet on Susan Lake, and such excepted facilities shall meet the side yard setbacks for the district in which they are located.
 - A. One at-grade patio/deck, not to exceed two hundred (200) square feet may be located within the 100-ft. setback following review and approval by the Zoning Administrator to ensure the structure will be installed in a manner which will cause the least negative environmental impact.
 - I. No portion of the patios/deck shall be located more than two feet above the natural grade.
 - II. It is the desire of the Township to bring nonconforming patios/decks into conformance with provisions of this Ordinance as rapidly as is permitted by law.
3. Shoreland Protection Strip
A Shoreland Protection Strip shall be required on all waterfront lots. The shoreland protection strip shall include all of the land area located within fifty (50) feet of the Ordinary High Water Mark of a lake or a stream abutting or traversing the property in question. The purpose of the strip is to protect the lake by preventing soil erosion, providing a filter for the removal of pesticides, fertilizers and other potential water pollutants, and to maintain a visual barrier. Within the shoreland protection strip, the following development or use restrictions (A-L below) shall apply:
 - A. **The Shoreland Protection Strip shall not be altered more than 20% under any condition, except to remove dead trees or shrubs, remove invasive species, or for selective trimming of trees as permitted in 3.14.3I.**
 - B. For any new construction or renovation of a structure located on a waterfront lot, the establishment, restoration and/or maintenance of a Shoreland Protection Strip

To ensure the compliance with the waterfront provisions in this section, a Subcommittee of the Planning Commission will meet to review waterfront development proposals to provide input and recommendations to the zoning administrator and/or planning commission.

- I. Members of the Subcommittee shall include two (2) members of the Planning Commission and a representative from Tip of the Mitt Watershed Council, the Lake Charlevoix Association, or a similar organization with technical expertise on aquatic ecosystem management.
 - II. Each member of the Subcommittee shall be appointed by the Planning Commission chairperson to a term that coincides with their regular planning commission term.
 - III. The Subcommittee is advisory only, reports directly to the Planning Commission, and does not have the authority to make final decisions.
 - IV. Section 3.14.8D summarizes what actions trigger review by the Subcommittee.
- D. The following table summarizes the information required and the review process for residential development on waterfront properties:

Location	Triggering Actions	Review Process	Data Required
Any Conforming Waterfront Lot	Modification of an existing structure without changing the building footprint.	Administrative Review by the Zoning Administrator	Plot Plan as described in Section 5.02.
	Modification of the spatial dimensions of an existing structure (less than 50%) or the addition of an accessory structure.	Administrative Review by the Zoning Administrator with input from the Shoreland Protection Subcommittee	Plot Plan as described in Section 5.02. and a Shoreland Landscaping Plan as described in Section 3.14.8A.
	A new residential home construction or a major reconstruction (over 50%).	Planning Commission Site Plan Review with input from the Shoreland Protection Subcommittee	Shoreland Landscaping Plan as described in Section 3.14.8A. and Site Plan Data required in 5.03.3.
Within the 100-foot shoreline setback	The addition or modification of a walkway, retaining wall, or patio/deck.	Administrative Review by the Zoning Administrator with input from the Shoreland Protection Subcommittee	Plot Plan as described in Section 5.02. and a Shoreland Landscaping Plan as described in Section 3.14.8(A).

Section 2. Article V: Site Plan Review Section 5.02 Plot Plan of the Hayes Township Zoning Ordinance is hereby amended to add:

6. For all waterfront development requiring only a Plot Plan and Shoreland Landscaping Plan, the Shoreland Protection Subcommittee of the Planning Commission will review the Shoreland Landscaping Plan in accordance with Section 3.14 prior to review of the Plot Plan by the Zoning Administrator. The Zoning Administrator shall apply the standards contained within Section 3.14 and shall document his/her discretionary decisions based on evidence presented.

Section 3. Article V: Site Plan Review Section 5.03 Site Plan Review (All Districts) Part 1A. Circumstances Requiring a Site Plan is hereby amended as follows:

recommended invasive species is available at the Township Hall and an electronic link is posted on the Township website.

- K. It is in violation of the zoning ordinance to alter or disturb the Shoreland Protection Strip except to remove dead trees or shrubs, remove invasive species, or for selective trimming of trees as permitted in 3.14.3I. If altered or disturbed, the following corrective measures are required:

- I. Any and all fill material placed within the Shoreland Protection Strip shall be removed. Only soils or rocks, consistent with the composition of the pre-existing on-site soil and rocks, shall be allowed when necessary for growth of new vegetation. Placement of beach sand is prohibited.
- II. The Shoreland Protection Strip shall be replanted. The replanted area shall consist solely of native vegetation and any replacement trees, similar in size and species to those removed. Any tree greater than 8 inches in diameter (8 inch in diameter measured at 4.5 feet above the ground) which was removed, shall be replaced at a rate of two trees for the first 8 inches in diameter, and one additional tree for each additional 4 inches in diameter of the original tree removed (*i.e. if a 20" tree is removed—5 replacement trees would be required, 2 for the first 8" and 3 for the other [20"-8"] 12 inches of diameter of the removed tree.*)
- III. All required replanting shall be replanted with native species as recommended by the Northwest Michigan Invasive Species Network and installed and maintained in accordance with the requirements of Section 3.24.
- IV. Where native shoreline vegetation does not exist, a combination of native vegetation shall be introduced in a naturalized planting pattern as exemplified by neighboring shorelands that have not been disturbed.

4. Docks and Boat Parking on Lake Charlevoix and Susan Lake

- A. A maximum of one dock shall be permitted for each waterfront lot, except for properties upon which a marina is permitted by all of the following: the Hayes Township Zoning Ordinance, the Michigan Department of Environmental Quality (MDEQ), and the U.S. Army Corps of Engineers (USACE).
- B. One shared dock serving two (2) adjacent waterfront parcels owned by separate individuals, may be placed on the common shared property line upon filing with Hayes Township a letter of agreement signed by both property owners.
- C. A shared dock for a multiple family development, such as Planned Unit Development or Condominium project, may be allowed as part of a site plan approval with Planning Commission approval and subject to the requirements of Section 3.14.5 Limitation of Funnel Development.
- D. Any boat moored at or stored on a lot within any residential district shall be owned by and registered to an individual living at said property.
- E. Undocked boats may be stored on a residential lot so long as the Shoreland Protection Strip is not disturbed and is in conformance with the requirements of this ordinance.
- F. Each dock, mooring anchor, or other means of non-temporary anchorage shall be located at least fifteen (15) feet from the riparian boundary and moored boats shall not cross the riparian boundary. The one exception to this provision is for shared docks as described in 3.14.4B and 3.14.4C.
- G. Dock lighting for safety and navigational purposes are allowed. All lighting shall comply with Section 3.20; flashing lights are not allowed and require that the

- maximum height does not exceed four (4) feet, above the dock surface.
- H. Any damage caused to the Shoreland Protection Strip during the process of installing or removing seasonal docks, shall be repaired within 30 days from the date that the property owner is notified by first class mail.
 - I. All permits required by the MDEQ, USACE, Hayes Township, and other applicable entities must be obtained prior to the construction or modification of docks or marinas.
5. **Limitation of Funnel Development**
Not more than one (1) single family home or cottage or one (1) condominium unit or one (1) apartment unit, including any dwelling unit located on the waterfront lot, shall use or be permitted to use each one hundred (100) feet of lake or stream frontage as measured along the Ordinary High Water Mark of the lake or stream. This restriction is intended to limit the number of users of the lake or stream frontage to preserve the quality of the waters, avoid congestion, and to preserve the quality of recreational uses of all waters and recreational lands within the Township. This restriction shall apply to any parcel regardless of whether access to the water shall be gained by easement, common fee ownership, single fee ownership or lease. This restriction shall not apply to a "Public Access Site" as hereafter described.
6. **Marine Sewage Pump-out Facility**
Any commercial dock facility providing dockage for boats with marine sewage holding tanks on board shall provide a marine sewage pump-out facility which shall be capable of providing pump-out service to a local health department approved sewage disposal facility, or have a written service agreement in place by a licensed or permitted pump-out facility.
7. **Public Access Sites**
Land abutting a lake or stream, which land is under the possession and control of a governmental agency including Hayes Township, the County of Charlevoix, the Charlevoix County Road Commission, the State of Michigan, or other governmental agency, and which governmental agency allows public access across the site to the lake or stream abutting the site, is herein described as a "Public Access Site." Such Public Access Sites may be owned or leased by the public agency, or dedicated to the use of the public, but shall, in any case, be under the exclusive control of one or more public agencies which have the authority to impose regulations and restrictions upon the use of the site and upon access to the abutting lake or stream.

The restrictions of this Section 3.14(1-3, and 8) shall not apply to a "Public Access Site", as above described, provided that such sites are subject to governmental control enabling the controlling governmental agency to limit boat docking, moorage and boat launching, prohibit overnight mooring, camping, vehicle parking, and other controls upon use of the site.

The governmental agency shall have the authority to impose such controls and restrictions upon the use of Public Access Sites and the abutting waters as are deemed necessary to protect the lake or stream and adjoining properties from pollution, congestion, other damage, or unreasonable impositions upon the use and enjoyment of others using the site, using other private property in the proximity of the site, or the waters which the site abuts.

If not otherwise prohibited by law, the Hayes Township board shall also have the authority to pass ordinances and adopt rules restricting the use of such Public Access Sites and the use of the abutting lake or stream in such manner as is deemed necessary in the future to protect the lake or stream, the users thereof, and properties in the proximity thereof from pollution, congestion, other damage or unreasonable imposition upon the use and enjoyment of others. Such ordinances may designate different rules, regulations and restrictions for each individual Public Access Site as shall be deemed appropriate for the protection of the particular site, the waters, or private property in the proximity of the particular site.

8. Waterfront Development Review

A. Intent

It is the intent of the Waterfront Development Review process described below to promote the gradual, systematic, and long term restoration of the Shoreland Protection Strip.

- I. To ensure compliance with the waterfront regulations described in 3.14 (1-5), an added layer of review is required for all residential waterfront development and any modifications to the Shoreland Protection Strip. This added layer of review requires a Shoreland Landscaping Plan (3.14.8B) in most instances for the area within one hundred (100) feet of the Ordinary High Water Mark and Site Plan Review for all new residential waterfront dwelling units.
- II. For the area of land waterward of the Ordinary High Water Mark, MDEQ and/or Army Corps of Engineers permits must be obtained for any construction or changes since the alternation of the shoreline will have significant effect on the Shoreland Protection Strip, and thus the health of the water body.
- III. An advisory Subcommittee of the Planning Commission has been created to review waterfront developments and facilitate compliance with the waterfront provisions in this section. The requirements placed on property owners will be in proportion to the proposed activity.

B. Shoreland Landscaping Plan

The purpose of the Shoreland Landscaping Plan is to ensure that waterfront development will not negatively impact water quality.

- I. The Landscaping Plan shall address the conditions set forth in Section 3.14 (1-5).
- II. The Landscaping Plan shall address the elements set forth in Section 3.24 Landscaping.
- III. Prior to receiving a zoning permit to build or increase the footprint of a waterfront structure, a Shoreland Landscaping Plan with the following information is required:
 1. A detailed inventory of the existing 50-foot Shoreland Protection Strip area, including the locations of trees, shrubs, and ground cover, with notes as to the locations of native and non-native species.
 2. A detailed inventory of all structures within one hundred (100) feet of the Ordinary High Water Mark.
 3. A detailed inventory of planned changes to the 50-foot Shoreland Protection Strip area, including tree removals and/or plantings, vegetation removal and/or plantings (if applicable).

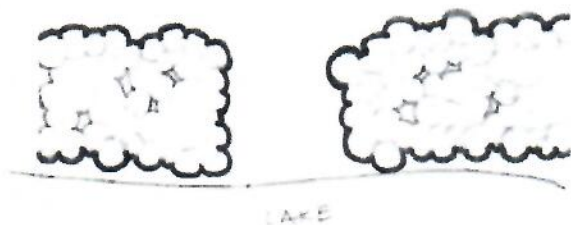
C. Shoreland Protection Subcommittee

shall be required. Refer to Section 3.14.8 for details on the waterfront development approval process.

- C. Shoreline retaining structures shall be permitted with appropriate agency approvals.
- D. Walkways or stairs for water access shall be allowed, provided they:
 - I. Do not exceed six (6) feet in width;
 - II. Are constructed in such a way that stormwater is slowed;
 - III. Take the most environmentally sensitive route between each destination; and
 - IV. Are not constructed in such a way that they expand the deck beyond the two hundred (200) square foot maximum.
- E. The use of pesticides, herbicides and fertilizers is prohibited.
- F. Leaves, grass clippings and similar yard/garden wastes may not be burned or stored. Composting of food waste is encouraged, but must be located a minimum of one hundred (100) feet from the Ordinary High Water Mark.
- G. No septic tanks or septic system filtration fields shall be located within the Shoreland Protection Strip.
- H. Natural vegetation cover, including trees; shrubs or herbaceous plants shall be maintained on at least eighty percent (80%) of the lake or stream frontage within the Shoreland Protection Strip. Please refer to the list of recommended species by Northwest Michigan Invasive Species Network. The list of recommended native species is available at the Township Hall and an electronic link is posted on the Township website. The vegetation on the remaining twenty percent (20%) may be cleared for a single view corridor; or selective trees removed to provide for a filtered view throughout the frontage, provided the cumulative total of the trees removed does not exceed the allowed twenty percent (20%) of the frontage. When trees are removed, root systems shall be left in place for shoreline stabilization. For purposes of this subsection, the natural vegetation coverage within the shoreland protection strip shall be determined by the sum of the area of the waterfront view blocked by all portions of each vegetation plant (trunk, limbs, and leaves) when viewed directly landward behind each plant.

Single View Corridor

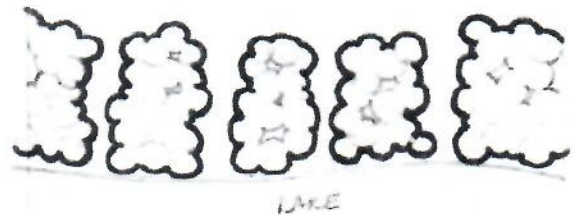
Single View Corridor - view from 20% of frontage



Filtered Views - Multiple Narrow View Corridors

Filtered Views

Sum of view openings - maximum 20% frontage



- I. Selective trimming of trees to allow for filtered views is permitted within the Shoreland Protection Strip so long as the overall health of the tree is not compromised and is not included in the allotted 20% removal.
- J. The removal of invasive species is both allowed and encouraged. Please refer to the list of invasive species by Northwest Michigan Invasive Species Network. The list of

- A. All new uses and/or structures except one-family or two-family residential units on non-waterfront lots, associated accessory structures to one-family or two-family residential units, agricultural buildings in the Agricultural district and accessory buildings as a principal use, provided all requirements are met.

Section 4. Article V: Site Plan Review Section 5.03 Site Plan Review (All Districts) Part 4 Application Submittal Procedures of the Hayes Township Zoning Ordinance is hereby amended as follows:

- C. For all waterfront development requiring a Shoreland Landscaping Plan, the Shoreland Protection Subcommittee of the Planning Commission will review the Shoreland Landscaping Plan in accordance with Section 3.14 prior to review by the planning commission.

[Note: The current subsections C. through E. will be re-lettered to be D. through F.]

Section 5. Article V: Site Plan Review, added Section 5.04 as follows:

5.04 – Waterfront Development Review

To ensure compliance with the waterfront provisions of this ordinance, an added layer of review is required for all residential waterfront development and any modifications to the Shoreland Protection Strip. This added layer of review requires a Shoreland Landscaping Plan in most instances for the area within one hundred (100) feet of the Ordinary High Water Mark and Site Plan Review for all new residential waterfront dwelling units. Please refer to Section 3.14.8 for the review process and approval criteria.

Section 6. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township, unless a later date is specified.

Township of Hayes

By: _____

Ron VanZee, Supervisor

Adoption date: _____

By: _____

Marlene Golovich, Clerk

Effective date: _____

Exhibit 23
Knepp to DEQ
8-2-99

HAYES TOWNSHIP
Ethel R. Knepp

10772 Burnett Rd.
Charlevoix, MI 49720
Telephone (231)347-2899
FAX (231)347-3608
e-mail ERKO@Triton.net

August 2, 1999

State of Michigan
Department Of Environmental Quality
Land and Water Management Division
P. O. Box 667
Gaylord, MI 49735-0667

SUBJECT: File No. 99-05-0243.

This letter is in response to the public notice dated July 15, 1999 relating to David Livingston's application for a permit to construct a pond. The project is located in T34N, R7W, Section 30, within Oyster Pointe Development, parcel number 475-004-00, Hayes Township, Charlevoix County, Michigan.

Hayes Township objects to this permit being issued based on a Consent Judgement involving total acreage of approximately 337 acres of property including the applicant's property, Circuit Court File No. 85-0910-AW, approved in the Circuit Court for the County of Charlevoix dated December 28, 1988. A certified copy of the Consent Judgment is recorded in the Charlevoix County Register of Deeds. Please advise me if a copy of the consent judgement is needed to back up our objections. Following is a brief history of this property and a synopsis of the consent judgement:

1. "Fox" and Associates, Inc. was the owner of a 52.9305 acre parcel of land located in the township, which includes approximately 2800 feet of frontage on Lake Charlevoix (the "Development Parcel") as well as a 283.687 acre parcel immediately behind and contiguous to the Development Parcel (the "Recreational Parcel"). The majority of this property was determined to be wetlands by the Michigan Department of Natural Resources as well as the U.S. Army Corps of Engineers (although they were not 100% in agreement).
2. In 1985 Fox had made application to develop this property with a higher density than the township allowed. When the township denied the density requested Fox and Associates, Inc. sued the township. Three years later Fox and Associates desired to settle the Lawsuit and presented a Planned Unit Development. Fox and Hayes Township stipulated and agreed that the Consent Judgment would govern the development and use of the Development Parcel and the Recreational Parcel which total approximately 337 acres of

**State of Michigan, Department of Environmental Quality
Land and Water Management Division
RE: Livingston, Oyster Pointe Development
August 2, 1999
Page 2**

land.

3. Fox was permitted to improve and use the Development Parcel, including:

- A. 52.9 acres is single family residential development with a maximum number of 16 building pads as specified by the Health Department as the maximum number that may be serviced by a sanitary system with an in-ground absorption bed. The 16 residences sharing the use of 2800' shoreline and the balance of undeveloped acreage.
- B. Each residence shall be placed on a building pad as shown on a site plan and as permitted by the D.N.R. A buyer has the option of purchasing more than 1 pad and, if adjoining, may combine more than 1 of them to construct a home larger than might fit on a single pad, with the condition he does not exceed the specified fill amounts and complies with minimum sideyards. If lots are combined the total number of residences would be less than 16.
- C. Finished floor elevation shall be no lower than 590.0 I.G.L. Datum as applied to the living space of residences within the project. Building height shall not exceed 30' as measured from the average grade to the mean of the eave and ridge elevations.
- D. Development of a private marina for the exclusive use and enjoyment of the owners of the residential home sites on the Development parcel.
- E. A 35 foot shoreland protection strip, as measured from the ordinary high water mark, shall be kept according to the provisions of the Township Ordinance. A 75' wide modified setback strip in which seasonal mowing may be performed shall be kept. Mowing shall not be performed in the 35' protection strip as described above. An exception to this rule shall be the 35 foot wide strip of land surrounding the marina basin which may be kept in maintained shrubs and turfgrass vegetation.
- F. Certain building amenities on the Development Parcel, in a form as may be determined by Fox in its sole discretion, may be added by Fox without further Township approval, which amenities may only include tennis courts, a maintenance building, a long term parking area, a gatehouse, a community building, a swimming pool and amenities of a like nature.
- G. Nothing in the Consent Judgement shall preclude Fox or any successor in interest from applying to the Township Planning Board under the then applicable P.U.D. or other applicable provisions of the Zoning Ordinance for permission to change the Development and Site Plan except under no circumstances shall the number of home sites or boat slips exceed 16.
- H. The provisions of the Consent Judgement shall run with the Land and shall be binding upon and inure to the benefit of the parties hereto, those acting under their direction and control, and their respective heirs, successors, assigns and transferees.

**State of Michigan, Department of Environmental Quality
Land and Water Management Division
RE: Livingston, Oyster Pointe Development
August 2, 1999
Page 3**

- I. A review board, comprised of individuals selected at the sole discretion of the Homeowner Association which is to be formed, shall be established in the Homeowners Association By-Laws. The review board shall approve proposed plans for all building on the Development Parcel and shall encourage the use of a consistent color scheme.
- J. Fox, and all persons acting under their direction and control, and their successors and assigns, shall use, develop, construct, and occupy the Land in compliance with the Consent Judgment and as shown on the Site Plans and not in a manner inconsistent herewith.

The Township's objection is based on the potential adverse effect any excavation, particularly between the residences and Lake Charlevoix, may have on lake quality. It is my understanding that the reasoning behind requiring setbacks from the lake, as well as shoreland protection strips, is to keep nutrients from reaching the lake. Therefore if a permit is issued to construct this "pond" it will represent significant impacts on the public interest.

Thank you very much for viewing these concerns.

Sincerely,

Ethel R. Knepp
Zoning Administrator/Clerk

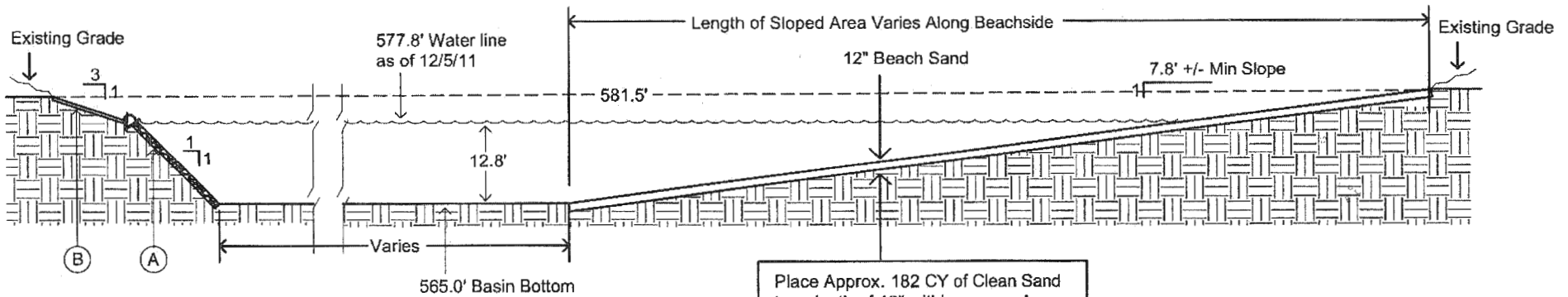
Exhibit 24
Drost Section C, Law Property-Boathouse & Basin
June 26, 2020
Submitted to Hayes Township on 7-6-20

Exhibit 25

DeVos Property Documents from EGLE permit application

Plans dated 5-31-12

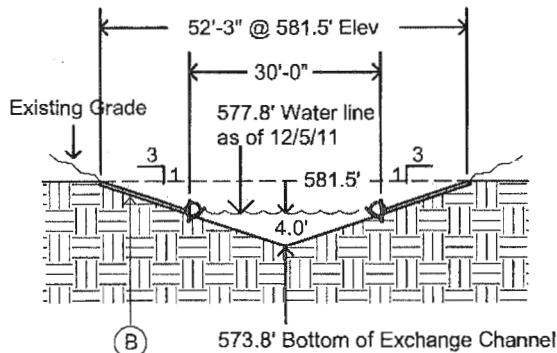
Stamped received by DNRE 6-15-12



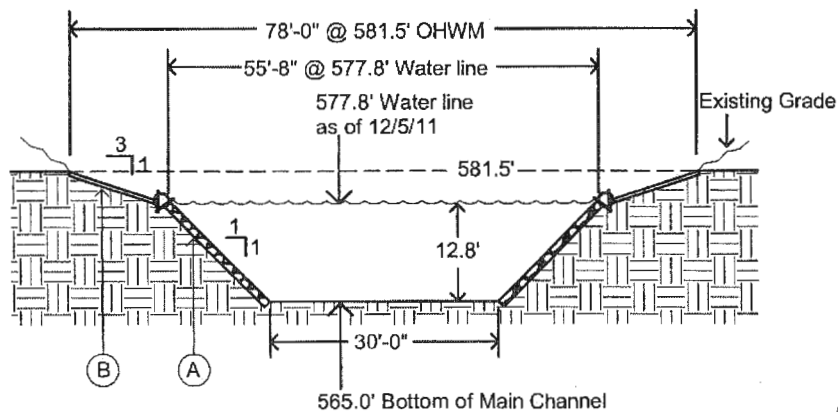
SECTION B THROUGH PROPOSED BASIN AND BEACH AREA

Place Approx. 182 CY of Clean Sand to a depth of 12" within an area Approx 70' x 70'. Sand to be Trucked in from an Upland Source.

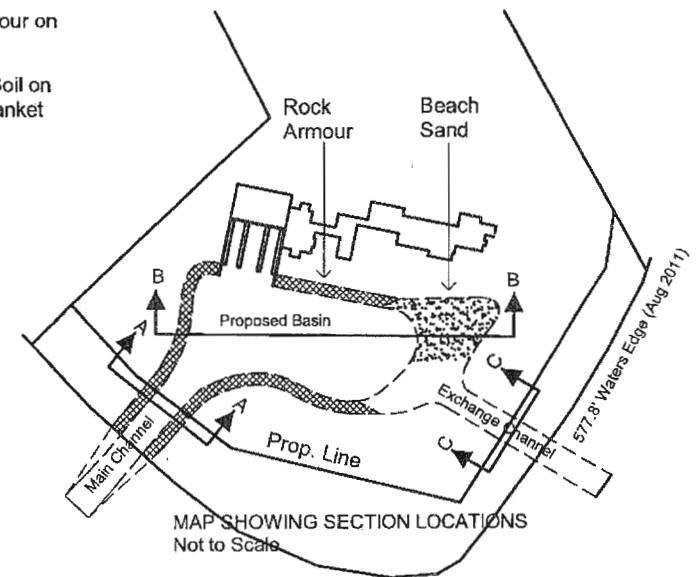
- (A) 12" Thk. Rock Armour on Fiber Filter Cloth
- (B) Modified Existing Soil on Erosion Control Blanket



SECTION C THROUGH EXCHANGE CHANNEL



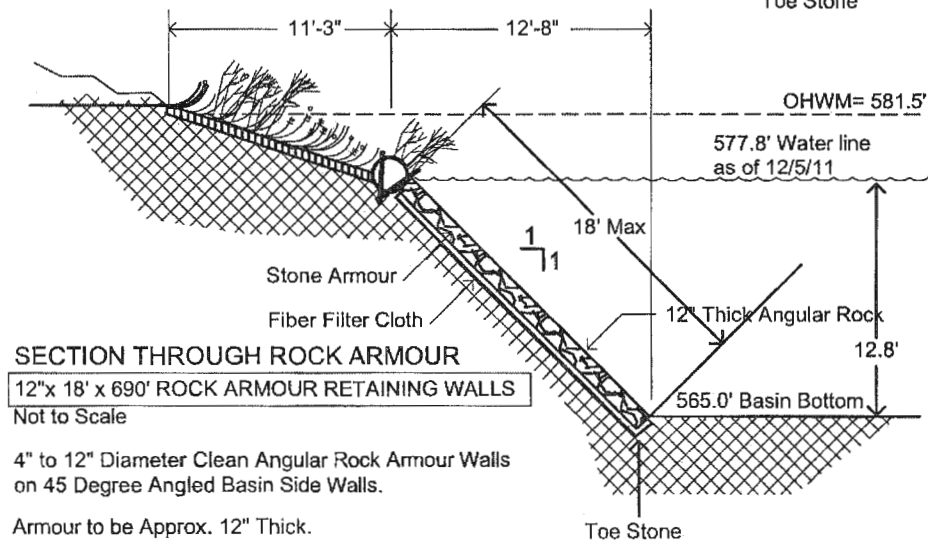
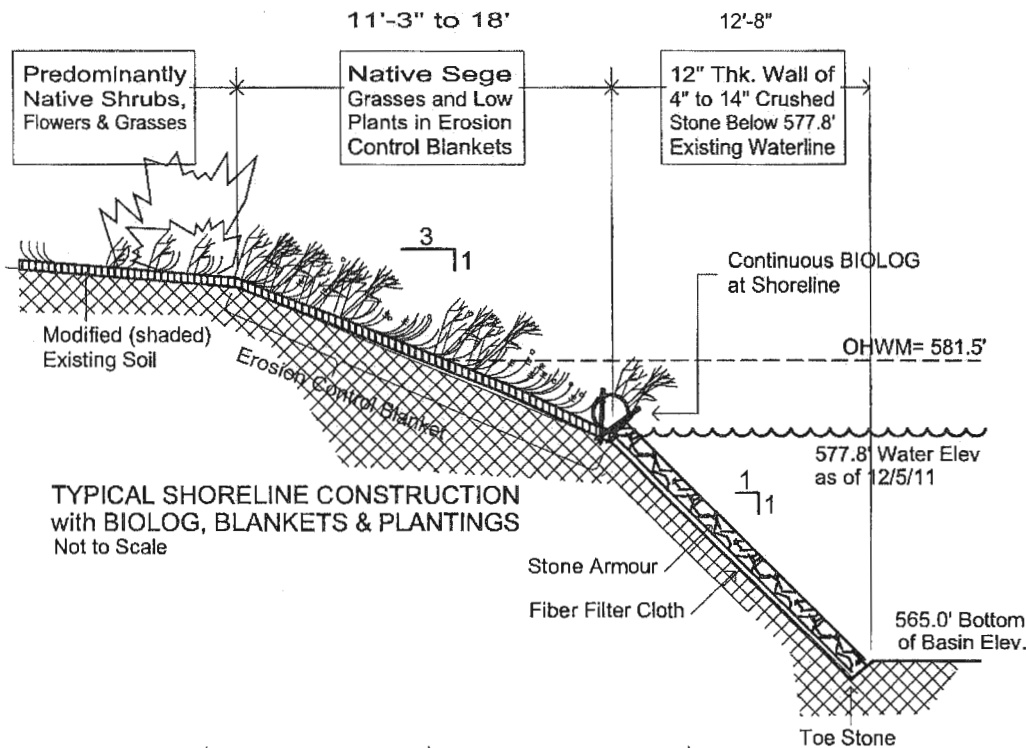
SECTION A THROUGH MAIN CHANNEL



RECEIVED
 JUN 15 2012
 DNR/WRD
 PERMIT CONSOLIDATION UNIT

Prepared By:
 Poineau Woodworker Inc.
 06075 M-32
 East Jordan, MI 49727
 (231) 536-0100
 For:
 Doug & Maria DeVos
 2020 Devonwood Lane
 Grand Rapids, MI 49546

Date:	5-31-2012
Sheet No.	3 of 8

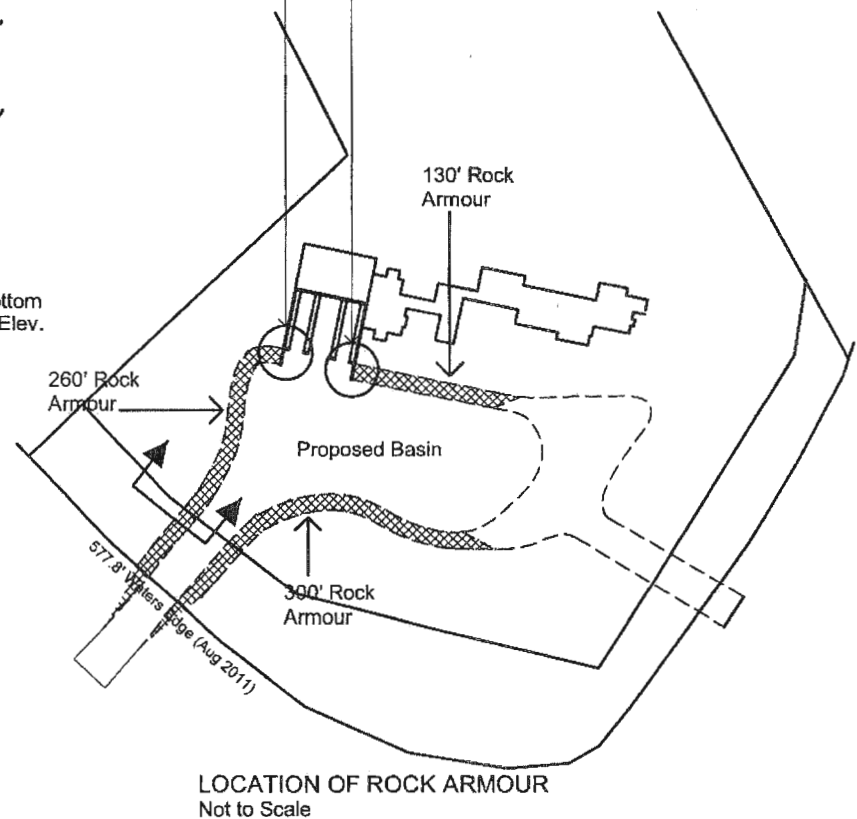
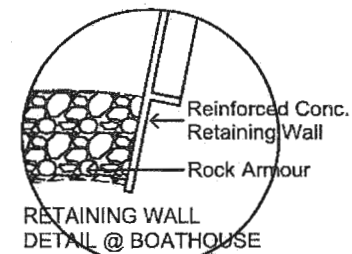


4" to 12" Diameter Clean Angular Rock Armour Walls on 45 Degree Angled Basin Side Walls.

Armour to be Approx. 12" Thick.

12" Thick x 18 L.F. = .66 CY per Foot.

690 LF Rock Armour x .66 CY/Ft. = 460CY



DNR/WRD
PERMIT CONSOLIDATION UNIT

JUN 15 2012
RECEIVED

Prepared By:
Poineau Woodworker Inc.
06075 M-32
East Jordan, MI 49727
(231) 536-0100

For:
Doug & Maria DeVos
2020 Devonwood Lane
Grand Rapids, MI 49546

Date:	5-31-2012
Sheet No.	4 of 8

Boathouse Roof
620.83'

Garage
Elev = 600.0'

Boathouse deck
Elev = 583.0'

Current Water
Elev = 577.8'

Boathouse Floor
Elev = 565.0'

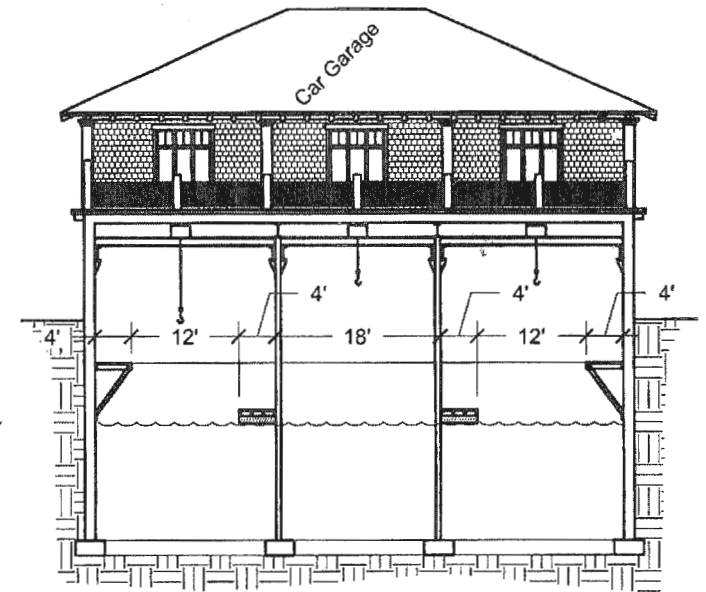
Covered Deck

Open Deck

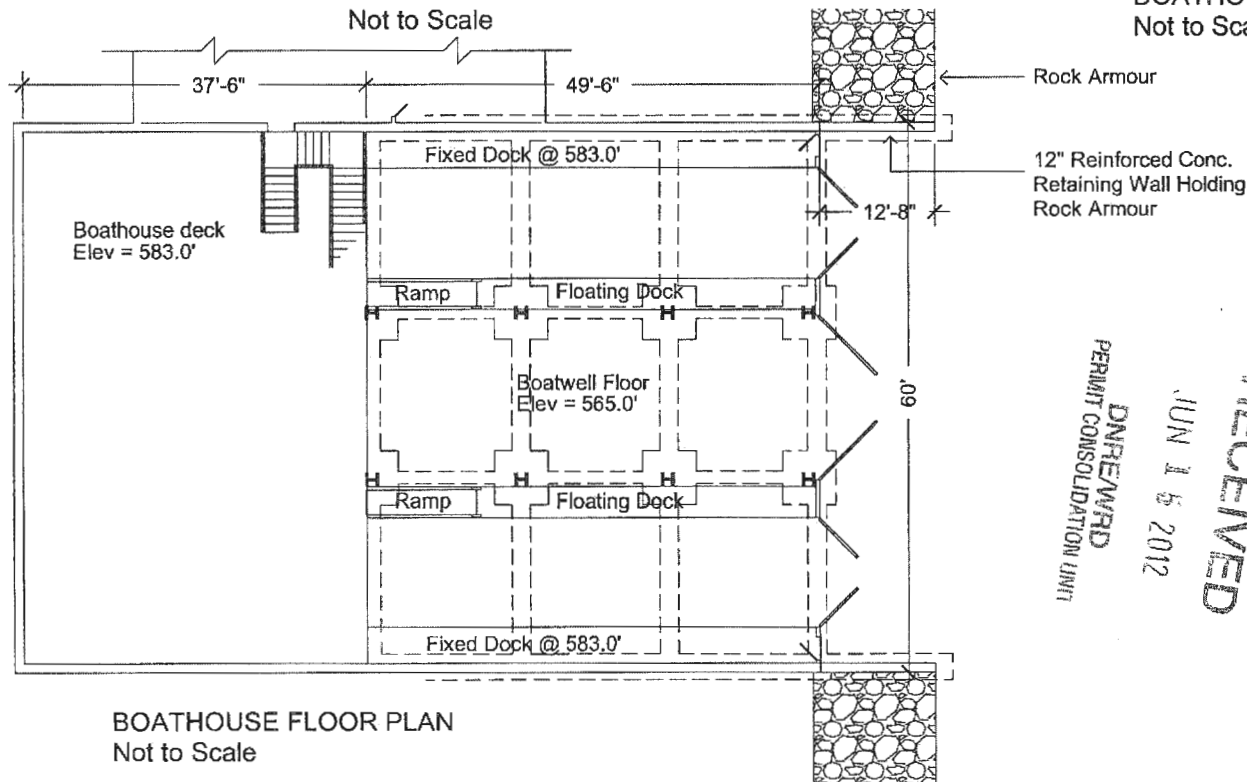
Elev = 600.0'

Elev = 581.5'

BOATHOUSE SECTION
Not to Scale



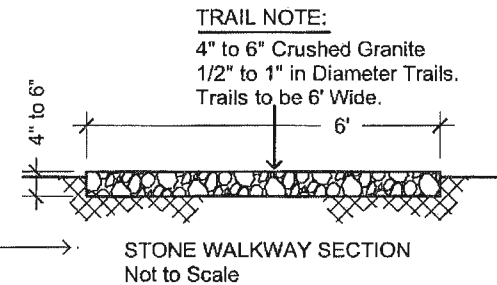
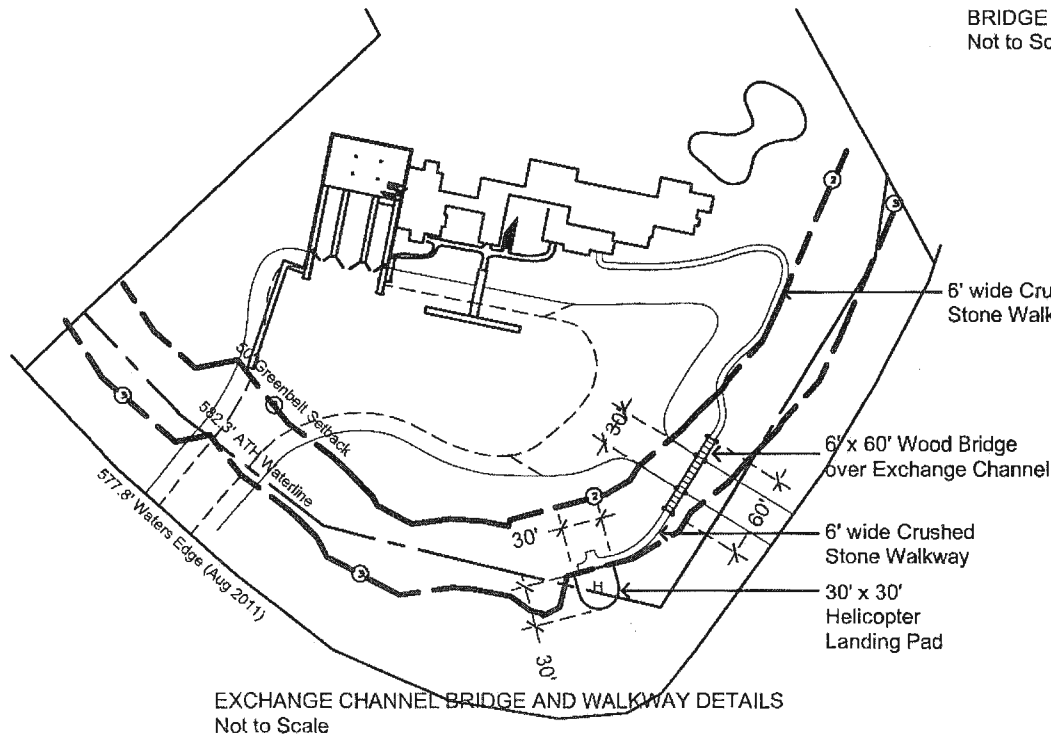
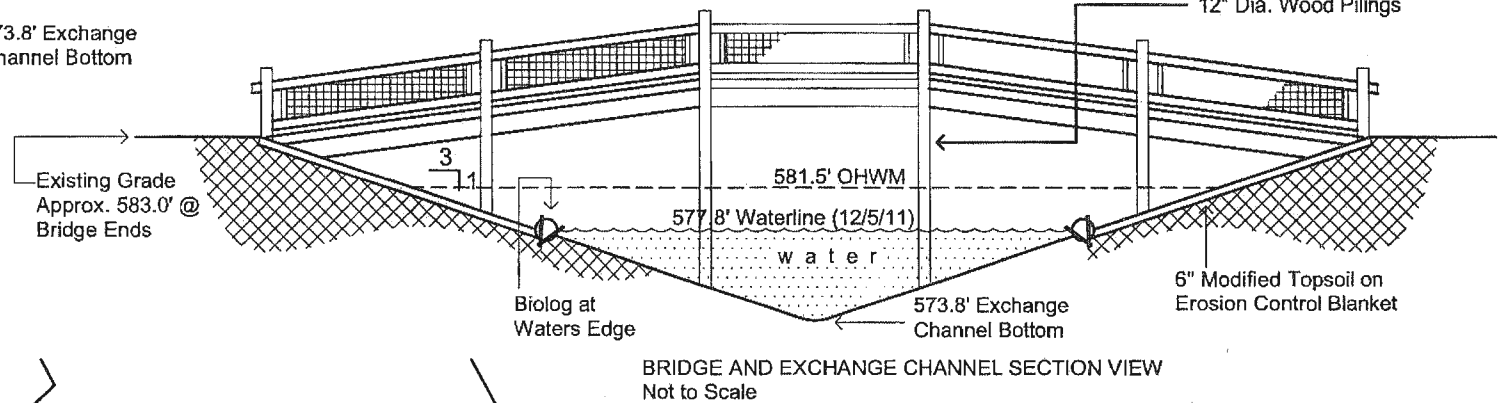
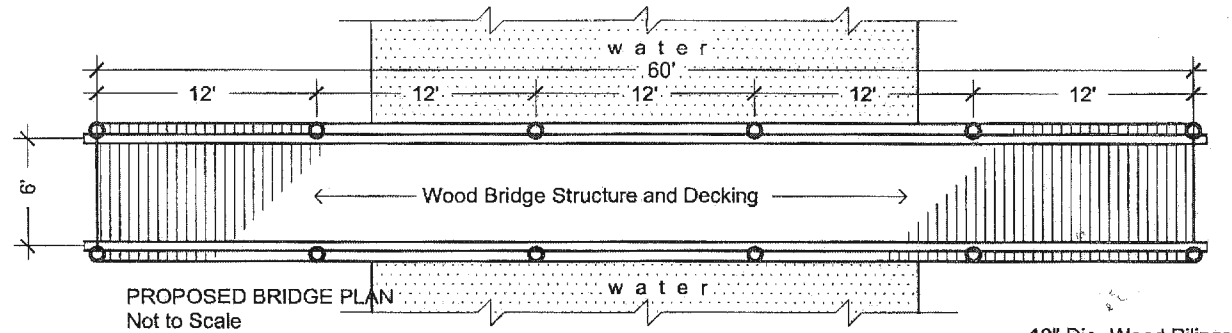
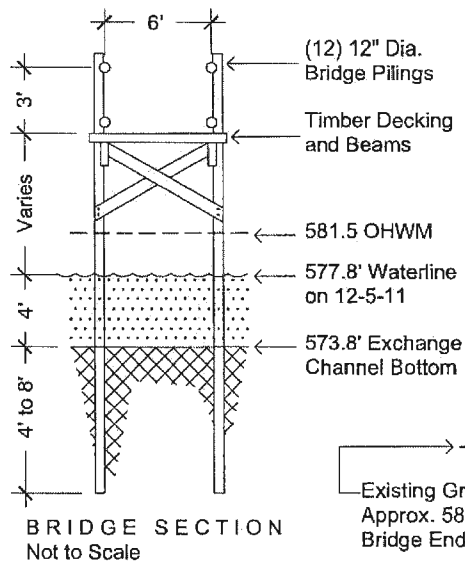
BOATHOUSE SECTION
Not to Scale



BOATHOUSE FLOOR PLAN
Not to Scale

RECEIVED
JUN 16 2012
DNF/EMRD
PERMIT CONSOLIDATION UNIT

Prepared By:	Date:
Poineau Woodworker Inc.	5-31-2012
06075 M-32	
East Jordan, MI 49727	
(231) 536-0100	
For:	Sheet No.
Doug & Maria DeVos	5 of 8
2020 Devonwood Lane	
Grand Rapids, MI 49546	



RECEIVED
JUN 15 2012
DNR/WRD
PERMIT CONSOLIDATION UNIT

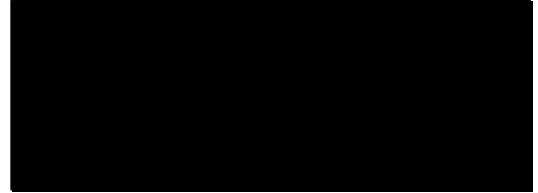
Prepared By:	Date:
Poineau Woodworker Inc.	5-31-2012
06075 M-32	
East Jordan, MI 49727	
(231) 536-0100	
For:	Sheet No.
Doug & Maria DeVos	8 of 8
2020 Devonwood Lane	
Grand Rapids, MI 49546	



**MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER RESOURCES DIVISION
PERMIT**

ISSUED TO:

Mr. Douglas and Mrs. Maria DeVos
2020 Devonwood
Grand Rapids, MI 49546



This permit is being issued by the Michigan Department of Environmental Quality (MDEQ) under the provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and specifically:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Part 301, Inland Lakes and Streams | <input type="checkbox"/> Part 315, Dam Safety |
| <input type="checkbox"/> Part 325, Great Lakes Submerged Lands | <input type="checkbox"/> Part 323, Shorelands Protection and Management |
| <input type="checkbox"/> Part 303, Wetlands Protection | <input type="checkbox"/> Part 353, Sand Dunes Protection and Management |
| <input type="checkbox"/> Part 31, Floodplain/Water Resources Protection | |

Permission is hereby granted, based on permittee assurance of adherence to State of Michigan requirements and permit conditions, to:



Water Course Affected: Lake Charlevoix **Property Location:** Charlevoix County, Hayes Township, Section 30
Town/Range 34N, 7W **Property Tax No.** 15-007-130-010-20

Authority granted by this permit is subject to the following limitations:

- A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of this permit.
- B. The permittee, in exercising the authority granted by this permit, shall not cause unlawful pollution as defined by Part 31, Water Resources Protection, of the NREPA.
- C. This permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
- D. All work shall be completed in accordance with the plans and specifications submitted with the application and/or plans and specifications attached to this permit.
- E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved.
- F. It is made a requirement of this permit that the permittee give notice to public utilities in accordance with Act 53 of the Public Act of 1974 and comply with each of the requirements of that Act.
- G. This permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits, or complying with other state statutes.
- H. This permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his rights.
- I. Permittee shall notify the MDEQ within one week after the completion of the activity authorized by this permit, by completing and forwarding the attached preaddressed postcard to the office addressed thereon.
- J. This permit shall not be assigned or transferred without the written approval of the MDEQ.
- K. Failure to comply with conditions of this permit may subject the permittee to revocation of permit and criminal and/or civil action as cited by the specific state act, federal act, and/or rule under which this permit is granted.
- L. All dredged or excavated materials shall be disposed of in an upland site (outside of floodplains, unless exempt under Part 31, and wetland).
- M. In issuing this permit, the MDEQ has relied on the information and data that the permittee has provided in connection with the submitted application for permit. If, subsequent to the issuance of a permit, such information and data prove to be false,

incomplete, or inaccurate, the MDEQ may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.

- N. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents and representatives for any and all claims or causes of action arising from acts or omissions of the permittee or employees, agents, or representatives of the permittee undertaken in connection with this permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.
- O. Noncompliance with these terms and conditions and/or the initiation of other regulated activities not specifically authorized shall be cause for the modification, suspension, or revocation of this permit, in whole or in part. Further, the MDEQ may initiate criminal and/or civil proceedings as may be deemed necessary to correct project deficiencies, protect natural resource values, and secure compliance with statutes.
- P. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity from the MDEQ. Such revision request shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by the MDEQ prior to being implemented.
- Q. This permit may be transferred to another person upon written approval of the MDEQ. The permittee must submit a written request to the MDEQ to transfer the permit to the new owner. The new owner must also submit a written request to the MDEQ to accept transfer. The new owner must agree, in writing, to accept all conditions of the permit. A single letter signed by both parties which includes all the above information may be provided to the MDEQ. The MDEQ will review the request and if approved, will provide written notification to the new owner.
- R. Prior to initiating permitted construction, the permittee is required to provide a copy of the permit to the contractor(s) for review. The property owner, contractor(s), and any agent involved in exercising the permit are held responsible to ensure that the project is constructed in accordance with all drawings and specifications. The contractor is required to provide a copy of the permit to all subcontractors doing work authorized by the permit.
- S. Construction must be undertaken and completed during the dry period of the wetland. If the area does not dry out, construction shall be done on equipment mats to prevent compaction of the soil.
- T. Authority granted by this permit does not waive permit requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA, or the need to acquire applicable permits from the County Enforcing Agent.
- U. Authority granted by this permit does not waive permit requirements under the authority of Part 305, Natural Rivers, of the NREPA. A Natural Rivers Zoning Permit may be required for construction, land alteration, streambank stabilization, or vegetation removal along or near a natural river.
- V. The permittee is cautioned that grade changes resulting in increased runoff onto adjacent property is subject to civil damage litigation.
- W. Unless specifically stated in this permit, construction pads, haul roads, temporary structures, or other structural appurtenances to be placed in a wetland or on bottomland of the waterbody are not authorized and shall not be constructed unless authorized by a separate permit or permit revision granted in accordance with the applicable law.
- X. For projects with potential impacts to fish spawning or migration, no work shall occur within fish spawning or migration timelines (i.e., windows) unless otherwise approved in writing by the MDNR, Fisheries Division.
- Y. Work to be done under authority of this permit is further subject to the following special instructions and specifications:

Permitted Activities:

Excavate/dredge a total of 26,568 cubic yards, for a 315-foot by 130-foot marina basin up to 16.5 feet deep (565.0 International Great Lakes Datum of 1985 (IGLD 1985)) with a 58-foot wide by 220-foot long by 7-foot deep entrance channel and a 28-foot wide by 220-foot long by 2-foot deep "exchange" channel. All rock riprap present in the dredge channels below the ordinary high water mark (OHWM) of Lake Charlevoix shall be replaced back into the same footprint. All dredge spoils will be disposed of at Argonne Supper Club, 11929 Boyne City Road, Charlevoix. Construct a 6-foot wide by 60-foot long wooden bridge to cross the exchange channel. Place two temporary coffer dams in the channels to allow for dredging of the marina basin in the dry.

Construct a 49.5-foot deep by 60-foot wide boathouse over the water at the northwest corner of the basin with an open deck 18 feet above 581.5 IGLD 85. The boathouse will extend an additional 38.5 feet landward with a roof and car garage above. Construct two fixed docks and two floating docks inside the boathouse, each 4 feet wide by 49 feet long, to provide dockage for three watercraft. Construct two 4-feet wide by 20-foot long floating docks in front of the boat house. Construct a 90-foot long "L" shaped dock with a 6-foot wide by 16-foot long section providing access to a 6-foot wide by 80-foot long section to the west of the boathouse. Construct a 6-foot wide by 36-foot long dock with a 6-foot wide by 70-foot long floating "T" dock to the east of the boathouse.

Construct a 65-foot beach area at the northeast corner of the basin with the placement of 63 cubic yards of sand up to 1 foot deep in an area above the OHWM. Place 30 cubic yards of peastone below the ordinary high

water mark, within the beach area. Stabilize 690 feet of shoreline around the basin with 460 cubic yards of rock rip-rap 1 foot deep extending 18 feet from the basin bottom and up the bank of the basin. Place biologs along 460 feet of the 690 feet of rip-rap and plant native vegetation landward of the riprap. Install a temporary siphon tube between the basin and Lake Charlevoix to fill the basin. Remove the coffer dams after the basin has filled up and the suspended material has settled out. The work shall be completed as shown on the attached plans and construction sequence.

This permit shall become effective on the date of the MDEQ representative's signature. Upon signing by the permittee named herein, this permit must be returned to the MDEQ's Water Resources Division (WRD), Gaylord Field Office, 2100 W. M-32, Gaylord, Michigan, 49735 for final execution.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

Permittee

Date

Printed Name and Title of Permittee

1. This permit placard shall be kept posted at the work site, in a prominent location at all times for the duration of the project, or until permit expiration.
2. During construction, every precaution shall be taken to prevent debris from entering any watercourse. Any debris reaching the watercourse during the removal and/or reconstruction of the structure shall be immediately retrieved from the water. All material shall be disposed of in an acceptable manner consistent with local, state, and federal regulations.
3. Notification shall be made to the MDEQ Water Resources Division (WRD), five days prior to starting the project. Please notify Scott Rasmusson at rasmussons@michigan.gov or 989-705-3437.
4. Submit to this office within 60 days of project completion "as built" plans, signed and sealed by a qualified design professional licensed by the State of Michigan, certifying that the project, including any required compensating cut and fill, has been completed in accordance with this permit.
5. All work shall be completed in accordance with the attached revised plans dated October 24, 2012, the construction sequences and the terms and conditions of this permit.
6. All heavy equipment that is to be used in lake shall be clean and free of debris, oil, grease and be sealed.
7. Authority granted by this permit does not waive any jurisdiction of the United States Army Corps of Engineers (USACE) or the need for a federal permit, if required. For information on USACE jurisdiction, please contact Ms. Katie Schill, USACE, Detroit.
8. Authority granted by this permit does not waive permit requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA, or the need to acquire applicable permits from the Charlevoix County enforcing agent (CEA).
9. Prior to initiating construction authorized by this permit, the permittee is required to provide a copy of the permit to the contractor(s) for his/her review.
10. This permit does not authorize the placement of structures that block the entrance channel.
11. The property owner, contractor(s), and any agent involved in obtaining or exercising this permit, are held responsible to ensure the project is constructed in accordance with all drawings and specifications

contained in this permit. The contractor is required to provide a copy of the permit to any and all subcontractors doing work authorized by this permit.

- 12. Prior to commencement of any dredging authorized by this permit, the entire dredge area shall be enclosed with a filter fabric sediment curtain to prevent off-site siltation. The sediment curtain shall be installed to extend from the bed of the waterbody to a point above the existing water's surface. The sediment curtain shall be maintained for the duration of the project and shall be left in place after completion of dredging until all disturbed sediments have settled.**
13. All dredge/excavated spoils including organic and inorganic soils, vegetation, and other material removed shall be placed on upland (non-wetland, non-floodplain or non-bottomland), prepared for stabilization and stabilized with sod and/or seed and mulch in such a manner so as to prevent and ensure against erosion of any material into any waterbody, wetland, or floodplain.
14. All dredged material shall be immediately placed into trucks or barges and taken to an approved upland disposal site. Placement of dredged material into open water, onto ice, or onto exposed bottomland is not authorized by this permit.
15. The permittee is cautioned that excessive dredging resulting in the impairment of the structural integrity of seawalls on neighboring riparian properties is subject to civil damage litigation.
16. No work or dredging (below the historic OHWM of 580.5 IGLD, 85) authorized by this permit is allowed from May 15 to July 15 due to critical spawning, migration, and/or recreation use periods.
17. No work or dredging (below the historic OHWM of 580.5 IGLD, 85) authorized by this permit is allowed from November 1 to ice-off conditions due to potential impacts to Lake Herring (*Coregonus artedii*).
18. Unless specifically stated under the "Permitted Activity" of this permit, construction pads, haul roads, temporary structures, or other structural appurtenances to be placed in a wetland or on bottomland of the waterbody are not authorized by this permit and shall not be constructed unless authorized by separate permit or permit revision granted in accordance with the applicable law.
19. No fill, excess soil, or other material shall be placed in any wetland or surface water area not specifically authorized by this permit, its plans, and specifications.
20. All slurry resulting from any dewatering operation shall be discharged through a filter bag or pumped to a sump located away from wetlands and surface waters and allowed to filter through natural upland vegetation, gravel filters, or other engineered devices for a sufficient distance and/or period of time necessary to remove sediment or suspended particles.
21. The permittee acknowledges that the dredge material has not been classified as to contaminant status. Disposal of the dredged sediments is to uplands. If the dredged sediments are determined to be contaminated at a future date, permittee is considered a potentially responsible party and remains liable for any and all necessary site restoration and clean up under Part 115, Solid Waste Management, and Part 201, Environmental Remediation, of the NREPA.
22. Use or placement of the spoils shall be done in such a manner to prevent nuisance conditions and control the release of fugitive dust or visible emissions as required by Part 55, Air Pollution Control, of the NREPA, or the rules promulgated under this Act. .
23. The spoils shall not be mixed with other waste or materials that are not inert as defined by Part 115, Solid Waste Management, of the NREPA.

24. The provisions of this permit do not preclude the permittee from disposal of the spoils in accordance with the Solid Waste Management Act at a properly licensed Type II solid waste disposal facility or at an out-of-state facility in accordance with the State's solid waste disposal regulations.
25. In issuing this permit, the MDEQ has relied on the information and data, which the permittee has provided in connection with the permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete, or inaccurate; or additional information demonstrates that the spoils are causing environmental contamination; or new State or Federal regulations are promulgated which cause this disposal to be inappropriate, the MDEQ may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
26. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents, and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representatives of the permittee, undertaken in connection with this permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.
27. All raw areas resulting from the permitted construction activity shall be promptly and effectively stabilized with sod and/or seed and mulch (or other technology specified by this permit or project plans) in a sufficient quantity and manner so as to prevent erosion and any potential siltation to surface waters or wetlands.
28. The permittee is cautioned that grade changes resulting in increased runoff onto adjacent property is subject to civil damage litigation.
29. In issuing this permit, the MDEQ has relied on the information and data which permittee has provided in connection with the permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete, or inaccurate, the MDEQ may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
30. The authority to conduct the activity as authorized by this permit is granted solely under provisions of the governing act as identified above. This permit does not convey, provide, or otherwise imply approval of any other governing act, ordinance, or regulation, nor does it waive the permittee's obligation to acquire any local, county, state or federal approval or authorizations necessary to conduct the activity.
31. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representatives of the permittee, undertaken in connection with this permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.
32. Noncompliance with these terms and conditions, and/or the initiation of other regulated activities not specifically authorized by this permit shall be cause for the modification, suspension, or revocation of this permit, in whole or in part. Further, the MDEQ may initiate criminal and/or civil proceedings as may be deemed necessary to correct project deficiencies, to protect natural resource values, and secure compliance with statutes.
33. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity and/or mitigation plan from the MDEQ. Such revision requests shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by the MDEQ prior to being implemented.
34. This permit may be transferred to another person upon written approval of the MDEQ. The permittee must submit a written request to the MDEQ to transfer the permit to the new owner. The new owner must also submit a written request to accept transfer of the permit. The new owner

must agree, in writing, to accept all conditions of the permit. A single letter signed by both parties which includes all the above information may be provided to the MDEQ. The MDEQ will review the request and if approved, will provide written notification to the new owner.

This permit is being issued for the maximum time allowed under Part 301, Inland Lakes and Streams of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended, including all permit extensions allowed under the administrative rules R 281.813 and R 281.923. Therefore, no extensions of this permit will be granted. Initiation of the construction work authorized by this permit indicates the permittee's acceptance of this condition. The permit, when signed by the MDEQ, will be for a five-year period beginning at the date of issuance.

By: _____
Scott Rasmusson
Water Resources Division
989-705-3437

cc: Hayes Township Clerk
Charlevoix CEA
Ms. Katie Schill, USACE, Detroit, # LRE-2012-00459-41
Poineau Woodworker, Inc.
Mr. Bert Ebbers, Great Lakes Ecosystems

Exhibit 26
Packer Property boat basin plans by
Great Lakes Ecosystems
Submitted to Michigan EGLE
(From MIWATERS State database)
Dated 10-22-18

NOTES:

1. All distances, measurements, elevations & quantities shown on this 4 sheet site plan are approximate, intended for MDEQ-WRDS Corps of Engineers permitting purposes only (not a licensed survey degree of detail).

2. Total quantities of proposed rip-rap shoreline repair:
a. Upland lakeward of OHWM - +/- 80 c.y. into 1000 sq.ft.
b. Upland lakeward of OHWM - +/- 59 c.y. into 720 sq.ft.
c. Wetland lakeward of OHWM - +/- 22 c.y. into 300 sq.ft.
d. Wetland lakeward of OHWM - +/- 13 c.y. into 180 sq.ft.

Estimated Project Total +/- 174 c.y. into 2200 sq.ft.

3. Total quantity of proposed dredging for existing boat basin and entrance channel combined:

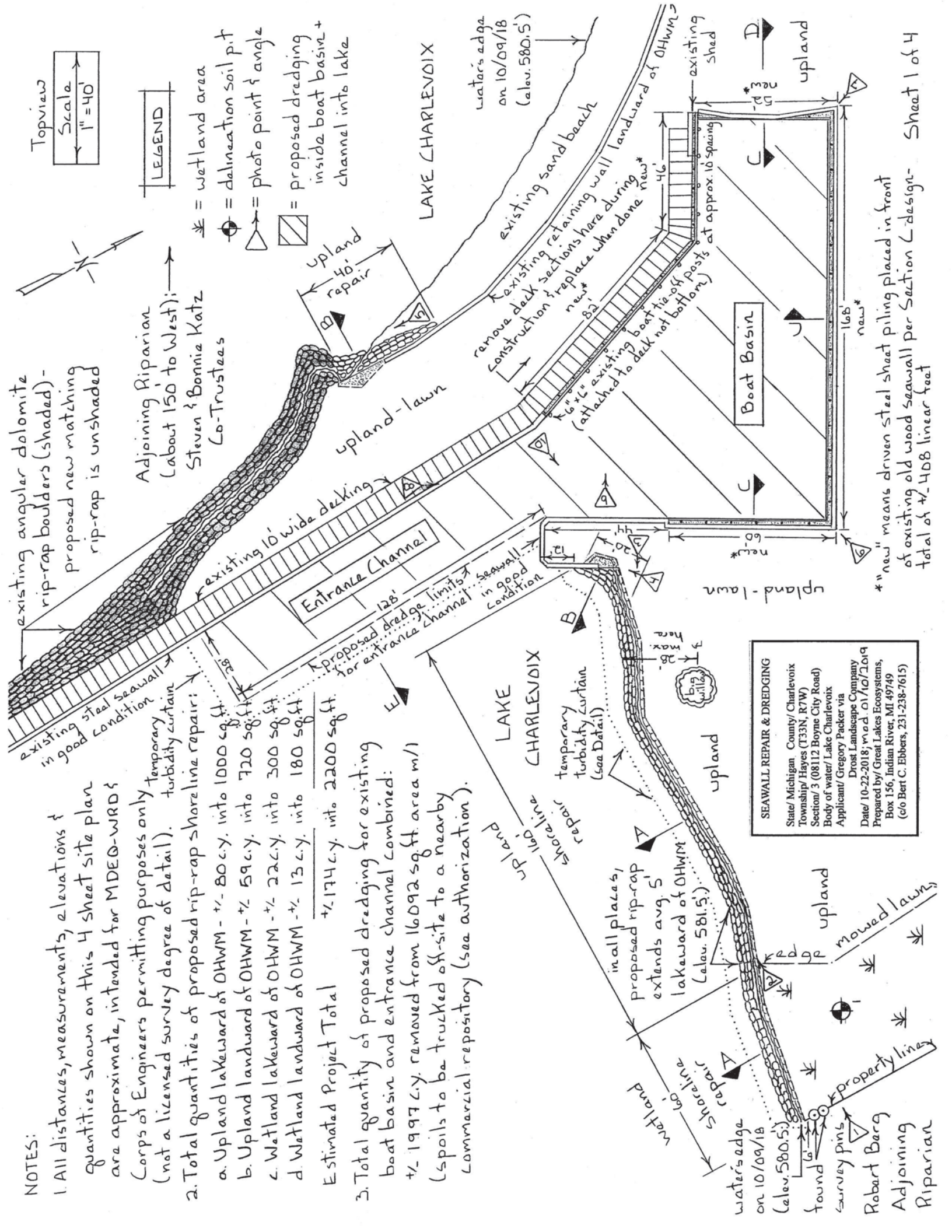
+/- 1997 c.y. removed from 16092 sq.ft. area w/1 (spoils to be trucked off-site to a nearby commercial repository (see authorization).

Topview
Scale
1" = 40'

LEGEND

- ⊞ = wetland area
- ⊙ = delineation soil p.t.
- △ = photo point & angle
- ▧ = proposed dredging inside boat basin + channel into lake

Adjoining Riparian
(about 150 to West):
Steven & Bonnie Katz
Co-Trustees

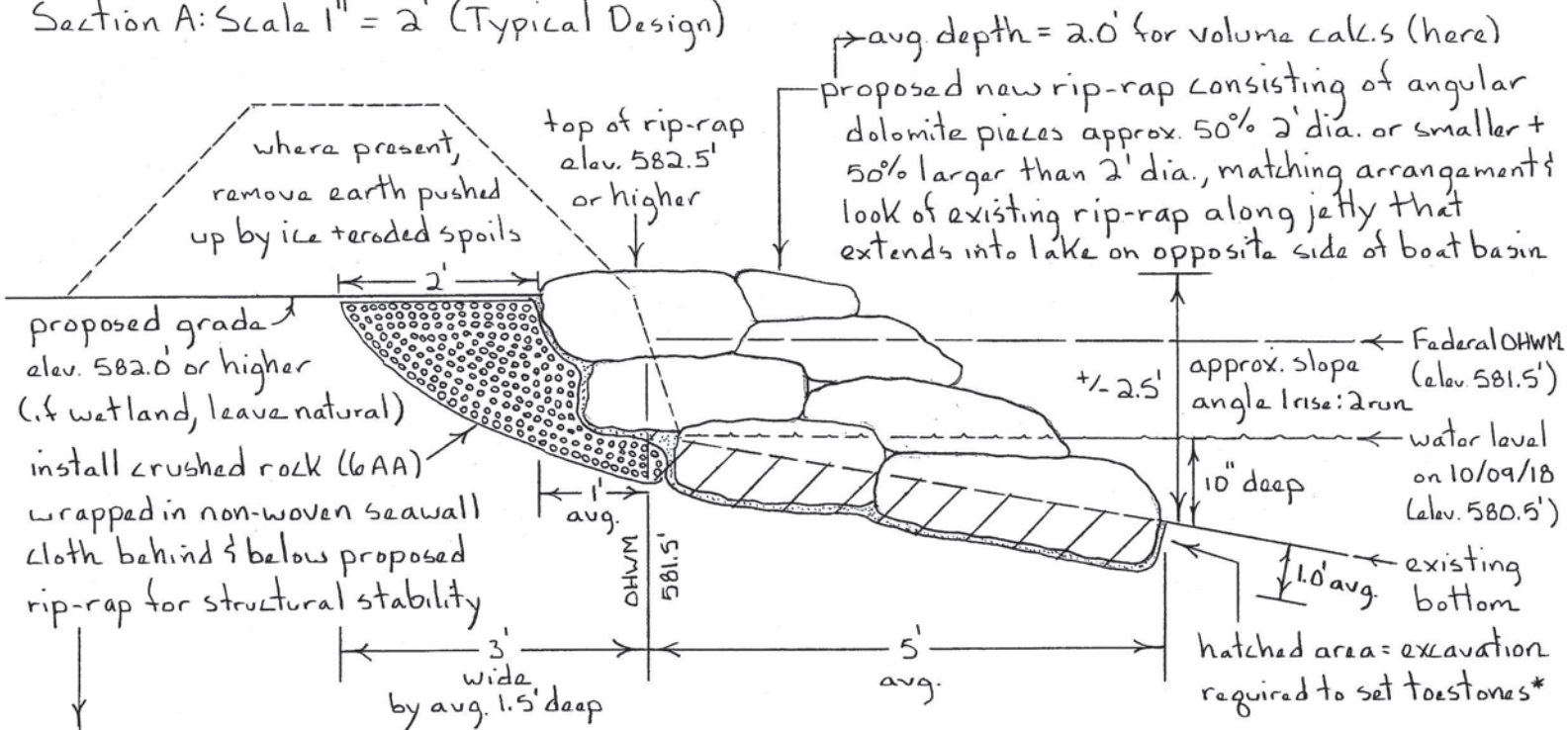


SEAWALL REPAIR & DREDGING

State/ Michigan County/ Charlevoix
Township/ Hayes (T33N, R7W)
Section/ 3 (08112 Boyne City Road)
Body of water/ Lake Charlevoix
Applicant/ Gregory Packer via
Drost Landscape Company
Date/ 10-22-2018; mod. 01/10/2019
Prepared by/ Great Lakes Ecosystems,
Box 156, Indian River, MI 49749
(c/o Bert C. Ebberts, 231-238-7615)

*"new" means driven steel sheet piling placed in front of existing old wood seawall per Section C design - total of +/- 408 linear feet

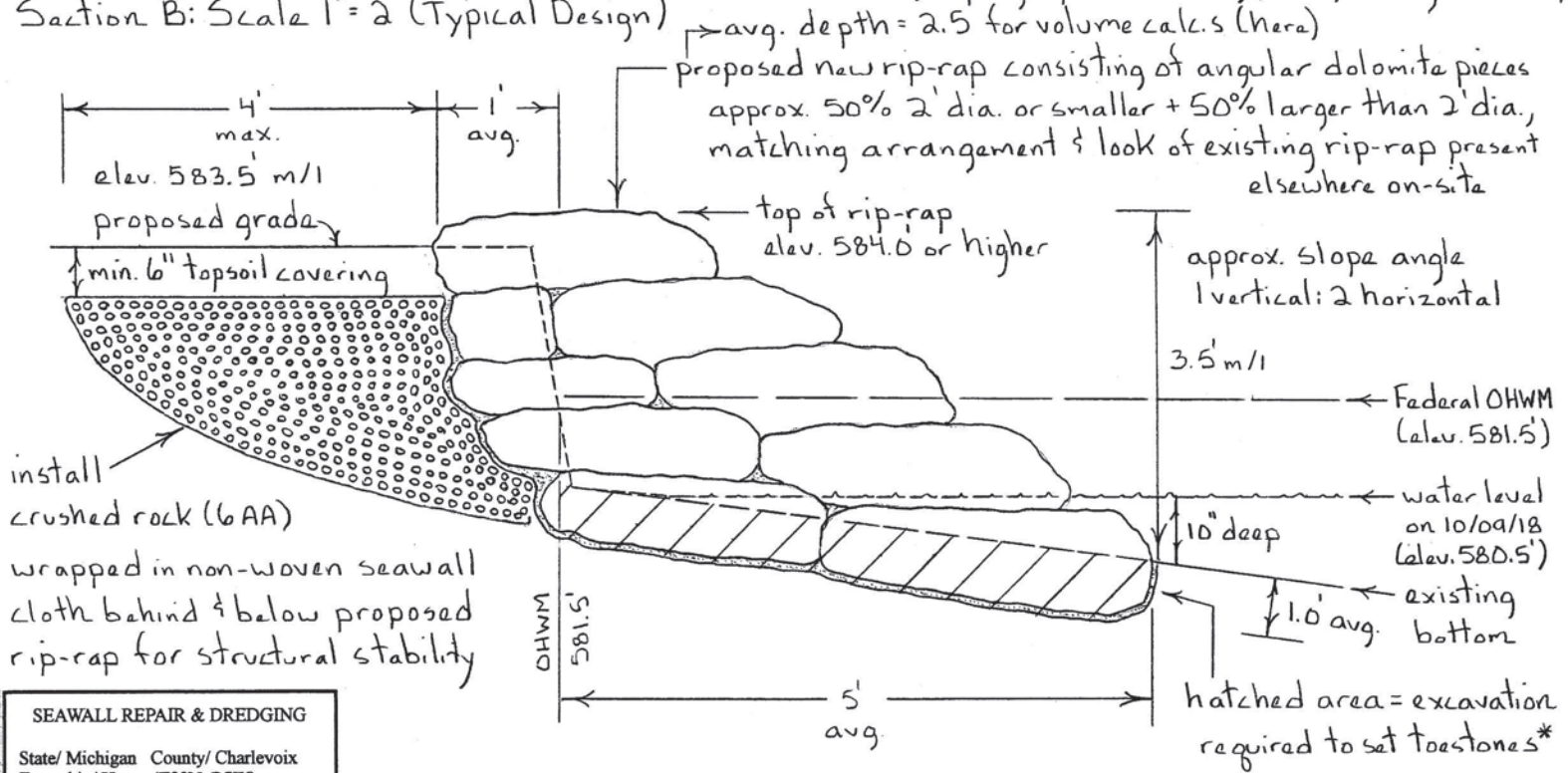
Section A: Scale $1'' = 2'$ (Typical Design)



for the 60' linear feet of shoreline repair in wetland, crushed rock backfill will be used to provide stable support for proposed rip-rap (volume is included in the 13 c.y. rip-rap total)

* for entire site, combining all areas where new rip-rap will be installed, remove ± 48 c.y. of substrate from a 1300 sq. ft. m/l area - spoils to be trucked off-site, to a nearby commercial upland repository (see authorization) (37 c.y. along upland frontage, 11 c.y. along wetland)

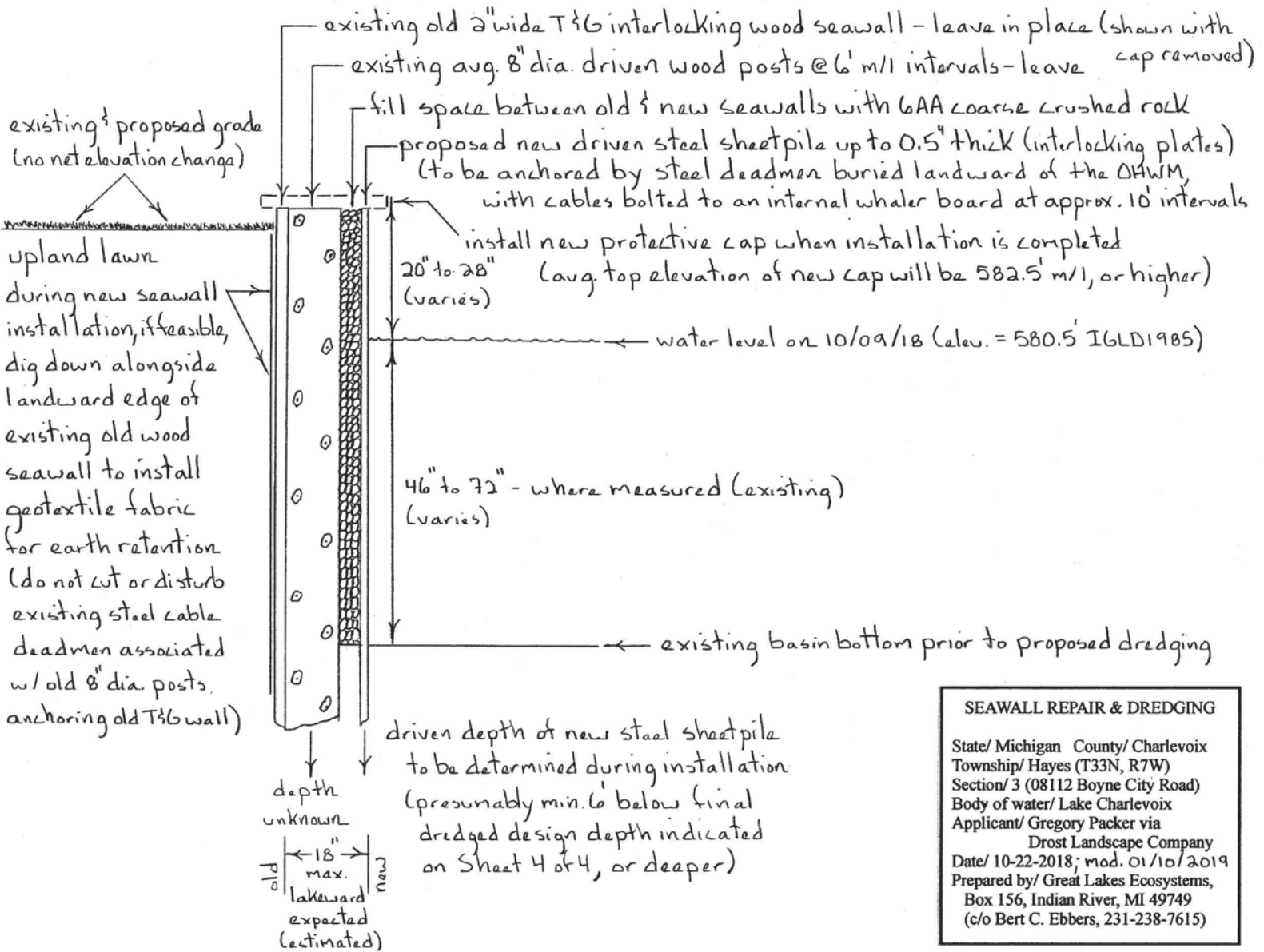
Section B: Scale 1" = 2' (Typical Design)



SEAWALL REPAIR & DREDGING

State/ Michigan County/ Charlevoix
Township/ Hayes (T33N, R7W)
Section/ 3 (08112 Boyne City Road)
Body of water/ Lake Charlevoix
Applicant/ Gregory Packer via
Drost Landscape Company
Date/ 10-22-2018; mod. 01/16/2019
Prepared by/ Great Lakes Ecosystems,
Box 156, Indian River, MI 49749
(c/o Bert C. Ebberts, 231-238-7615)

Section C: Scale 1" = 2' (Typical Design)

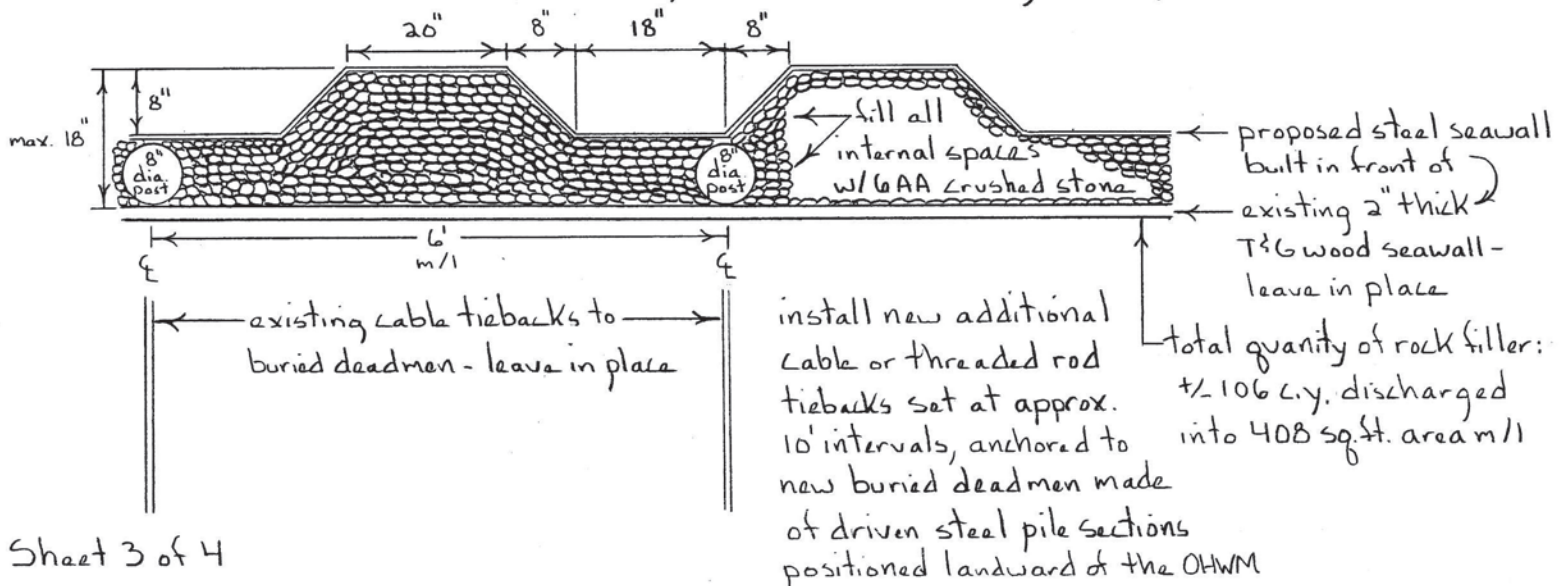


SEAWALL REPAIR & DREDGING

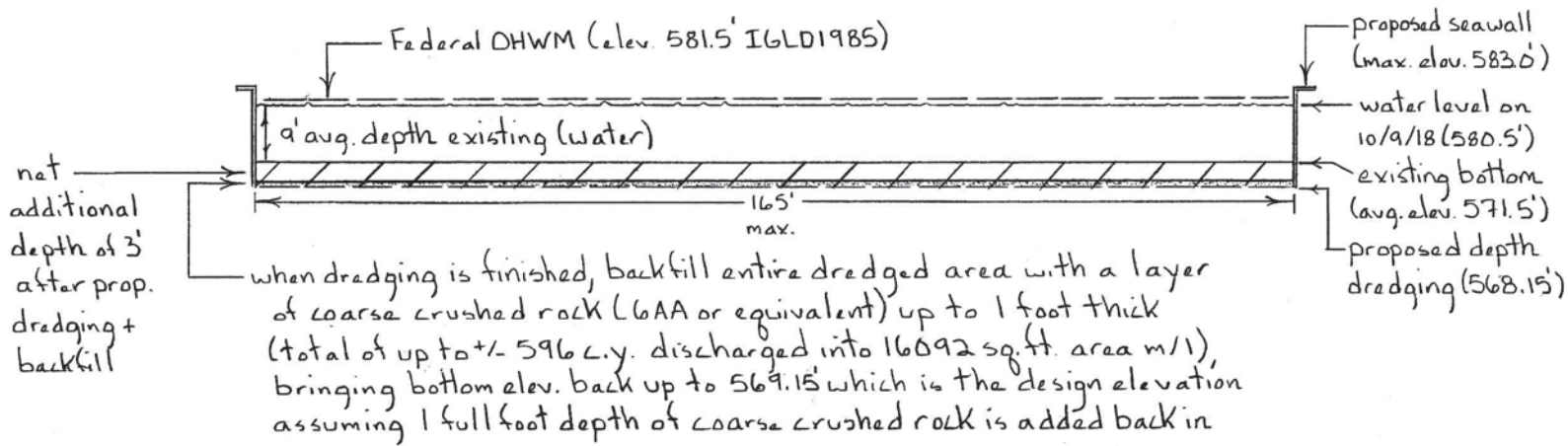
State/ Michigan County/ Charlevoix
 Township/ Hayes (T33N, R7W)
 Section/ 3 (08112 Boyne City Road)
 Body of water/ Lake Charlevoix
 Applicant/ Gregory Packer via
 Drost Landscape Company
 Date/ 10-22-2018; mod. 01/10/2019
 Prepared by/ Great Lakes Ecosystems,
 Box 156, Indian River, MI 49749
 (c/o Bert C. Ebberts, 231-238-7615)

TOP VIEW OF PROPOSED NEW SEAWALL (With Future Top Cap Removed)

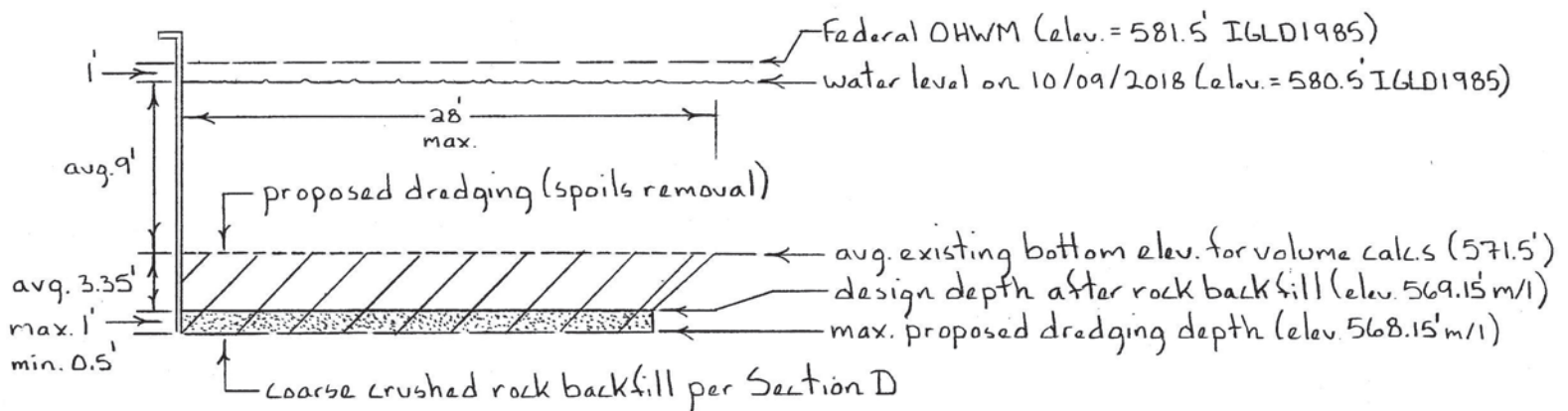
Scale 1" = 2' (Design based on matching up to existing on-site steel sheetpile that is in good shape and not being replaced)



Section D: Scale 1"=30' (Boat Basin Typical Design)



Section E: Scale 1"=10' (Entrance Channel Typical Design)



SEAWALL REPAIR & DREDGING

State/ Michigan County/ Charlevoix
 Township/ Hayes (T33N, R7W)
 Section/ 3 (08112 Boyne City Road)
 Body of water/ Lake Charlevoix
 Applicant/ Gregory Packer via
 Drost Landscape Company
 Date/ 10-22-2018 ; mod. 01/10/2019
 Prepared by/ Great Lakes Ecosystems,
 Box 156, Indian River, MI 49749
 (c/o Bert C. Ebberts, 231-238-7615)

Exhibit 27
Email from Neil Schock, Michigan EGLE to
Kate Dahlstrom
9-2-21

Subject: Fwd: OHWM
From: LuAnne Kozma <luannekozma@gmail.com>
Date: 9/2/2021, 7:57 PM
To: Ellis Boal <ellisboal@voyager.net>

----- Forwarded message -----

From: Kate Dahlstrom <kkd@longlakeloon.com>
Date: Thu, Sep 2, 2021 at 5:11 PM
Subject: OHWM
To: kim smith <zoning@longlaketownship.com>, Leslie Sickterman <planner@longlaketownship.com>, carol hoffman <clerk@longlaketownship.com>, Brent Schnell <brentaschnell@gmail.com>, Rick Dahlstrom <dahlstromrick5@gmail.com>, Anne Perry <anne.morrison.perry@gmail.com>

Both Army Corp and EGLE agree that OHWM moves to the contour of an excavated area.

-----Original Message-----

From: "Schock, Neil (EGLE)" <SchockN@michigan.gov>
Sent: Thursday, September 2, 2021 1:22pm
To: "Kate Dahlstrom" <kkd@longlakeloon.com>
Subject: RE: Army Corp and OHWM

USACE
Jeff Fritsma
313-300-4665

It is the interpretation of the WRD that the OHWM would follow the new shoreline contour, although this is not clearly define within Part 301 or its administrative rules.

Regards,

Neil Schock | Environmental Quality Analyst | Water Resources Division
Michigan Department of Environment, Great Lakes, and Energy (EGLE)
120 West Chapin Street, Cadillac, MI 49601 | 231-429-5244
cid:image002.jpg@01D4F9C7.8094CABo

MiWaters help: EGLE-WRD-MiWaters@michigan.gov | egle-assist@michigan.gov | 800.662.9278

From: Kate Dahlstrom <kkd@longlakeloon.com>
Sent: Wednesday, September 01, 2021 5:36 PM
To: Schock, Neil (EGLE) <SchockN@michigan.gov>
Subject: Army Corp and OHWM

CAUTION: This is an External email. Please send suspicious emails to
abuse@michigan.gov

Hi Neil,

Do you have a local Army Corp contact person? Since Long Lake is the headwaters for the Platte which flows into Lake MI, anything that happens on our lake makes its way to Lake MI. As you know this project is on the same end of the lake as the outflow to the Platte.

Secondly, the Army Corp has made it clear that dredging inland, like the Barnes project, changes the OHWM. Did you tell someone that it did NOT? That this dredging project would **not** change the OHWM? There is some confusion around that, and I just want to clear it up.

Thank you,

Kate

— Attachments: —

ArmyCorpOHWM.pdf

157 KB

Exhibit 28
Email, Champion (USACE) to Boal
8-24-21

Subject: RE: Corps' view of the ordinary high water mark

From: "Champion, April R CIV USARMY CELRE (USA)" <April.R.Champion@usace.army.mil>

Date: 8/24/2021, 4:46 PM

To: Ellis Boal <ellisboal@voyager.net>

My response is shown in red in your email below.

Respectfully,

April Champion

Project Manager, Western Section

Regulatory Branch

U.S. Army Corps of Engineers, Detroit District

OFFICE: (313) 226-5380 FAX: (313) 226-6763

Please visit our Detroit District Regulatory website at <http://www.lre.usace.army.mil/Missions/RegulatoryProgramandPermits.aspx>

We would appreciate your feedback. Our National Customer Service Survey is located at <https://regulatory.ops.usace.army.mil/customer-service-survey/>

From: Ellis Boal <ellisboal@voyager.net>

Sent: Thursday, August 19, 2021 11:18 AM

To: Champion, April R CIV USARMY CELRE (USA) <April.R.Champion@usace.army.mil>

Cc: LuAnne Kozma <luannekozma@gmail.com>

Subject: [Non-DoD Source] Re: Corps' view of the ordinary high water mark

April,

Re Corps File No. LRE-2020-01805-41-S20, the basin-boathouse project of Scott and Debra Law in Lake Charlevoix.

Can you confirm my understanding of our conversation about the OHWM when you called today:

First, the Corps considers Lake Charlevoix as part of Lake Michigan, and in Lake Michigan the OHWM is set vertically at 581.5 feet above the datum point in Quebec. **The administratively determined ordinary high water mark (OHWM) elevation on Lake Michigan is 581.5 feet (International Great Lakes Datum, 1985). The actual OHWM elevation at a site is determined by physical characteristics along the shore established by the fluctuation of the water level. The influence (i.e., water level) of Lake Michigan extends throughout Lake Charlevoix.**

Second, as to the horizontal location of the OHWM at any point around the lake, the Corps determines that by physical characteristics of the shoreline, which sometimes may be visually unclear, say in the case of a wetland. **The OHWM is the line on the shore coincident with the elevation contour that represents the approximate location of the line on the shore established by fluctuations of water and indicated by physical characteristics such as shelving, destruction of terrestrial vegetation, presence of litter or debris, or changes in the character of soil. The landward limit of the Corps' jurisdiction is the ordinary high water mark in non-tidal waters. When adjacent wetlands are present, the limit of jurisdiction extends to the landward limit of the wetland.**

Third, the Corps agrees with us that if the Laws excavate the channel and basin and open them so waters of Lake Charlevoix flow in, the OHWM would advance horizontally from its original location along the natural shore of the lake, to a new location determined by physical evidence along the sides and walls of the channel and basin. **Excavation of a channel and/or basin contiguous with Lake Charlevoix, thereby expands the extent of the ordinary high waters of Lake Charlevoix throughout the entire channel and/or basin.**

Correct?

Ellis

Exhibit 29
Email, Law to Van Zee
10-20-19



Hayes supervisor <supervisorhayestownshipmi@gmail.com>

Re:

Ron Vanzee <Supervisor@hayestownshipmi.gov>
To: "T. Scott Law" <slaw545@icloud.com>

Mon, Oct 21, 2019 at 10:09 AM

Scott and Debbie,

It was a pleasure to meet both of you. After hearing your plans and understanding better, not only what you are doing in other places, but also what your intentions are for this property, I would like to thank you for your service to the community.

As we discussed Saturday, often times people are afraid of change and of things they do not understand. Thank you for your letter explaining your long term goals, your hesitation for allowing people on your property during construction, your admission that maybe there had been misunderstandings on both sides, acknowledging concerns from neighbors but mostly for your willingness to share, such an absolutely beautiful place, eventually with so much of the community.

Again, thank you for the tour and your clarification on so many issues. I appreciate you prompt reply and I will make sure the public is informed.

Ron VanZee

On Sun, Oct 20, 2019 at 7:33 PM T. Scott Law <slaw545@icloud.com> wrote:

Ron,

It was a pleasure to meet you with Bob Drost at our property in Charlevoix. During our meeting we discussed many topics and I greatly appreciate your perspective and hope that you gained a better understanding of our plans for the property and some of the "why" behind our desire to improve, use and preserve the beauty of this unique property. In our desire for privacy, we do agree that we have not been as transparent as we could have been with our neighbors about our plans and want to reiterate that we have simply been developing and learning the property ourselves before we felt comfortable to communicate any plans.

I am a trained pilot and one of the first lessons a pilot learns in emergencies is to Aviate-Navigate-Communicate. What this means is first fly the plane, get your arms around how to get wind over the wings so the plane can fly or glide, second Navigate, which means find a place to land safely or pick the best options available for a safe crash, and finally communicate so emergency help can hopefully meet you there or be available to help you as soon as possible. I tell this story because I think its applicable in this particular circumstance as we bought the first property and have been flying the plane, maybe navigating construction very rapidly and can start to communicate better, which is my intent of this email!

When we purchased the original property, which had a beautiful home not done, 50 acres, a barn, and two shooting ranges pointing back towards our neighbors houses! We were assured from the previous owner and local realtor that he used the ranges all the time and shooting was not a problem. Imagine our surprise that the first time we shot skeet (no rifles or tanaride) and we got a letter from our neighbors whom we have never met asking us to stop shooting all together. We had never shot in our lives and part of the appeal was that we had this property to begin a new hobby and activity. We also asked about putting in a helicopter pad on the 50 acres before we bought the property and were told in no uncertain terms that this would be fine. Again the local realtor said this is "Michigan" and why people buy these properties, there are several people on the lake that have helicopters and helipads, it's a beautiful way to enjoy Michigan.

In 2018, over Labor Day weekend, we had a family reunion as my parents and family are getting older and we wanted to get together with everyone. Our property was the perfect place to host the Reunion and allow everyone to enjoy our property (still original 50 acres). Most of our family would never be able to experience Michigan if we didn't host the event. We rented and paid for over 20 rooms at hotels in Petosky. We rented over 30 rooms in Petosky for the reunion in 2019. We locally rented a tent, and all the extras needed to prepare and serve for meals. We hired local caterers and Bartenders to furnish meals. In 2018, we also put up an inflatable screen to show a video on Saturday night, that was produced from the thousands of pictures of our family members in various stages of life. The video was less than two hours long. Unbeknownst to me, one of our neighbors was swimming at night and noticed the screen. He proceeded to come to our house asked to speak to someone in charge. My brother whom answered the door proceeded to get an ear full after he asked the gentlemen "whats the issue?". The neighbor assumed it was me and he proceeded to tell my brother how having a party with a tent and big screen violated the integrity of the lake and he was filing a complaint because he was a lawyer. I never met the man, never talked to him and no other contact regarding the screen complaint occurred until 10 months later, I received a letter depicting our neighbor's version of events.

In late 2018, we were presented the opportunity to purchase property owned by Bob Powers and various trusts. We negotiated in good faith with Bob and received clear title to all his property with one exception. The exception was one person having "legacy fishing only" rights to the approximate 348 acres, his house, his barn and water front property were all included in our purchase. Bob Powers property included 4 waterfront lots. While Bob may or may not have known the extent of people who used the property, everyone understood that legally transferring property to Debbie and I voided any verbal agreements with Bob and Bob Powers certainly knew of our intention to develop the property, he helped us develop a master plan of the property including location of a shooting shed further away from houses to allow for rifle target shooting and even Tanaride target shooting. We asked Bob Powers about the original complaints on our 50 acre parcel and he reiterated that he has shot for many years, deer hunted in one of 8 blinds on the property and we will have no issues, and if we do, its your property now so keep it legal but do what you want.

During the winter, we improved the trails to allow easy access and navigation to all parts of the property using a wheelchair, bicycles, ride snowmobiles, hike and 4 wheelers. One of the main goals of buying what is now over 400 acres was to allow people from our charitable foundation, our employees, family and friends the opportunity to benefit from this property and hopefully to allow families recovering from traumatic medical or health events to have opportunity to experience Michigan. Additionally we have allowed Bob and his wonderful family to remain on the property, use it like it's theirs and even have allowed several of his people who have respectfully asked to continue to use the property, do so!

We are building log cabins to accommodate our guests on the property with local contractors, lawyers and permitting fees all being paid to accomplish these facilities! Additionally we doubled the property taxes we pay on both properties because we are out of state residence and while I probably could have become a resident I thought this would benefit Hayes township the most!

During our walk of the property, we showed you the cabins we are presently constructing, as well as the extensive work we have done and are doing to build trails, taking into consideration safety, drainage and the environment at every turn! We have spent over a million dollars, hiring local contractors, landscapers, designers and property caretakers, to do the projects I have outlined in this letter. We also discussed that during construction allowing anyone to walk on the trails was an issue of safety and as you may know mud or muck from melting snow is dangerous!

We expressed our concerns allowing neighbors to use these trails without our permission due to us having liability for someone getting hurt during construction or unauthorized hunting on the property without permission resulting in someone getting shot! We have meticulously posted no trespassing signs and we all agreed that it is risky to allow anyone to be on our property during construction as you recently experienced at the park! We built the new shooting shed to point away from the driveway shared by neighbors and to designate or quarantine all such activity in plain sight so nobody would get hurt, we built up burrows of dirt to absorb any bullets and buckshot and frankly we have used it one day and only one day since we built it. We hired the manager of the local Gun Club to supervise design and construct all of the shooting areas. I am not suggesting we will not use it again, but I would like to put some perspective on how often we are actually even on the property let alone using the shooting range. When we do use it we engage the same person who runs the gun club to supervise and ensure safety, we close all gates, put up signs that shooting is in progress and closed all access roads to that section of the property! As for the status of the trails, we are concerned about people walking or bringing their own SUV's on our

property because they are not fully completed and groomed. Even when taking all forms of precautions accidents happen as during our family reunion, one of our guest rolled an ATV fortunately only property damage and no one was hurt. We are not only private people but are being cautious with allowing people, we do not know on the property?

We do also have a helicopter and plan on using it occasionally but worked with our pilots to revise take off and landing patterns over our property only and will try to avoid early morning or late evening landings!

Our future plans include zip lines, horse barn for trail riding and therapeutic activity, a dining facility for guest and events, a winery facility, fly fishing lake and possible golf holes. All private use for friends, family, charity and local organizations as we see fit!

Finally, I would like to thank you for the extra time you have had to invest in hearing complaints from neighbors of ours, our intent is to create a property and welcoming environment that will allow our family, our friends, our charities and perhaps someday our neighbors to get away from the stresses of life in a way that respects the beauty of the land and integrity of the environment but allows the them all to enjoy the pure joy of northern Michigan, I hope our failure to communicate these plans will not ruin this goal, nor will it interfere in anyone else's enjoyment of the lake, their land or their lives. Please also let me know how we can help you as you take on this challenging position and continue to represent and help the people of Hayes township! Thank you for your time and service.

T. Scott Law
CEO
Zotec Partners, LLC

Exhibit 30
Kozma presentation handout to Planning Commission
8-31-21

The Laws' boathouse-basin-channel project is back to Square One

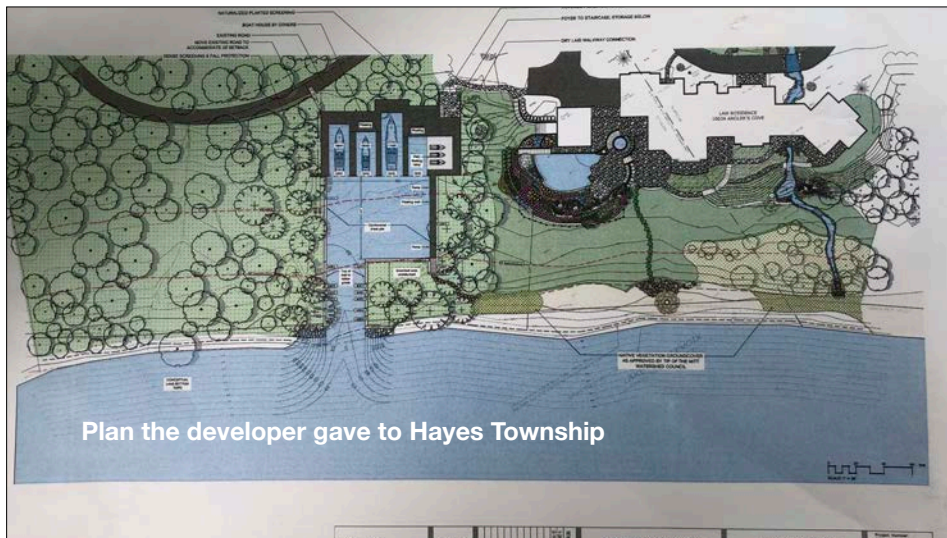
The Planning Commission's approval of this plan in November 2019 violated the Hayes Township Zoning Ordinance and approval has expired. Zoning Permit for boathouse has expired. The Laws have new modified plans that must go before the township again if they re-apply and must be told by the Township they do not have local approvals.

LuAnne Kozma and Ellis Boal, August 31, 2021

The Laws' project proposed in 2019:

A boathouse, basin AND A CHANNEL cut through the Shoreland

Would dredge a channel out into the lakebed, and remove a 30' x 50' section of the Shoreland Protection Strip and turning it into WATER, violating the Hayes Township Zoning Ordinance



Plan the developer gave to Hayes Township



Shoreland Protection Strip, 50 feet back from OHWM

Ordinary High Water Mark along the shoreline

How the Hayes Township decision was wrong

Planning Commission & Shoreland Protection Committee:

DID NOT POST Planning Commission minutes of Nov 2019 decision until pointed out this year. Did not adequately notice the public in November 2019 agenda (not even address of proposed project).

DID NOT DISCLOSE PUBLICLY the Planning Commission Packets, Shoreland Committee Report. No Zoning Administrator reports exist for Oct-Dec 2019.

VIOLATED ZONING ORDINANCE for no participation on Shoreland Protection Committee by Tip of the Mitt (or other organization) as required.

How the Hayes Township decision was wrong

Planning Commission & Shoreland Protection Committee:

VIOLATED THE WATERFRONT REGULATIONS SECTION OF ZONING ORDINANCE: Did not protect the Shoreland Protection Strip, but would allow its destruction and complete removal, transforming it forever from LAND to WATER.

How the Hayes Township decision was wrong

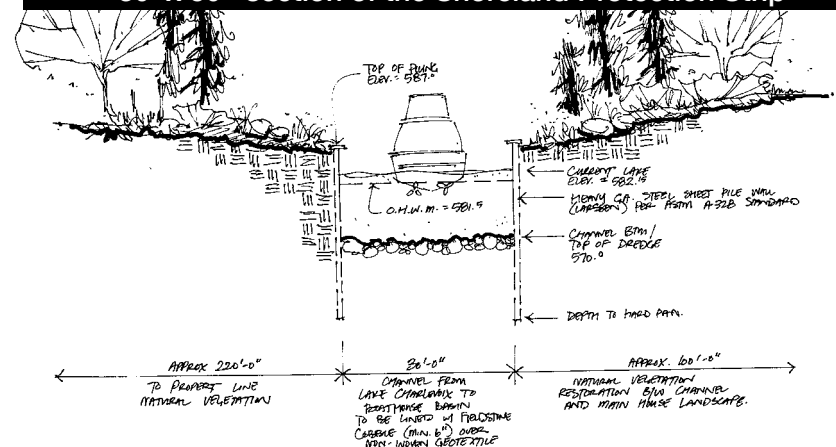
Zoning Administrator:

MISUNDERSTANDS how OHWM would change horizontally with this project, and how proposed boathouse would be directly on the new OHWM.

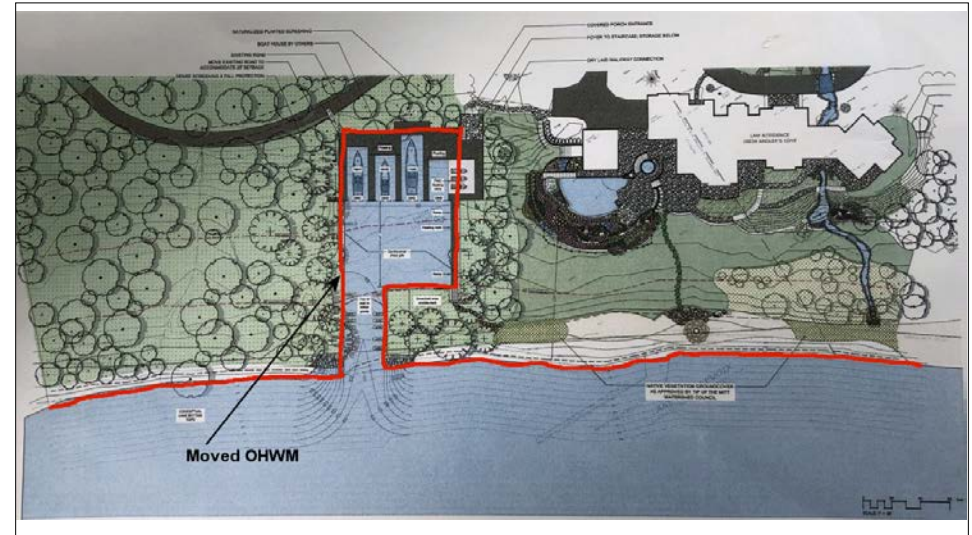
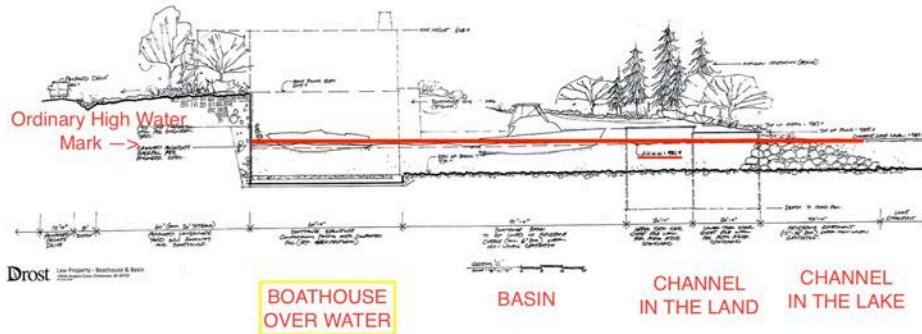
IGNORED Laws' developer's (Drost) **factual representation** that OHWM would move horizontally.

PERMITTED THE BOATHOUSE PREMATURELY violating the Ordinance Section 9.02(3) before all other necessary permits required have been obtained or waived.

2019 site plan cross-section of proposed channel, obliterating a 30' x 50' section of the Shoreland Protection Strip



Developer (Drost) provided this cross-cut section showing clearly how OHWM would extend into channel and basin. (Emphasis added in red and below)



Zoning Administrator Larry Sullivan filed his August 2019 Report on **August 28**

Bringing up 4 questions:

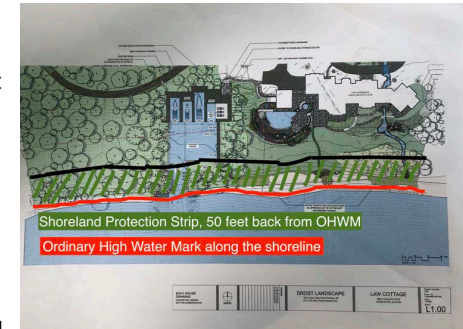
- Where is the current Ordinary High Water Mark and where will it be upon creation of boat basin for purposes of Hayes Township Zoning Ordinance?
- Is the Boat Basin or its walls considered a “structure” for zoning purposes and must it meet setback requirements of Zoning Ordinance?
- Is the Boat House a structure and must it also meet setback requirements?
- Are the number of docks proposed in compliance with numbers allowed in Zoning Ordinance

- **Sullivan did not answer the questions**, said he is beginning his research.
- **He ignored the factual data provided by the Laws' developer indicating where the OHWM would move.**
- **So did Mr. VanZee when he replaced Mr. Sullivan as zoning administrator.**

But on two days earlier, **August 26** in a detailed letter to Scott and Debra Law, Larry Sullivan asked the same 4 questions ... and answered them, not to the public, just to the Laws.

Sullivan said to the Laws in Aug 26, 2019 letter:

- Creation of boat basin would not change location of OHWM after boat basin is built (**WRONG!**)
- Based his decision on conversation with township attorney about Packer Family break wall and basin in past
- SEAWALL and RIP RAP in the basin would be a “structure” and require a VARIANCE



Sullivan said to the Laws in Aug 26, 2019 letter:

- Boathouse is a structure and would need zoning permit, but “since ...located a distance greater than 100 feet from OHWM” no variance needed.
- # of docks exceeds Section 3.14.4.A of Zoning Ordinance, would need approval as a “marina.”

Army Corps writes:

OHWM would move into the basin and channel.

“Excavation of a channel and/or basin contiguous with Lake Charlevoix, thereby expands the extent of the ordinary high waters of Lake Charlevoix throughout the entire channel and/or basin.”

What about the Hayes Township Ordinance that protects the Shoreland Protection Strip?

DEFINITIONS IN THE ORDINANCE

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 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 1885.

Shoreland Protection Strip: A strip of land fifty feet in depth landward from the Ordinary High Water Mark, placed so as to be parallel to the body of water.

Alterations: Any change, addition or modification in construction or type of use or occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed".

Use: The lawful purpose of which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, or maintained, let, or leased, according to this Ordinance.

Section 3.14 Waterfront Regulations

3. Shoreland Protection Strip

A Shoreland Protection Strip shall be required on all waterfront lots. The shoreland protection strip shall include all of the land area located within fifty (50) feet of the Ordinary High Water Mark of a lake or a stream abutting or traversing the property in question. The purpose of the strip is to protect the lake by preventing soil erosion, providing a filter for the removal of pesticides, fertilizers and other potential water pollutants, and to maintain a visual barrier. Within the shoreland protection strip, the following development or use restrictions (A-L below) shall apply:

- **A. The Shoreland Protection Strip shall not be altered more than 20% under any condition, except to remove dead trees or shrubs, remove invasive species, or for selective trimming of trees as permitted in 3.14.3I.**

Shoreland Protection Strip ordinance, continued

The 20% allowance refers to vegetation removal ONLY

- H. Natural vegetation cover, including trees, shrubs or herbaceous plants shall be maintained on at least eighty percent (80%) of the lake or stream frontage within the Shoreland Protection Strip. Please refer to the list of recommended species by Northwest Michigan Invasive Species Network. The list of recommended native species is available at the Township Hall and an electronic link is posted on the Township website. The vegetation on the remaining twenty percent (20%) may be cleared for a single view corridor; or selective trees removed to provide for a filtered view throughout the frontage, provided the cumulative total of the trees removed does not exceed the allowed twenty percent (20%) of the frontage. When trees are removed, root systems shall be left in place for shoreline stabilization. For purposes of this subsection, the natural vegetation coverage within the shoreland protection strip shall be determined by the sum of the area of the waterfront view blocked by all portions of each vegetation plant (trunk, limbs, and leaves) when viewed directly landward behind each plant.

Shoreland Protection Strip ordinance, continued

- K. It is in violation of the zoning ordinance to alter or disturb the Shoreland Protection Strip except to remove dead trees or shrubs, remove invasive species, or for selective trimming of trees as permitted in 3.14.3I. If altered or disturbed, the following corrective measures are required:
 - I. Any and all fill material placed within the Shoreland Protection Strip shall be removed. Only soils or rocks, consistent with the composition of the pre-existing on-site soil and rocks, shall be allowed when necessary for growth of new vegetation. Placement of beach sand is prohibited.
 - II. The Shoreland Protection Strip shall be replanted. The replanted area shall consist solely of native vegetation and any replacement trees, similar in size and species to those removed. Any tree greater than 8 inches in diameter (8 inch in diameter measured at 4.5 feet above the ground) which was removed, shall be replaced at a rate of two trees for the first 8 inches in diameter, and one additional tree for each additional 4 inches in diameter of the original tree removed (*i.e. if a 20" tree is removed—5 replacement trees would be required, 2 for the first 8" and 3 for the other [20"-8"] 12 inches of diameter of the removed tree.*)
 - III. All required replanting shall be replanted with native species as recommended by the Northwest Michigan Invasive Species Network and installed and maintained in accordance with the requirements of Section 3.24.
 - IV. Where native shoreline vegetation does not exist, a combination of native vegetation shall be introduced in a naturalized planting pattern as exemplified by neighboring shorelands that have not been disturbed.

The 20% allowance of vegetation alterations

Is being misused and misunderstood as allowing
Shoreland Protection Strip to be removed, turning it into water

- The Shoreland Protection Committee and the Planning Commission:
- Wrongly equated the 20% alteration allowance with removal of land —> into water.
- Violated the intent of the ordinance— protect and maintain the actual Shoreland Protection Strip.
- On a site review, noted Laws' existing Shoreland Protection Strip was "non functioning" and rather than cite the violations and enforce compliance, allowed a disturbance even more environmentally damaging to the Lake than tree and vegetation removal: permanent damage— removal—of the strip that cannot be undone.
- Wrongly looked to replanting of other areas along the shore as somehow mitigating the terrible damage their decision would deliver to the land and water by removing so much of the land base near the shore.
- Wrongly thought the boat basin would be in an area without vegetation and with a non permeable area, but actually, the boat basin would take out forested area too.

Section 3.14 8 C: Shoreland Protection Committee requires participation by some organization for technical expertise "to ensure compliance." A Tip of the Mitt representative was appointed.

Tip of the Mitt Watershed Council the Planning Commission a letter confirming and clarifying this: THEY DID NOT PARTICIPATE, SIGN OFF ON, OR APPROVE THIS PLAN.

To ensure the compliance with the waterfront provisions in this section, a Subcommittee of the Planning Commission will meet to review waterfront development proposals to provide input and recommendations to the zoning administrator and/or planning commission.

- i. Members of the Subcommittee shall include two (2) members of the Planning Commission and a representative from Tip of the Mitt Watershed Council, the Lake Charlevoix Association, or a similar organization with technical expertise on aquatic ecosystem management.

Tip of the Mitt Watershed Council also wrote two letters strongly opposing the project to the Michigan Dept of EGLE, and to US Army Corps of Engineers, urging both to deny the permits.

Zoning Permit expired, PC approval expired

The Laws are back to Square One

Ron VanZee issued a zoning permit for boathouse on July 8, 2020, prior to all agency approvals, violating Zoning Ordinance
No USACE approval within one year since date of issuance.
Permit expired this past July.

Planning Commission approval of site plan and landscaping plan on November 19, 2019 also expired. FOIA'd documents do not reveal any extension of approval.

NEWS FLASH: The Laws submitted new modified plans

The Laws are back to Square One

On Aug 23, 2021, the Laws' developer submitted new plans to the US Army Corps of Engineers. The modified plans AGAIN CONFIRM that the OHWM would move into the basin.

The Laws say in their modified plans to USACE that they have local approvals.

THE TOWNSHIP NEEDS TO INFORM THE LAWS that they have expired permit, expired approval, and if they want this project, the Laws would need to submit the modified plans and new permit applications.

And this time the Township needs to do the right thing and turn this project down because it violates the ordinance.

Summary

- Planning Commission violated the Zoning Ordinance in 2019 and did not protect and maintain the Shoreland Protection Strip.
- Zoning Administrator wrongly decided the OHWM, thereby wrongly permitting boathouse, and he and Township did not inform public of his decisions.
- Shoreland Protection Committee did not have mandatory participation by group such as Tip of the Mitt.
- Zoning Permit for boathouse is expired, Planning Commission approval of site plan and landscaping plan also expired.
- Laws submitted substantially modified plans to Army Corps and state they have local approval.
- **The Township must inform Scott and Debra Law that local permission has lapsed and expired, that any new or modified plans must be submitted to Township and State of Michigan, and that if they ignore this and proceed to construct this project if and when they receive federal approval, the Township would issue a stop work order and seek a Temporary Restraining Order.**
- The Laws are back to Square One.
- Do the right thing and reject this project. Protect the Shoreland!

Exhibit 31
Kozma email to Planning Commissioners
9-3-21



LuAnne Kozma <luannekozma@gmail.com>

Modified Plans for Law Boathouse/Basin/Channel proposal on Shoreland demand new review

1 message

LuAnne Kozma <luannekozma@gmail.com>

Fri, Sep 3, 2021 at 5:38 PM

To: Roy Griffiths <rwgriffitts3@gmail.com>, Marilyn Morehead <morehead.m@gmail.com>, "Bajos, Ed" <edbajos@gmail.com>, Omar Feliciano <omiimedia@gmail.com>, greensladerex@gmail.com, steve@bulmanndock.com, Larry Sullivan - Zoning <zoning@hayestownshipmi.gov>, Ron Van Zee <supervisor@hayestownshipmi.gov>, kristin baranski <clerk@hayestownshipmi.gov>, kristin baranski <deputyclerkhayes@gmail.com>, Matt Cunningham <trustee2@hayestownshipmi.gov>
Cc: "Treasurer W. Robbin Kraft" <treasurer@hayestownshipmi.gov>, hayestrustee5@gmail.com, ad Doyle@charlevoixcourier.com, Ellis Boal <ellisboal@voyager.net>, Jennifer McKay <jenniferm@watershedcouncil.org>, Doug Craven <dcraven@ltbbodawa-nsn.gov>

To: Hayes Township Planning Officials

From: LuAnne Kozma

RE: Law Boathouse-Basin-Channel project modified plans for the Shoreland Protection Strip and expired Hayes Township approvals require new township review

The Laws Submitted Modified Plans.

Attached please find a copy of the modified plans submitted on August 23, 2021 by Scott and Debra Law's agent, Bert Ebbers of Great Lakes Ecosystems, to the Army Corps of Engineers. Tip of the Mitt Watershed Council received these plans and was asked to comment on them.

As the developer for the Laws, Mr. Ebbers says in his modified proposal on page 2, "So we are proposing a **major modification**..."

I agree it's a major modification to remove the seawalls from the proposed project and expect this large excavated pit into the upland, to be held together merely with rocks and dirt and some plants. The planting plan is also extensively different than the one submitted to the Hayes Planning Commission in 2019, and involves a different layout and sloping of the land.

Now that you know that the Laws have submitted major modifications to their plans, Hayes Township must tell the Laws that they would need to come back to the Township for the mandatory site plan review.

Waterfront Regulations Section 3.14.(8), which reads in part:

8. Waterfront Development Review

A. Intent

It is the intent of the Waterfront Development Review process described below to promote the gradual, systematic, and long-term restoration of the Shoreland Protection Strip.

- i. To ensure compliance with the waterfront regulations described in 3.14 (1-5), an added layer of review is required for all residential waterfront development and any modifications to the Shoreland Protection Strip. This added layer of review requires a Shoreland Landscaping Plan (3.14.8B) in most instances for the area within one hundred (100) feet of the Ordinary High Water Mark and Site Plan Review for all new residential waterfront dwelling units.
- ii. For the area of land waterward of the Ordinary High Water Mark, MDEQ and/or Army Corps of Engineers permits must be obtained for any construction or changes since the alternation of the shoreline will have significant effect on the Shoreland Protection Strip,

and thus the health of the water body.

- iii. An advisory Subcommittee of the Planning Commission has been created to review waterfront developments and facilitate compliance with the waterfront provisions in this section. The requirements placed on property owners will be in proportion to the proposed activity.

B. Shoreland Landscaping Plan

The purpose of the Shoreland Landscaping Plan is to ensure that waterfront development will not negatively impact water quality.

- i. The Landscaping Plan shall address the conditions set forth in Section 3.14 (1-5).
- ii. The Landscaping Plan shall address the elements set forth in Section 3.24 Landscaping.

Article III: General Provisions III-11 Amended: April 9, 2018

Hayes Township Zoning Ordinance Effective: April 25, 2018

C.

iii. Prior to receiving a zoning permit to build or increase the footprint of a waterfront structure, a Shoreland Landscaping Plan with the following information is required:

1. A detailed inventory of the existing 50-foot Shoreland Protection Strip area, including the locations of trees, shrubs, and ground cover, with notes as to the locations of native and non-native species.
2. A detailed inventory of all structures within one hundred (100) feet of the Ordinary High Water Mark.
3. A detailed inventory of planned changes to the 50-foot Shoreland Protection Strip area, including tree removals and/or plantings, vegetation removal and/or plantings (if applicable).

Shoreland Protection Subcommittee

To ensure the compliance with the waterfront provisions in this section, a Subcommittee of the Planning Commission will meet to review waterfront development proposals to provide input and recommendations to the zoning administrator and/or planning commission.

- i. Members of the Subcommittee shall include two (2) members of the Planning Commission and a representative from Tip of the Mitt Watershed Council, the Lake Charlevoix Association, or a similar organization with technical expertise on aquatic ecosystem management.
- ii. Each member of the Subcommittee shall be appointed by the Planning Commission chairperson to a term that coincides with their regular planning commission term.
- iii. The Subcommittee is advisory only, reports directly to the Planning Commission, and does not have the authority to make final decisions.
- iv. Section 3.14.8D summarizes what actions trigger review by the Subcommittee.

Subcommittee.

D. The following table summarizes the information required and the review process for residential development on waterfront properties:

Location	Triggering Actions	Review Process	Data Required
Any Conforming Waterfront Lot	Modification of an existing structure without changing the building footprint.	Administrative Review by the Zoning Administrator	Plot Plan as described in Section 5.02.
	Modification of the spatial dimensions of an existing structure (less than 50%) or the addition of an accessory structure.	Administrative Review by the Zoning Administrator with input from the Shoreland Protection Subcommittee	Plot Plan as described in Section 5.02. and a Shoreland Landscaping Plan as described in Section 3.14.8A.
	A new residential home construction or a major reconstruction (over 50%).	Planning Commission Site Plan Review with input from the Shoreland Protection Subcommittee	Shoreland Landscaping Plan as described in Section 3.14.8A. and Site Plan Data required in 5.03.3.

Within the 100-foot shoreline setback	The addition or modification of a walkway, retaining wall, or patio/deck.	Administrative Review by the Zoning Administrator with input from the Shoreland Protection Subcommittee	Plot Plan as described in Section 5.02. and a Shoreland Landscaping Plan as described in Section 3.14.8(A).
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Hayes Township approvals have expired.

But there are additional reasons the Laws must be notified.

The site plan approval by the Planning Commission on November 19, 2019 has expired, per Section 5.03(9). They could have sought an extension but they did not.

The Laws' zoning permit has also expired. The condition applied to all Zoning Permits is they automatically expire one year after issuance according to the Hayes Township Zoning Ordinance, in Section 9.02(5). A copy of the zoning permit, that I obtained in a Freedom of Information Act request, is attached.

The special condition on the Laws' permit, that all other agency approvals must also happen, did not alter the issuance date of the permit signed by Mr. VanZee on July 8, 2020.

But the permit should not have been issued in the first place, until all other permits were granted, according to Section 9.02(3) of the Zoning Ordinance.

Therefore, a site plan review is still required first, but a zoning permit should not be issued until after obtaining other permits required by permit.

Non-permitted Paved Drive on the Laws' Property.

Thirdly, what also triggers a new site review of the Laws' modified plans, is that the Laws have a newly-paved drive on their Shoreland Protection Strip going down to the waters edge that is in violation of the Zoning Ordinance. See the photo of this paved road that I took this summer, and the attached PDF of photos taken a year ago on a site review in August 2020 by Michigan Department of Environment, Great Lakes and Energy, showing the drive as gravel and grass with no pavement.

The modifications that the Laws presented to the US Army Corps of Engineers would also be a modification of an existing structure in the Shoreland Protection Strip, would remove the paved drive, and this too triggers a site review of the modified plans by the Township.