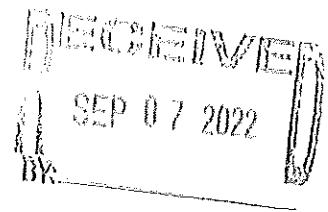


TO: City of Village of Douglas
City Manager Rich LaBombard,
City Planner Nick Wikar,
City Clerk Pamela Aalderink,



DATE: 09.22.21 RESUBMITTED 09.06.22

FROM: Fran and Jim Martin
147 Ferry Street
Tower Harbor Condominiums
Douglas MI 49406
269.857.4696

SUBJECT: PUD APPROVAL WEST CENTRE COLLECTIVE DEVELOPMENT

After thoughtful consideration, we cannot and do not support the PUD APPROVAL for the West Centre Collective Development.

We have walked the property, as well as having read and discussed at length the overview for the West Centre Collective Development, on several occasions with multiple residents. Our decision was not reached lightly.

We request that the City of The Village of Douglas consider denying PUD approval for the West Centre Collective Development.

What is the plan for managing increased traffic?

- The streets, Center, St Peter's and often Ferry, are congested, especially during season and prior to and following mass. In addition to cars, there are dog walkers, joggers, walkers and cyclists. 83 units consisting of folks who will live, rent and visit will add to the congestion as we have experienced with Artisan Row.

What is the plan for commercial use?

- In addition to or in competition with Downtown Douglas which offers galleries, eateries, and shopping.

What is the size of a small foot print home?

- 83 mixed use units built on a little under 11 acres and proposed with the promise to preserve trees, the environment and include green spaces. Suggests a development of tiny homes, modulars or pre-fabs,

What are the benefits to the community?

- From developer email to residents 9/16/21, "PLEASE SHARE YOUR SUPPORT..." *"The benefits to the community will be significant and far reaching: the creation of important new jobs, a substantial increase in the tax base and answering the call to the clear and obvious housing void.*

What are the answers?

- How many and what type of new jobs?
- How much is a substantial increase to the tax base?
- What is considered affordability when answering the obvious housing void?

3063 May Avenue
Douglas, MI 49406
September 13, 2022

To: City of the Village of Douglas
Planning Commission

Re: Proposed developments at 324 Center Street and 485 Ferry Street

As a seasonal resident and homeowner in Douglas for over 25 years, I am writing to voice my concerns over the above-referenced proposed condominium developments within our city. Since I must travel down Center Street to access my property, I have seen how just the addition of the Woosah Outdoor Coffee establishment (this summer) has impacted both the traffic on Center (and Ferry) and the congestion caused when both it, and the Barrel, are open for business. I've witnessed 'near misses' – accidents between cars and/or pedestrians at the intersection, too. Adding the development at 324 Center will compound the traffic flow, pedestrian traffic and take away the little greenspace that exists from the Center & Blue Star intersection to the one at Ferry & Center.

In a similar way, the 'much larger' proposed condominium development at 485 Ferry Street will not only add people and cars to the two-lane (quite beat up) Ferry Street, but significantly increase the 'density' of that area. Although the Haworth property has been an eyesore for a while, with the addition of Isabel's a few years ago, the intersection where Ferry meets Blue Star has become much more dangerous with the adjacent entrance to Isabel's. I would expect that, with the increased population from this new development, a traffic signal at that intersection would be necessary. I recall that, at one time, there was a movement to 'beautify' the Blue Star Highway as an 'entrance' to the City of the Village of Douglas. I hardly think a 90-unit condominium complex would be a welcome sign to our town!

Sadly, the community I remember 50 years ago is long gone, (my family came here in my youth), and the last 25 years have brought changes that, to me, are not positive. We have points of pride: our new library, the Old School House, our 'spruced up' downtown, and the Wade's Bayou and marina efforts, but the continued development, the additional people (many of whom are renters without a vested interest in the area), and the demands these developments and people put on our infrastructure, our businesses and our 'way of life' are not worth it. Please think beyond the tax dollars these developments will generate for the village coffers and be prudent in changing the 'village' structure of our town of Douglas, Michigan. Thank you.

Louise Patrick

Pam Aalderink

From: Debbie Larsen <debhd_99@yahoo.com>
Sent: Thursday, September 1, 2022 4:25 PM
To: Rich LaBombard; Pam Aalderink; Jerry Donovan
Subject: Center street development project

Hello

I would like this to get presented to the planning committee on September 21st, 2022. I am hoping to be able to attend the meeting but have to go out of town and will be returning late afternoon on 21st so in case travel plans get delayed I would like this letter presented. I attended last years meeting about this development and as a Douglas resident of 23yrs I have concerns about the density of the project, size of homes, traffic on Center st and St Peters Drive and many more issues. I feel the city has an obligation to the community to consider all of these issues and not let a developer who is in it for a profit and not the best interests of the city to push his way threw all of the concerns from residents. Our little city has had way too much traffic, people etc since Covid began to take on any more seasonal population. I also feel these small condos will be bought up quick ans rented out on VRBO or Air B&B. I am sure since Nick W left in August this developer got this on the planning committee quickly.

Thank you
Debra Larsen
3071 May st
Douglas,MI

**Olaf Huebner
177 Saint Peters Drive
Douglas, MI 49406**

TO: Douglas Planning Commission

DATE: September 16, 2022

RE: 324 W. Center Street Condominium Subdivision Plan

To Whom It May Concern:

I do not support the condominium subdivision plan due to the following concerns with the developer's current by-right application. I live within 300ft of the proposed development. My comments are to both the Planning Commission and the developer as they are applicable.

Common Elements

1. Green space – the majority of the common area that was going to be set aside as green space in the PUD plan has been eliminated.
 - a. Please consider adding more green space to the plan.

2. Road and sidewalks – the internal roads and sidewalks are not listed in the draft bylaws as being public but instead are only for co-owners and their agents, tenants, family members and licensees.
 - a. Please consider designating these common elements so the public has the right to pass.

3. West Shore Ct sidewalk – the sidewalk stops between the “Beechwood Way” crosswalk and the detention basin fence
 - a. Please consider extending the sidewalk to the western limit of the property to allow pedestrians to traverse the entire development frontage along West Shore Ct on the safety of a sidewalk

4. Detention Basin – the former PUD plan included a retention pond that was to be full of water and serve as an aesthetic feature to the community. The new plan includes a detention basin, which will be an empty hole that will only fill temporarily during precipitation events.
 - a. Please consider revising the plan to create a more aesthetic means of handling storm runoff than a several acre fenced pit

5. Screening – when the mature trees are cleared on the western limits of the property to excavate the stormwater detention basin, the stark and impending boat storage structures on Hamilton street will loom large over the site.
 - a. Please consider using appropriate screening techniques such as the planting of large evergreens along the western edge of the property to screen these buildings

Safety

6. Short Term Rentals - The draft bylaws allow all developer owned units to be short term rentals, 10% of all non-developer owned units to be short term rentals, and all other non-developer units to be leased for 30 days minimum.
 - a. Please consider not allowing short term rentals in the development at any time, and extending the minimum lease requirement to 3 months or greater to address the housing shortage and eliminate the safety and nuisance attributed to short term rentals

7. Traffic – The proposed condominium will add to an already hazardous traffic condition on St Peters Drive. The majority of traffic neither obeys the posted speed limit of 25mph nor stops at the three-way intersection at St Peters Drive and West Shore Court. The intersection of St Peters Drive and Blue Star Highway is already perilous.
 - a. Please consider evaluating the traffic situation on St Peters Drive and West Shore Court during peak tourist season to ensure safety of the infrastructure to support the development

Commercial Space

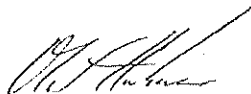
8. With many existing commercial spaces in downtown Douglas already vacant, Douglas' small year-round community cannot support this much additional commercial space.
 - a. Please consider reducing the amount of commercial space to ensure both that it can sustain tenants for 100% occupancy for the entire year and that it does not oversaturate the commercial space and draw businesses or would be patrons from downtown Douglas and the DDA.

Timeline

9. Construction – Due to the scope and scale of the development, it would be appreciated by neighbors to have a construction timeline with phases including a staging plan.
 - a. Please consider developing a timeline to communicate to adjacent property owners

This is a unique parcel that, when developed, may change the character of the adjacent residential neighborhood as well as the community. It is imperative that the Planning Commission and the developer do their due diligence in ensuring that when this project is approved or approved with conditions it not be adverse to the safety and welfare of adjacent landowners and the city as a whole.

Best Regards,



Olaf Huebner

December 7, 2022

RE: Centre Collective Multi Use Commercial
324 West Center Street, Douglas, MI Parcel 59-016-033-00

To the Planning Commission of the City of the Village of Douglas

Comments

1. Front yard setback from Center Street does not seem to be in any alignment with properties to the West of the development. Building A front yard setback is a lot closer to Center Street than other buildings West of the property. Properties west of Hamilton Street are even located further from Center Street. This irregularity on the street setbacks is very arbitrary.
2. Side yard setback on Building A is only 5 feet. There is no green landscaped buffer as shown on the Architects plans with mature trees providing a buffer. There is a chain link fence separating the development from the property to the West and no landscaping buffer as indicated in earlier schemes.

Sincerely submitted,

By

Lakepoint Investments, Inc/ 14 Hamilton Street, Douglas, MI

Property located immediately to the West of the Proposed development on the corner of Center and Hamilton Streets.



December 8, 2022

City of the Village of Douglas, Michigan
c/o Ms. Tricia Anderson
Williams & Works, Planning Consultants to the City

VIA EMAIL ONLY: Anderson@williamsworks.com

Dear Ms. Anderson:

You have requested that Plunkett Cooney, acting in its capacity as City Attorneys for the City of the Village of Douglas (the "City") advise the City and City Planning Commission concerning the proper interpretation of provisions of the City's Design Guidelines for Multi-family Development (July 1, 2013) (the "Design Guidelines").

To provide context to our remarks, the City Planning Commission is scheduled to consider its recommendation to City Council regarding the proposed Forest Gate Townhomes Condominium, a 90-unit condominium multi-family development ("Forest Gate") to be located within a R-5 (Multi-family) Zoning District. In that regard, we have reviewed your report and recommendations to the City Planning Commission, dated November 28, 2022 (the "Report"). It is our understanding that, in response to that portion of the Report which addresses compliance with the Design Guidelines (as appears to be required by Article 8, Section 8.02 A, of the City Zoning Ordinance), you, and we, received a letter on December 5, 2022, from attorney William A. Sikkel, IV, representing the developer of Forest Gate, which letter, *inter alia*, challenges your interpretation of the relevant provisions of the Design Guidelines as compulsory.

We note that Mr. Sikkel also argues that:

- (i) his client may have been misled by a failure of the City to identify Design Guideline deficiencies in connection with prior formal and informal proceedings, or, perhaps, by unspecified assurances received from the City's former Zoning Administrator; and,
- (ii) the application of all relevant provisions of the Design Guidelines as compulsory for Forest Gate may be inconsistent with the City's prior application of the Design Guidelines to other approved multi-family developments.

Our opinion that follows should NOT be interpreted as expressing any view concerning the truth or relevance of any such additional claim. Such matters are, by their nature, inherently issues of mixed law and fact which only may be evaluated after a thorough investigation of

ATTORNEYS & COUNSELORS AT LAW

101 North Washington Square, Suite 1200 • Lansing, MI 48933 • T: (517) 333-6598 • F: (517) 333-6694 • plunkettcooney.com

City of the Village of Douglas, Michigan
c/o Ms. Tricia Anderson
Williams & Works, Planning Consultants to the City
December 8, 2022
Page 2

all relevant facts. We have no independent knowledge concerning these claims and, as Mr. Sikkel's letter was only received Monday, we have conducted no such investigation.

To our best recollection, the authors of this opinion were not involved in the initial discussion or drafting of the Design Guidelines, nor are we aware of any development context in which they previously have been interpreted by the City or by any court in a legal proceeding.

Lastly, we believe that the City Zoning Ordinance and Design Guidelines, together, constitute sufficient notice to Mr. Sikkel's client as to permit the Planning Commission require compliance with all compulsory provisions of the Design Guidelines, together with such non-compulsory provisions as the Planning Commission reasonably may determine appropriate to accomplish the intent of the Design Guidelines.

We observe that the Design Guidelines are expressed in the form of the City's "Intent", "Standards" and "Guidelines" for multi-family development in each of three categories: Site Design, Building Design and Landscaping. All categories are further divided by subject matter sub-category, although not all sub-categories include a "Standard".

Virtually without exception, "Standards" are expressed throughout the Design Guidelines with the word "shall". In the absence of any expression of a contrary intent, the word "shall" is to be interpreted as requiring compliance with the action or requirement expressed. We are of the opinion that Forest Gate compliance with all elements described in the Design Guidelines as "Standards" is compulsory, except as the Planning Commission may recommend, and the Council approve, a waiver of any such "Standard".

Many design elements listed as "Guidelines" also are expressed as actions or design elements that "shall" or "must" be observed. To avoid ambiguity, we would have preferred that these instead be expressed as "Standards"; however, we are satisfied that any "Guideline" that "shall" or "must" be performed or observed should be interpreted as compulsory, in the same manner as a "Standard".

Although many of the remaining "Guidelines" are expressed with words such as "provide", "avoid", "cluster" etc., they do not incorporate words such as "shall" or "must" and, consequently, we construe all such "Guidelines" as a City preference or recommendation, only. As such, we believe that the City Planning Commission should consider Forest Gate compliance, or not, with any such Guideline as merely one element relevant to its determination of overall compliance with the expressed "intent" of the relevant Design Guideline, and, ultimately, whether the Planning Commission will recommend Council approval.

The Report expresses concern that the design and location of Forest Gate buildings may not

City of the Village of Douglas, Michigan
c/o Ms. Tricia Anderson
Williams & Works, Planning Consultants to the City
December 8, 2022
Page 3

fully comply with the "Site Design" Guidelines. Applying the interpretation rules of the two preceding paragraphs, with the exception of "Site Design" sub-categories C.8 (Common Open Space) and D (Parking/Circulation), which appear to be compulsory, the "Site Design" Guidelines appear to us to be non-compulsory recommendations, only, non-compliance with which the Planning Commission has discretionary authority to consider when determining whether the Forest Gate proposal adequately achieves the expressed "Site Design" "intent".

We trust that the foregoing may be helpful to the City and City Planning Commission when interpreting and applying the Design Guidelines in this instance.

Very Truly Yours,

PLUNKETT COONEY

/s/ Philip A. Erickson

Philip Erickson
Plunkett Cooney, City Attorneys

/s/ David Keast

David Keast
Of Counsel, Plunkett Cooney

cc: Rich Labombard, City Manager

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williams&works

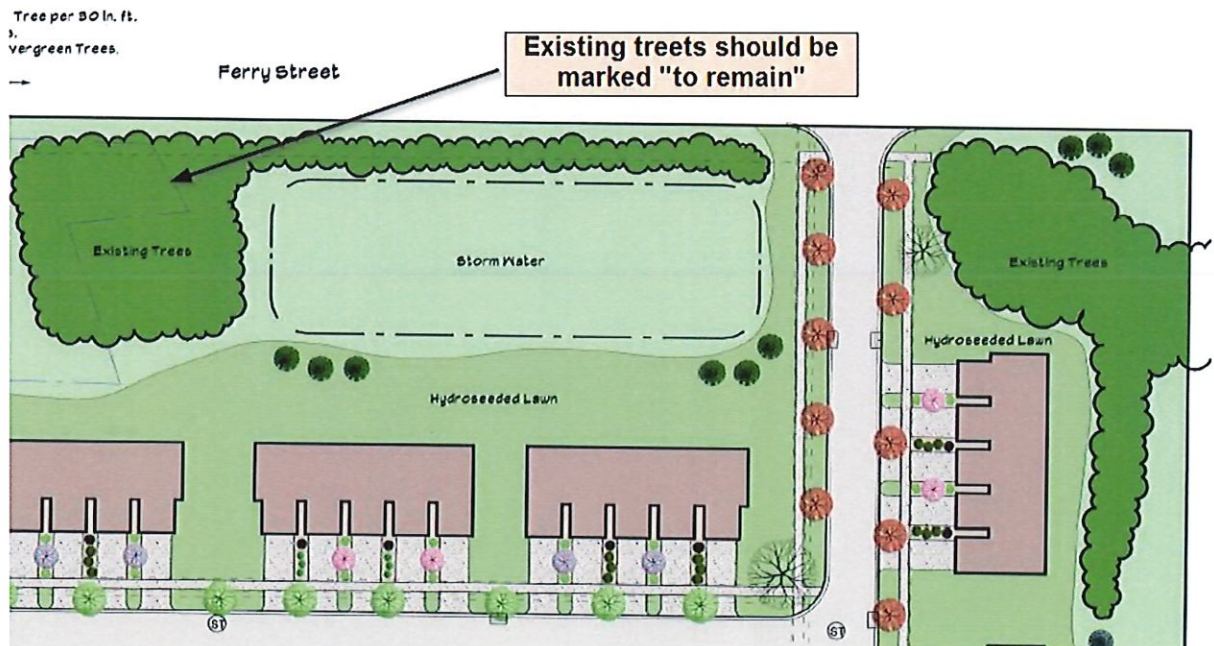
engineers | surveyors | planners

MEMORANDUM

To: City of The Village of Douglas Planning Commission
Date: December 8, 2022
From: Tricia Anderson, AICP
Andy Moore, AICP
RE: Forest Gate Condominium Project – Multifamily Design Guideline Standards Review

This memorandum is intended to supplement our review of the Forest Gate Condominium Project as it relates to the standards and guidelines within the Multifamily Design Guidelines for the City of the Village of Douglas, written in 2013. There has been some debate about how to best utilize the guidelines and what elements of the guidelines are *required*, and what elements are merely *encouraged*. The standards and guidelines listed below are included as *requirements*, based on their compulsory use of the word *shall* in each statement in the guidelines. Our remarks are included after each standard.

1. *Developments shall comply with the City's tree preservation ordinance.*



Remarks: A revised plan set should mark the existing trees shown on the landscaping plan as "to remain".

This standard *may* be met with additional information shown on the plan.

2. *Developments shall be oriented parallel to the public street, with setbacks from the street used to create landscaped open space.*

Remarks: The wetlands and location of the stormwater detention are limiting factors in placing the units to face Ferry Street. The units face the proposed public streets, however, driveways are the predominant feature within the front setback. A 4' landscaped strip is provided.

This standard is *not met* due to the driveway surface covering the majority of these areas.

3. *Primary building entries shall be clearly identifiable and visible from the street, with well-defined walkways from pedestrian routes.*

Remarks: The building entries are identifiable and visible from the street with a path from the driveway to the porch.

This standard is *met*, given the standard below not requiring a direct connection between the public sidewalk and the porch entry when the buildings face a public sidewalk.

4. *Common outdoor spaces shall provide at least three of the following amenities to accommodate a variety of ages and activities to meet the needs of the residents:*
 - a. *Site furnishings (benches, tables)*
 - b. *Play areas (locate away from public streets)*
 - c. *Gardens*
 - d. *Patios or courtyards made of special paving, such as stone, brick or other unit pavers*
 - e. *Covered structure (i.e. pergola, pool house, etc.)*
 - f. *Water feature*
 - g. *Significant viewshed (i.e. waterfront, hillsides, etc.)*



Remarks: The applicant has not shown any of these features on Sheet C101. The landscape plan does show some structures, however, it is unclear what these structures are. The amount of open space provided for this development would afford plenty of options for placing at least three of the above-listed amenities.

This standard *may be met* if the applicant can provide additional amenities within the open space.

5. *Parking areas shall be located in the development's interior and not along street frontages. Driveway openings along street frontages shall be limited to one per 150 lineal feet of street-facing property.*

Remarks: The applicant proposes to provide parking areas within individual driveways and not within a parking lot. The spacing of driveways is one per 4 feet per building along street frontages and each building is spaced a minimum of 30' from the adjacent building. This standard would imply that garages should be placed at the rear of the buildings, and not along the street frontages as they are shown.

This standard does *not appear to be met*.

6. *The number of trees required in the interior landscape area in parking lots shall be dependent upon the location of the parking lot in relation to the building and the public right-of-way (street):*
 - a. *Where the parking lot is located between the building and the street, one tree for every four spaces shall be provided (1:4)*
 - b. *Where the parking lot is located to the side of the building and partially abuts the street (max. 50%), one tree for every six spaces shall be provided (1:6)*
 - c. *Where the parking lot is behind the building and is not visible from the street, one tree for every eight spaces shall be provided (1:8)*

Remarks: The above standard may also only be applicable to multifamily developments that would contain a parking lot. While this development does not propose any parking lots, the applicant has provided a significant number of trees both along street frontages and within open areas.

In our view, this standard is *not applicable*.

7. *Parking lot lighting shall be placed to create adequate visibility at night and evenly distributed to increase Security;*

Remarks: Again, no parking lot is proposed, however, street lighting is provided within the development.

In our view, this standard is *not applicable*.

8. *Parking areas shall be designed to*
 - a. *Control vehicle speeds with appropriate signage, changes in roadway texture, and other traffic-calming devices, where necessary.*
 - b. *Avoid blank walls with rows of garage doors that face the public street front.*
 - c. *Use single-car garage doors, rather than double-car garage doors.*
 - d. *Provide landscaping around garages, and tuck-under parking.*

- e. *Include an adjacent pedestrian entry path that connects to the public sidewalk along entry drives.*
- f. *Provide elements that define the main pedestrian entry, including lighting, textured paving, and accent plants.*

Remarks: This standard seems to apply to all parking areas, not just parking lots. The applicant has indicated that the guest parking will be located in each driveway. The proposed design with driveways and “blank walls with rows of garage doors that face the public street” are preventing the applicant from meeting these standards.

The applicant should consider providing some on-street parking to create traffic calming for the long stretches of straight roadways where buildings are located, once the building design is modified.

This standard *is not met*.

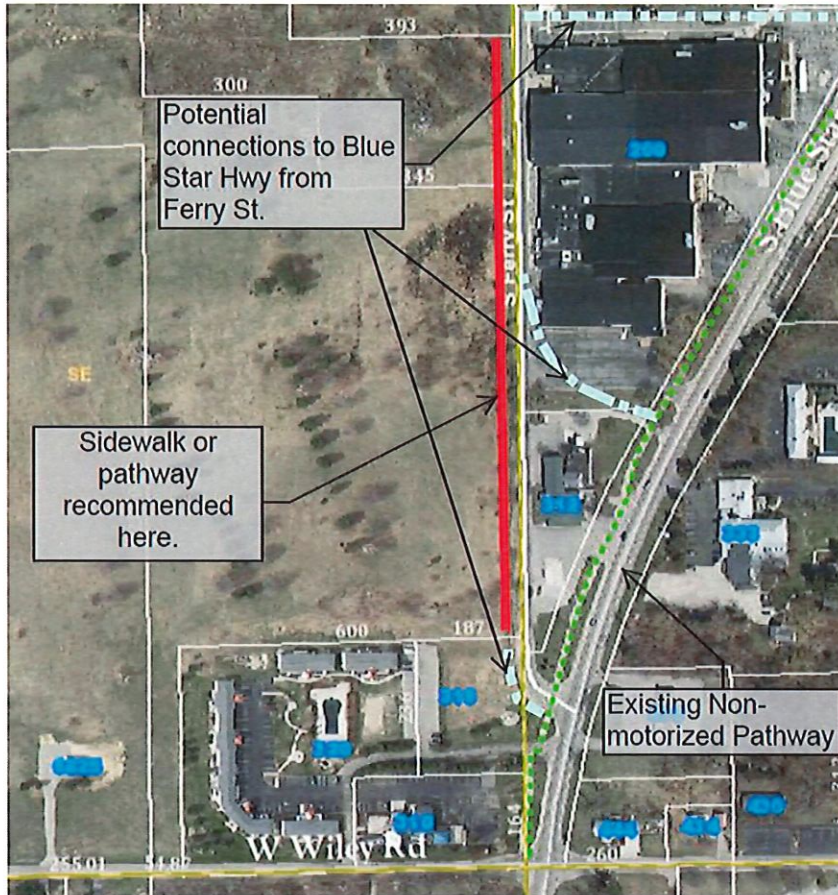


1. *A comprehensive system of pedestrian walkways shall link all site entrances, building entries, parking areas and common outdoor spaces with the public sidewalk.*

Remarks: Sidewalks run along all streets and are connected to pedestrian paths within the open spaces. The site entrance is not connected to sidewalk along Ferry Street. We have made the recommendation that the Planning Commission recommend to the

City Council that sidewalks be constructed along Ferry Street to create pedestrian connections to the surrounding community via Blue Star Highway.

This standard *may be met* with the addition of sidewalks along Ferry Street.



2. *Clearly defined pedestrian connections shall be provided:*
 - a. *Between public sidewalks and building entrances when buildings are not located directly adjacent to the sidewalk.*

Remarks: The buildings are located directly adjacent to a sidewalk, thus it appears that a direct connection to the sidewalk from the entry is not required, given the design.
 - b. *Between parking lots and building entrances.*

Remarks: The development does not propose any parking lots.
3. *Pedestrian walkways shall be a minimum of 5 feet of clear, unobstructed passage and the type and nature of all materials shall be consistent within a development.*

Remarks: The pedestrian walkways are largely unobstructed, however, since they run through the driveways of the units, there is potential for a vehicle to block the driveway. The driveway is 25' in length which is sufficient to park a full-size four-door pick-up truck. Is that 25' from the inside of the sidewalk or 25'; from the street?

This standard *appears to be met*.

4. *Walkways shall be accessible to disabled persons and in conformance with the Americans with Disabilities Act*

Remarks: It is unclear what surface type is proposed for the walking path through the open space.

This standard *may* be met with additional information.

5. *Primary building entries shall be clearly visible from the nearest public circulation walkway.*

Remarks: The building entries are recessed but they are clearly visible from the public street and the sidewalk.

This standard *appears to be met*.

6. *A minimum of 50% of the front yard shall be landscaped and planted.*

Remarks: The front yard is primarily occupied by driveways to the units, with a 4.5' strip of landscape area between the five driveways for each building.

This standard *is not met*.

7. *Each individual unit shall have its own private walkway to the front door at ground level.*

Remarks: There does not appear to be any walkways connecting the building entry to the driveway. The image below provided by the applicant's attorney seems to depict a concrete path that connects the driveway to the recessed entrance of each unit. This is not reflected in the site plan sheet C101. Regardless of this fact, the driveways themselves do not constitute as a private walkway to the front door at ground level.



8. *Walls, shrubs and other visual obstructions between the public realm and the building shall be limited to a maximum 3 ft height to allow easy surveillance.*

Remarks: No walls or shrubs are proposed between the street and the units.

This standard appears *to be met*.

9. *Horizontal facades longer than 30 feet shall be broken down into smaller units, reminiscent of the residential scale of the neighborhood. At least three of the following methods shall be included:*

- a. *roof forms such as gables and dormers*
- b. *changes in materials*
- c. *bays or projecting balconies*
- d. *recesses/offsets*
- e. *windows*

Remarks: At least three of the above architectural features have been provided.

This standard appears *to be met*

10. *Buildings shall include articulation along the facades facing and visible from public right-of-way. Modulation elements shall have a minimum 2-foot projection or recession from the facade, and be a minimum of 6 feet in length.*

Remarks: This standard appears to be met with the porch recession and the varied façade projections.

Based on the above analysis, there appears to be enough misalignment with the Multifamily Design Guidelines to shift the layout of the plan if changes were to be made. Because of this, the recommendation remains that the Planning Commission take their time to consider all the information presented at the upcoming meeting, to guide their decision in tabling the item until such time that the applicant can better align with the requirements of the Multifamily Design Guidelines.

December 7, 2022

RE: Centre Collective Multi Use Commercial
324 West Center Street, Douglas, MI Parcel 59-016-033-00

To the Planning Commission of the City of the Village of Douglas

Comments

1. Front yard setback from Center Street does not seem to be in any alignment with properties to the West of the development. Building A front yard setback is a lot closer to Center Street than other buildings West of the property. Properties west of Hamilton Street are even located further from Center Street. This irregularity on the street setbacks is very arbitrary.
2. Side yard setback on Building A is only 5 feet. There is no green landscaped buffer as shown on the Architects plans with mature trees providing a buffer. There is a chain link fence separating the development from the property to the West and no landscaping buffer as indicated in earlier schemes.

Sincerely submitted,

By

Lakepoint Investments, Inc/ 14 Hamilton Street, Douglas, MI

Property located immediately to the West of the Proposed development on the corner of Center and Hamilton Streets.

SIKKEL

& ASSOCIATES PLC

WILLIAM A. SIKKEL, IV
bsikkel@sikkellaw.com

42 East Lakewood Boulevard
Holland, Michigan 49424
616 394 3025
www.sikkellaw.com

December 5, 2022

Tricia Anderson
Williams & Works
549 Ottawa Avenue, NW
Grand Rapids, MI 49503

Re: Forest Gate Townhome Condominium

Dear Ms. Anderson,

Myself and my team have reviewed your November 28, 2022 Memorandum to the City of Douglas Planning Commission regarding the above referenced project ("Project"). In your Memorandum you expressed concern that the Project did not conform to the City of Douglas Design Guidelines for Multi-Family Development ("Guidelines") and indicated that you believe the provisions stated within the Guidelines are mandatory.

This position is in conflict with statements by your predecessor Nick Wickar. My clients had met with Nick on a couple of occasions early on in the design process and before submitting an application. Based on those meetings it was my client's understanding that the Guidelines were exactly that, guidelines for consideration, but not mandatory. My client relied on those representations in designing the Project.

It is also in conflict with the language of the Guidelines. While the Zoning Ordinance does state that approval is "subject to . . . the City of Douglas Design Guidelines", whether the provisions in the Guidelines are merely "considerations" or "compulsory" must be gleaned from the document itself. In the Building Design section, it states that "*it is not intended that these guidelines prescribe one architectural style or a specific design character . . . the primary focus should be to construct a high quality residential environment within the context of the existing community*". Moreover, the document is separated into three categories: Site Design, Building Design, and Landscaping. Each category is then separated into three subparts: (i) Intent; (ii) Standards, and (iii) Guidelines. In reading through these subparts it seems clear that while the Standards subparts could be viewed as compulsory, the "guideline" subparts seem to be just considerations.

The fact that the Guidelines are not compulsory are evidenced by other projects approved by the City that do not meet provisions within the Guidelines. Douglas Harbor Village East and Swing Bridge would be a couple of examples.

Douglas Harbor Village East:



Swing Bridge:



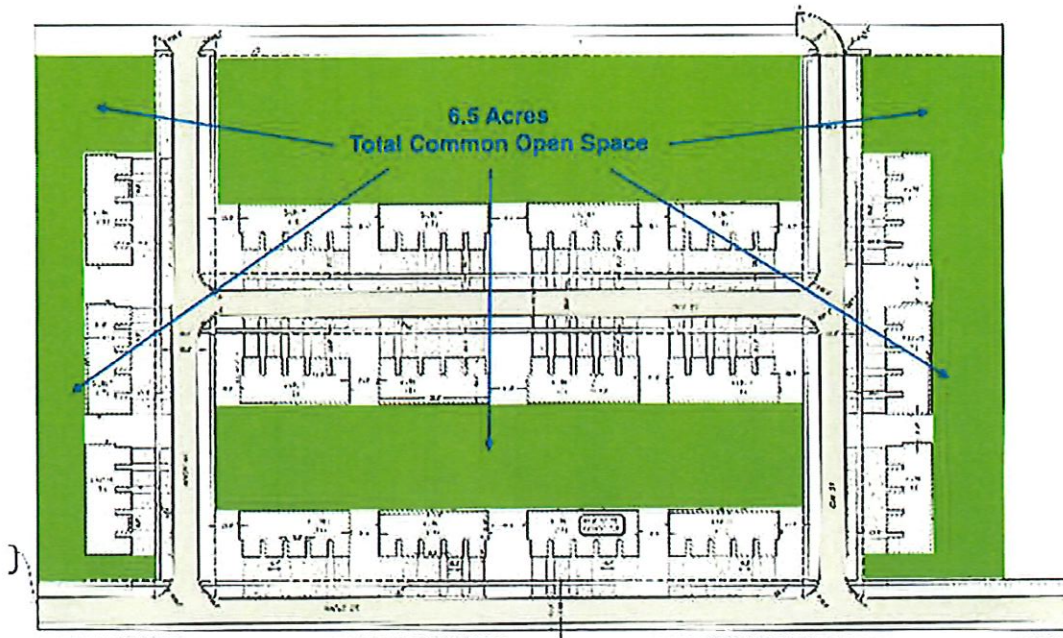
I should also point out that the Guidelines were not referenced in the October 24, 2022 review memo. My client diligently worked through all the issues raised in the October 24 memo, but no mention was made of complying with the Guidelines.

The Guidelines are nearly ten years old, and have not been updated to reflect ever changing trends in building and site design. There are also significant differences in optimal designs for rental versus owner occupied types of projects. As such, a one size fits all type of checklist would not be advisable or even workable.

My client did take the Guidelines into consideration, and the Project satisfies the listed “standards”, and many of the suggested “guideline” subparts. For example:

1. The requirement for landscaping per the ordinance was along Ferry Street, which is one tree per 30 ln. ft. My client specified 12 new trees and 2 existing trees along Ferry Street. My client went far beyond this requirement in their landscaping plan, which adds over 100 maple, cherry, spruce, and oak trees, along with over 100 different shrubs. In addition, the Project complies with the site design standard for the City’s tree preservation ordinance.

2. The Project provides approximately 6.5 acres of total common open space in a parcel with about 15 acres of net buildable area. Private open spaces for each unit vastly exceed the 80 square feet guidelines. When considering all the units, only .165 acres of open space would actually be required ($80 \times 90 / 43,560$). This open space contains walking paths with benches, is beautifully landscaped, and will have fire pits and play areas. The buildings are clustered to front interior roads, and the rear yards of the buildings are clustered around the open spaces, which is a favorable action from a design perspective. Lastly, there is a significant amount (approximately 180 feet of distance) of open space between Ferry Street and our buildings, further adhering to the Site Design standards, which state that setbacks from the street should be used to create landscaped open space.



3. Without question, the horizontal facade of each 5-unit building is separated into differentiated individual units. On page 10 of the Guidelines, the Standards section states that at least three methods should be included. The buildings in the Project meet this standard and have differentiated gables and dormers, exterior materials which are varied, and different window design and placement. Please refer to the image below.



These buildings are very similar to the Douglas Harbor Village East project referenced above in terms of building façade and driveway layout.

4. Parking: section 19.03 of the ordinance requires “two (2) spaces for each dwelling unit in an apartment or multiple family dwelling plus one space per each three (3) dwelling units for guest parking.” The Project vastly exceeds this requirement as each unit has a total of 4 parking spots.

5. The Site Design "standard" also references pedestrian walkways and sidewalks. The Project includes sidewalks all around the site, which also minimize the impact of pedestrians on the privacy of nearby residences.

6. The Project also maintains appropriate transitions from residences to the street, with 25 feet from the ROW to the building, and 43 (25+18) feet from the street to the building. This extra 18 feet of parkway area will be strategically landscaped, which provides a natural buffer between the residences and the street.

Whether everything listed in the Guidelines is considered compulsory is a significant issue for the Project moving forward. Given the significance of the issues we would like to resolve this prior to the meeting on Thursday night. It is our hope that through dialogue with you and the City Attorney that we can work through this in the next couple of days.

Sincerely,



William A. Sikkel

c.c. John Kavchak
David Barker

Please Sign IN

1. Jim GIESE DRIESENGA & ASSOC.
2. SUSAN CRIZIS
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Tim Smith Comments at Dec. 5 Douglas City Council Meeting

Good evening, everyone. I'm Tim Smith and I live at 749 Golfview.

As you may recall, at last month's meeting, I requested that the Douglas City Council pass a resolution stating that NorthShore of Saugatuck's proposed sand dune mine, excavation, and removal of 250,000 tons of sand within Michigan's Critical Dune Boundary at the Kalamazoo River Mouth is Contrary to the Public Interest as detailed in the Tri-Community Master Plan.

This evening, I want to clarify where things stand with the U.S. Army Corps of Engineers ... and ask you to make our request an agenda item for the December 19th City Council meeting and pass a resolution similar to the 65-point resolution passed by the City of Saugatuck.

In November, as part of its Section 106 Historic Properties Review, the Army Corps determined that the proposed marina:

"would cause an adverse effect on the Kalamazoo River Mouth TCP [Traditional Cultural Property] due to its direct physical effects on the landscape; visual and auditory characteristics of the river mouth (i.e., the place where river, lake, and forest meet); the feeling and character of the river mouth area; Potawatomi cultural and spiritual beliefs and practices associated with , use of the river mouth; and potential impacts on lake sturgeon, water quality, and the ecological characteristics of the area."

While this is an encouraging development, it unfortunately does not mean that the Army Corps has denied NorthShore of Saugatuck's Section 106 Historic Properties permit application. They are still in the process of reviewing that application and are sharing their determination with the State Historic Preservation Office for their comments. If the Historic Preservation Office concurs, then the Consulting Parties meet to discuss ways to avoid, minimize, or mitigate the impacts. Consulting Parties include: the four regional Potawatomi Tribes, the National Trust for Historic Preservation, the State Historic Preservation Office, Saugatuck Township, the Bily Family which owns a home immediately adjacent to the proposed project, NorthShore of Saugatuck, and the Coastal Alliance.

In addition to Section 106 Historic Properties Review, USACE is still in the process of reviewing two other permit applications for the proposed excavation and marina – a National Environmental Protection Act (NEPA) review and the Public Interest Factors Review. It is the Public Interest Factors Review where the local municipalities' concerns, based on zoning, economics, and the Master Plan, are most heavily considered.

Given that the federal permits are still under review, I am leaving you with a letter from Coastal Alliance Board Chair Bobbie Gaunt and me to urge you to pass a resolution and submit it to USACE now.

Thanks for your consideration. We look forward to learning your next steps.

December 5, 2022

Mayor Jerome Donovan
and City Council Members
City of the Village of Douglas
PO Box 757
86 W. Center Street
Douglas, MI 49406

Dear Mayor Donovan and City Council Members,

We are writing to you as a Douglas resident and/or board members of the Saugatuck Dunes Coastal Alliance to strongly urge you to pass a resolution stating that NorthShore of Saugatuck's proposed sand dune mine, excavation, and removal of 250,000 tons of sand within Michigan's Critical Dune Boundary at the Kalamazoo River Mouth is Contrary to the Public Interest as detailed in the Tri-Community Master Plan. We further ask that you submit the resolution to the U.S. Army Corps of Engineers (USACE) and Michigan Department of Environment, Great Lakes, and Energy (EGLE) as part of their permit reviews.

In addition, we request that you add this request to the December 19, 2022, City Council agenda for discussion.

Status of Federal Permit Reviews

USACE is in the process of reviewing three permit applications for the proposed excavation and marina – a Section 106 Historic Properties Review, a National Environmental Protection Act (NEPA) review, and the Public Interest Factors. Last month, as part of the Section 106 Historic Properties Review, USACE determined that the proposed marina:

"would cause an adverse effect on the Kalamazoo River Mouth TCP [Traditional Cultural Property] due to its direct physical effects on the landscape; visual and auditory characteristics of the river mouth (i.e., the place where river, lake, and forest meet); the feeling and character of the river mouth area; Potawatomi cultural and spiritual beliefs and practices associated with use of the river mouth; and potential impacts on lake sturgeon, water quality, and the ecological characteristics of the area."

USACE is sharing its determination with the State Historic Preservation Office (SHPO) for their comments. If the SHPO concurs, then the Consulting Parties meet to discuss ways to avoid, minimize, or mitigate the impacts. Consulting Parties include: the four regional Potawatomi Tribes, the National Trust for Historic Preservation, the State Historic Preservation Office, Saugatuck Township, the Bily Family which owns a home immediately adjacent to the proposed project, NorthShore of Saugatuck, and the Coastal Alliance. While the USACE's determination is promising, the agency has not yet concluded its review nor has the developer's Section 106 permit application been denied.

As you know, in October, the City of Saugatuck unanimously passed and submitted the attached 65-point Resolution to USACE in the Public Interest Review. The Resolution declared that the proposed marina is "Contrary to the Public Interest" and "Contrary to the well-established Public and Private Uses to Which the Area is Suited."

Saugatuck Township has also submitted four letters for consideration in the USACE reviews.

Status of State Permit Reviews

The developer is in the process of reapplying for a permit from EGLE. Their original permit, granted in 2018, expires in January 2023. After the new application is submitted, EGLE will hold a Public Comment Period and Public Hearing. We anticipate that being scheduled in early 2023 and will provide an opportunity to present new evidence detailing how the excavation of 6.5 acres of Michigan's Critical Dune Area will harm the ecological, cultural, and historical values found there.

As a member of the Tri-Community, Douglas's Voice Matters

Comments from the City of the Village of Douglas are important and relevant to the USACE Public Interest Factors review and the upcoming EGLE permit review. **We strongly urge Council Members to pass a resolution to send to USACE now and to EGLE when it begins its review process.**

Thank you for your consideration.

Sincerely,



Bobbie Gaunt
Board Chair
Saugatuck Dunes Coastal Alliance
P.O. Box 1013
Saugatuck, MI 49453



Timothy Smith
Board Member
749 Golfview Drive
Douglas, MI 49406

**CITY OF SAUGATUCK
COUNTY OF ALLEGAN
STATE OF MICHIGAN**

RESOLUTION NO. 221024-A

**A RESOLUTION PROVIDING CITY COUNCIL'S PUBLIC COMMENT
TO THE UNITED STATES ARMY CORPS OF ENGINEERS ON NORTHSHORE OF
SAUGATUCK, LLC'S PERMIT TO BUILD A MARINA BASIN**

Council Member Leo offered the following resolution and moved for its adoption, seconded by Council Member Gardner.

WHEREAS, NorthShore of Saugatuck, LLC has applied for a United States Army Corps of Engineers (the "USACE") permit (with USACE review file no. LRE-2010-00304-52-517-2) under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act to build a marina basin located in the Kalamazoo River, near the mouth of the Kalamazoo in Saugatuck Township (the "Township"), Michigan.

WHEREAS, the site is located upland at 3574 Dugout Road and 6500 135th Avenue, Allegan County, Michigan 49453.

WHEREAS, the City's jurisdictional boundaries, including its jurisdiction and control over the Kalamazoo River that exists within the City's boundaries, is near to the proposed marina basin.

WHEREAS, the City further owns extensive acreage held as public lands with substantial frontage on the Kalamazoo River that is directly south of the proposed marina basin.

WHEREAS, the City has interests, as reflected below, that are impacted by developments in the area, including the City's interests as a fiduciary in holding public lands in trust for its community and representing the general interests of the public within the City.

WHEREAS, the USACE is required to take into account the effects of proposed undertakings on historic properties both within and beyond waters of the United States.

WHEREAS, the USACE provided further Public Notice to the City on July 2, 2018, specifically regarding Section 106 to seek input on historic properties issues regarding the subject application pursuant to Section 106 of the National Historic Preservation Act and pursuant to 33 CFR 325, Appendix C.

WHEREAS, in response to the Public Notice and the understanding that the USACE will still consider public comment as part of the open application, City Council desires to provide public comment on the pending application and stress the importance of

the USACE to carefully review and weigh the public interest factors as well as historic preservation of the historic and cultural history at and around the proposed location as set forth below.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. In its evaluation of permit applications, the USACE will conduct a public interest review in which “due consideration shall be given to” a “local agency having jurisdiction or interest over the particular activity” and the USACE will consider “those official views as a reflection of local factors of the public interest.”¹
2. It is true that “[w]hen private enterprise makes application for a permit, it will generally be assumed that appropriate economic evaluations have been completed, the proposal is economically viable, and is needed in the market place. *However, the district engineer in appropriate cases, may make an independent review of the need for the project from the perspective of the overall public interest*” (emphasis added).²
3. In every application, the USACE will consider “[t]he extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work is likely to have on the public and private uses to which the area is suited.”³
4. With regard to “other Federal, state, or local requirements,” “where the required Federal, state and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application, the district engineer will, after considering the likelihood of subsequent approval of the other authorization and/or certification and the time and effort remaining to complete processing the Army permit application, either immediately deny the Army permit without prejudice or continue processing the application to a conclusion. If the district engineer continues processing the application, he will conclude by either denying the permit as contrary to the public interest, or denying it without prejudice indicating that except for the other Federal state or local denial the Army permit could, under appropriate conditions, be issued.”⁴
5. The City, as a “local agency having jurisdiction or interest over the particular activity,” finds that the proposed excavation to build a marina basin within the Critical Dune Area adjacent to the Kalamazoo River appears “contrary to the public interest.”

¹ 33 CFR § 320.4.

² *Id.*

³ *Id.*

⁴ *Id.*

6. The City finds that the cumulative, permanent detrimental impacts of the excavation and construction of the proposed marina basin on the Tri-Community tourist-based economy (City of Saugatuck, City of the Village of Douglas, and Saugatuck Township) far outweigh any possible economic benefit. The City therefore questions that the marina basin is clearly “needed in the market place.”
7. The City finds that the Tri-Community tourist-based economy relies on the preservation of the historical, ecological, and cultural values in the river mouth area, which appear will be impacted by the proposed marina basin.
8. The City finds that the proposed marina basin has the potential of impacting well-established “public and private uses to which the area is suited,” including public lands held by governmental agencies to the north and south of the proposed marina basin.
9. With regard to “other Federal, state, or local requirements,” the City only notes that litigation continues between the Saugatuck Dunes Coastal Alliance and Saugatuck Township regarding local approvals related to the marina basin.
10. The City particularly notes the following facts:
 - a. The construction of the canal will decrease Michigan’s Critical Dune Area by 6.5 acres.⁵
 - b. The construction of the canal will destroy the historic site of Singapore, a 19th century lumber town buried under the dunes and eligible for the National Register of Historic Places.⁶
 - c. The construction of the canal may damage the Potawatomi traditional cultural resources, disturbing Lake Sturgeon, wild rice growth traditionally gathered and connected to the area, and traditional burial grounds at the mouth of the Kalamazoo River.⁷

⁵ US Army Corps of Engineers, Public Notice: Proposed Marina in the Kalamazoo River and Beach Nourishment in Lake Michigan at Saugatuck, Michigan 1 (2017) (“[a] total of 241,750 cubic yards of sand would be excavated from a 6.54-acre upland area approximately 1,639 feet long and up to 200 feet wide, temporarily leaving a soil plug at the marina basin entrance”).

⁶ US Army Corps of Engineers, Public Notice: Historic Properties Review for Proposed Marina Basin in the Kalamazoo River in Saugatuck Township, Michigan 4 (2018) (finding “the undertaking would have no adverse effect on Areas A, B, and D, but the undertaking would have an adverse effect on Area C, as defined in 36 CFR 800.5(a)(1)”). Area C has been identified as part of the buried 19th Century lumber town of Singapore.

⁷ Mario Battaglia & Rebecca A. Hawkins, *Ethnographic Traditional Cultural Property Study of the Mouth of the Kalamazoo River, Allegan County, Michigan* 13-18, 23 (2019).

- d. The disposal of spoils from the construction of the canal will contribute to deforestation of a significant tree canopy of wooded sand dunes along the Kalamazoo River.⁸
- e. The construction of the canal will contribute to devaluation of the tri-communities' more than \$20 million in investments in the adjacent Saugatuck Harbor Natural Area, Tallmadge Woods Nature Preserve, and the Patty Birkholtz Natural Area.⁹

HISTORY OF THE TRI-COMMUNITIES' VALUES AND TOURIST ECONOMY: THE CANAL IS "CONTRARY TO THE PUBLIC INTEREST" AND NOT "NEEDED IN THE MARKET PLACE"

- 11. The Tri-Communities have a 137-year history of deliberately building a tourist-based economy centered on the *preservation* and *conservation* of public open space in the river mouth area.
- 12. In 1884, the Village of Saugatuck—the former governmental entity prior to incorporation of the Village into the now City of Saugatuck—purchased Mount Baldhead and the lake frontage to the west. The lake frontage would eventually become Oval Beach. Stairs up the east side of the dune and a pavilion at the bottom were built to attract tourists to the area.
- 13. In 1920, Thomas Eddy Tallmadge purchased 105 acres of forested dunes surrounding the Ox-Bow School of Art. To protect the school and land, Tallmadge made arrangements with the City to preserve the land as green space in times the school did not operate.
- 14. In 1936, the City opened Oval Beach.
- 15. In 1957, the National Park Service conducted a survey of potential park sites along Lake Michigan. The Park Service wrote in its study: “[b]y virtue of its fine beaches (Oval Beach) and scenic hinterlands, Saugatuck has a high public use value. . . . *Immediate steps should be taken to safeguard these values in order to meet the recreation demands of this region*” (emphasis added).

⁸ City of Saugatuck, et al., Tri-Community Master Plan 4-23 (2016) (“Mature trees represent a valuable resource in maintaining the aesthetic character of the area, not to mention their overall importance to wildlife and the natural environment. In particular, the wooded sand dunes along the Kalamazoo River and Lake Michigan, and those buffering adjacent uses from I-196, are especially important. They should be managed to insure their long term existence”). Recent drone images reveal that the “laydown area” proposed by NorthShore of Saugatuck in both the USACE and EGLE permit applications has been clearcut and excavated.

⁹ See Letter from Lana Pollack, Chair of Michigan Natural Resources Trust Fund Board, to National Trust for Historic Preservation (Jan. 15, 2010) (on file with the City of Saugatuck).

16. Between 1977 and 1988, local citizens worked to establish Saugatuck Dunes State Park and Natural Area.
17. In 1977, the Natural Areas Conservancy of West Michigan (“NACOWMI”) acquired a 300-acre parcel, known as the Luther-Uhl property, which was adjacent to what would become the Saugatuck Dunes State Park.
18. Around this time, the State acquired 550 acres from the Augustinian Seminary. It kept 40 acres of this land for the operation of a prison and gave the remainder of the land to the Department of Natural Resources (“DNR”).
19. Following its acquisition of the land, it advocated for the Luther-Uhl land to be protected as a natural area for scientific study.
20. Following this, the DNR announced its state park plan which called for a 1,500-car parking lot on the beach and an off-road vehicle area. *The local response was immediate and unanimously negative.*
21. The DNR withdrew its state park plan and allowed for the formation of a citizen’s advisory committee to draft a master plan for Saugatuck Dunes State Park. *This was the first time a citizen’s advisory committee was entrusted to create a State Park Master Plan.*
22. Patty Birkholz, a Parks Commissioner from the Township, was appointed Chair of the committee.
23. The committee’s Master Plan called for a *low-impact nature study* and prohibited overnight camping—a rare prohibition in the state park system.
24. The Master Plan included detailed expansion plans for acquiring, among other lands, those around the proposed marina basin, including the NorthShore of Saugatuck property. These plans called for an expanded natural area and designated historic site where the buried ghost town of Singapore lies.
25. The Master Plan required the Luther-Uhl property to be legally designated as a Natural Area.
26. The citizens charged with drafting the Master Plan worked with the conservancy community, the DNR, and the State for six years to ensure the protection of the land. In 1982, the Master Plan was unanimously approved by the Natural Resources Commission.
27. In January 2004, *the DNR received over 100 individual letters supporting a proposed expansion of the Saugatuck Dunes State Park to include the Denison property, which then became the Singapore Dunes LLC property and most recently became the NorthShore of Saugatuck property.*

28. Between the years 2003 and 2005, the communities of the City of Saugatuck, the City of the Village of Douglas, and Saugatuck Township came together for a series of meetings to discuss and debate land use issues and future development. This meeting led to the publication of the 2005 Tri-Community Master Plan (the "2005 Master Plan"), which focused on protecting the historical, ecological, and cultural values that drive the tourist-based economy.
29. During this period of time, there were two townhall-style meetings, as well as the collection of data from a community survey. Almost every other resident in the community responded.
30. The 2005 Master Plan was unanimously approved by the City of Saugatuck, the City of the Village of Douglas, Saugatuck Township, and Allegan County.
31. To put the 2005 Master Plan into place, the municipalities took several actions towards protecting the natural areas.
32. In 2007, the Tri-Communities placed a conservative easement onto Tallmadge Woods Nature Preserve.
33. In 2009, the Tri-Communities assisted in the \$20 million public acquisition of the Saugatuck Harbor Natural Area. A grant of \$10.5 million from the Michigan Natural Resources Trust Fund was the largest public grant ever extended by this state fund.
34. In 2010, the City voters passed a millage to tax themselves for better support of the natural resources' local zoning protections.
35. In 2010, local organizations applied to have the Wild Heart of Saugatuck, an area including the river mouth, added to the National Trust for Historic Preservation's annual list of America's 11 Most Endangered Places.
36. Lana Pollack, former Chair of the Michigan Natural Resources Trust Fund Board, submitted the following letter to the National Trust for Historic Preservation in support of the designation, primarily in hopes of protecting the state's investment:

My own valuation of this area is best demonstrated by the recent MNRTF decision to grant \$10.5 million to protect a portion of the land now representing a significant part of this application. The grant approved in December 2009 is one of the largest MNRTF has ever made and is a particularly impressive commitment given the intense competition from other worthy applicants that year. Support for the grant did not come easily, but not because of a questioned worth of the project -- 171 acres of critical dunes with globally imperiled inter-dunal wetlands, habitat that is home to several threatened and endangered species. The project's value was undoubtedly enhanced by its immediate proximity to Saugatuck's Oval Beach, the Saugatuck Lighthouse Cottage and the Ox-Bow School of Art.

Although MNRTF is focused on saving natural landscapes, we also recognized in this case the historic and cultural context of the particular 171 acres that our grant was supporting.

The designation that we now seek from the National Trust for Historic Preservation is needed because of the threat of development on the parcel immediately north of the Saugatuck Harbor Natural Area. The current proposal calls for a major marina development with a suggested nine story hotel, restaurants, retail businesses as well as a 70 slip marina near the site of the buried ghost town of Singapore – all prohibited by current zoning. *If completed, the proposed development's impact on MNRTF's investment of \$10.5 million still leaves me concerned that our public investment may become mostly the enhanced viewscape for a commercial development.*

Fortunately, the history of preservation of the Saugatuck Dunes is strong. In the 1940's the State of Michigan looked at constructing a State Park at the mouth of the Kalamazoo River. In the 1950's the National Park Service surveyed the Saugatuck Dunes for its potential as a National Lakeshore. In the 1980's area citizens worked together to draft the Master Plan for the Saugatuck Dunes State Park and Natural Area. This followed the initial plan from the state DNR that called for paved roads and a parking plot on the beach, which was met with near unanimous resistance. Since that time several additional key parcels have been placed into conservation easements or turned into parks; historic buildings have been acquired by the local Historical Society; and progressive planning has established a Lakeshore Open Space District designed to better protect the historic and ecological treasures along the river and lakeshore.

It was with this in mind – the long and determinedly fought history of protecting the Saugatuck Dunes – that I felt comfortable urging MNRTF to award the \$10.5 million grant. The tenacious commitment of the local community to protect the Saugatuck Dunes' many historic, cultural and ecological resources ultimately held more sway than the threat of a developer's legal war chest to overturn protective zoning controls [emphasis added].

37. In 2016, the updated Tri-Community Master Plan (the “2016 Master Plan”) was released. The priority among the Tri-Communities remains: “Public acquisition of the Denison property on both sides of the Kalamazoo River is the top priority for the Tri-Communities.”¹⁰

38. Today, the City owns nearly 16,000 feet of water frontage in the River Mouth Area immediately adjacent to the proposed canal. A portion of this is the Saugatuck Harbor Natural Area, a 177-acre designated natural area/sanctuary held under the supervision

¹⁰ City of Saugatuck, et al., Tri-Community Master Plan 9-6 (2016).

of the City. The Saugatuck Harbor Natural Area has 570 feet of water frontage on the Kalamazoo River and nearly 6,200 feet of water frontage on the Old Harbor. All of this water frontage is in its natural state and does not have seawalls or riprap. The City also manages the Tallmadge Woods Nature Preserve, a 100-acre preserve with 6,200 feet of Kalamazoo River frontage and 2,900 feet of Old Harbor water frontage.

39. The Saugatuck Harbor Natural Area and the Tallmadge Woods Nature Preserve connect with Saugatuck's Oval Beach and Mount Baldhead Park, together comprising 415 acres of park land and natural areas. These areas are all managed as low-impact natural areas to ensure the protection of the ecological, historical, and cultural values that drive Saugatuck's tourism-based economy. These areas are indispensable to the economic well-being of the City of Saugatuck, the City of the Village of Douglas, and Saugatuck Township (the "Tri-Communities").
40. The NorthShore of Saugatuck development and management may directly affect these natural areas and sanctuaries that the City manages for the benefit of the community.
41. Because of its effect on the low-impact natural areas and City-owned property, the NorthShore of Saugatuck development may have significant impacts on the Tri-Communities' tourist-based economy.
42. Among the goals listed in the 2016 Master Plan is the goal to "[p]rotect special environments and open spaces, including but not limited to sand dunes, wetlands, and critical wildlife habitat, from the harmful effects of incompatible development activity by limiting the type and intensity of land development in those areas."¹¹
43. The 2016 Master Plan also outlines the goal to "[g]uide development in a manner which is orderly, consistent with the planned expansion of public facilities, and strives to preserve the scenic beauty, foster the wise use of natural resources, protect environmentally sensitive areas, and enhance the special character of the Tri-Communities."¹²
44. The 2016 Master Plan states that "[t]hese joint goals and policies are premised on a pledge by Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas to mutually cooperate in guiding future development to advance a common vision. It is intended that these goals and policies be consulted when considering future land use decisions within an individual jurisdiction, as well as those decisions that affect the interests of more than one jurisdiction."¹³

¹¹ City of Saugatuck, et al., Tri-Community Master Plan 1-12 (2016).

¹² *Id.* at 1-4.

¹³ *Id.* at 1-2.

45. The goals and policies in the 2016 Master Plan “are premised on a pledge by Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas to mutually cooperate in guiding future development to advance a common vision.”¹⁴
46. The goals and policies outlined in the 2016 Master Plan and those outlined by the City here represent a “local agency having jurisdiction or interest over the particular activity” and should be considered “as a reflection of the local factors of the public interest.”¹⁵
47. The 2016 Master Plan articulates the economic public interest in preserving the river mouth area of the Kalamazoo River for “low-impact development” or public open space.¹⁶
48. The City considers the 2016 Master Plan to be “a reflection of local factors of the public interest.” The 2016 Master Plan states “[t]hese joint goals and policies are premised on a pledge by Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas to mutually cooperate in guiding future development to advance a common vision. It is intended that these goals and policies be consulted when considering future land use decisions within an individual jurisdiction, as well as those decisions that affect the interests of more than one jurisdiction.”¹⁷
49. Specifically, the City considers the following 36 excerpts from the 2016 Plan to be “a reflection of local factors of the public interest”:
 - a. “Goal: Guide development in a manner which is orderly, consistent with the planned expansion of public facilities, and strives to preserve the scenic beauty, foster the wise use of natural resources, protect environmentally sensitive areas, and enhance the special character of the Tri-Communities.”¹⁸
 - b. “Policy: Insure compatible land use planning and zoning across municipal borders and minimize land use conflicts by separating incompatible uses and requiring buffers where necessary.”¹⁹
 - c. “Policy: Support efforts to foster tourism by preserving the scenic beauty of the environment, expanding recreational opportunities, improving tourist attractions, preserving the historic character of the communities through the preservation of historic structures, expanding cultural and arts opportunities and encouraging development of promotional material which highlight the attractions of the Tri-Communities.”²⁰

¹⁴ *Id.*

¹⁵ 33 CFR § 320.4(j)(1).

¹⁶ See, generally, City of Saugatuck, et al., Tri-Community Master Plan (2016).

¹⁷ *Id.*

¹⁸ *Id.* at 1-4.

¹⁹ *Id.* at 1-5.

²⁰ *Id.* at 1-6.

- d. “Goal: Encourage planning efforts based on the understanding, knowledge and respect for the Tri-Community’s historical and cultural resources.”²¹
- e. “Policy: Discourage the development of high intensity residential uses along the waterfront.”²²
- f. “Goal: Protect special environments and open spaces, including but not limited to sand dunes, wetlands, and critical wildlife habitat, from the harmful effects of incompatible development activity by limiting the type and intensity of land development in those areas.”²³
- g. “Policy: Identify development limitations on special environments which classify environments based on their value to the ecosystem, unique attributes, the presence of endangered plant and wildlife species, and other characteristics deemed significant.”²⁴
- h. “Policy: Encourage acquisition of special environments of significant public value by public agencies or nonprofit conservancy organizations for the purpose of preservation.”²⁵
- i. “Policy: Prepare and maintain a subarea plan for the Oxbow Peninsula including the [NorthShore of Saugatuck Property] ‘Denison Property.’”²⁶
- j. “Policy: Promote the preservation of open spaces and natural areas, as well as limited, carefully planned development along the Kalamazoo River, Kalamazoo Lake, Silver Lake, Goshorn Lake, and Lake Michigan and connecting streams, creeks, and drainage ways to protect and enhance the scenic beauty of these waterfront areas.”²⁷
- k. “In 2002 the City of Saugatuck completed a strategic plan for purposes of future growth and development and efforts involved an examination of local tourism and public opinion. The following data was secured from the plan’s survey of visitors to the area, and provides useful information considered applicable to each of the Tri-Communities when considering economic and recreational impacts on the area. . . Activities – beach (40%), dune rides (12%), and boating (11%) Spending Patterns - \$500 to \$599 (median range), 15% spend +\$1,000. . .”²⁸

²¹ *Id.* at 1-10.

²² *Id.* at 1-12.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 1-13.

²⁸ *Id.* at 2-8.

- l. “The primary reasons people visit or live in the three communities are to enjoy the scenery and recreational opportunities and to live in a picturesque, safe place while they commute to nearby (or distant) urban centers. Beach recreation, boating and other water activities, shopping, art galleries and enjoying the scenery are the primary attractions for both tourists and year-around residents. While agriculture, industry and tourism are important economic sectors represented in the Tri-Communities, *tourism is king*” (emphasis added).²⁹
- m. “Mature trees represent a valuable resource in maintaining the aesthetic character of the area, not to mention their overall importance to wildlife and the natural environment. *In particular, the wooded sand dunes along the Kalamazoo River and Lake Michigan, and those buffering adjacent uses from I-196, are especially important. They should be managed to insure their long term existence*” (emphasis added).³⁰
- n. “A large portion of the lakeshore both north and south of the mouth of the Kalamazoo River is undeveloped or very sparsely developed. *A portion of this segment of the shoreline is in public ownership as Oval Beach Park. In 2011, the City of Saugatuck completed its acquisition of the 173 acres of natural dunes and 3,650 feet of undeveloped Lake Michigan Shoreline, formerly owned by the Denison family, between the south Kalamazoo River pier and Oval Beach City Park. This was made possible through a partnership between the City; the Land Conservancy of West Michigan; a 10.5 million grant from the Michigan Natural Resources Trust Fund; The Nature Conservancy; The Conservation Fund; and generous private donors.* The Saugatuck Harbor Natural Area, as it is now called, is open year round for low impact uses such as hiking, fishing, bird watching and beach combing.”³¹
- o. “The Tri-Community area is rich in cultural, and historical points of interest and many archaeological sites can be found throughout the area. Leading economists and forward-thinking governmental leaders have recognized the social and economic value of promoting and preserving cultural and historic assets. The state of Michigan has made community cultural; planning a key part of its most publicized and marketed economic development strategies: the ‘smart growth’; ‘heritage/cultural tourism’; and ‘cool cities’ initiatives.”³²
- p. “Archaeological sites are of particular scientific value to the fields of anthropology, ecology and biology, and may have historic or ethnic significance as well. There are 120 archaeological sites scattered throughout the Tri-Community area, mostly related to Ottawa and Potawatomi cultures. Their exact locations have not been disclosed by the Bureau of history to protect them

²⁹ *Id.* at 3-1.

³⁰ *Id.* at 4-23.

³¹ *Id.* at 5-7.

³² *Id.* at 5-9.

from exploitation. One of these sites, the Hacklander Site, located in Section 23 is listed on the National Register of Historic Places and has components representing Middle and Late Woodland periods. *A second important site is the old Singapore site located at the north edge of the 'new' (1906) harbor channel. Recipients of Federal assistance must ensure that their projects avoid damage or destruction of significant historical and archaeological resources.* The Michigan Bureau of History reviews these projects to assess their impact on archaeological sites” (emphasis added).³³

- q. “Parks, recreation, and open space are essential to the quality of life of area residents, and are an important component of the local tourist economy. They enhance property values, as well as physical and psychological well-being.”³⁴
- r. “According to the 2004 community opinion survey, following was the response to the question of whether the respondent would support the additional recreation-related activities even if it meant an increase in general property taxes. . . . The greatest support among recreation-related topics was for better water quality with 62.5%, bike lanes/pathways with 60.5% support and *parks and recreation at 50.9%. When citizens express a willingness to pay higher taxes for a service that is very significant*” (emphasis added).³⁵
- s. “Recreation is important to the Tri-Communities and the visual experience of the community is tied to the recreational experience. Residents like to live in the Tri-Communities, in part, because it is a uniquely attractive location. *Tourists visit and spend money in the Tri-Communities based in part on the visual experience. Natural features and open spaces are important components of the Tri-Communities*, contrasting with the concentrated, developed areas of the City of Saugatuck and the City of the Village of Douglas. The compact, strong identities of the City and Village are enhanced when natural, open spaces surround the two communities. Water is one of the natural features surrounding the City and Village and helping to give them form and identity. Wetlands, woodlands, farms and parks are other existing natural features that currently contribute to natural open space.”³⁶
- t. “Tourists have always been attracted to the area, but tourism is now the number one economic activity. . . . Consequently, how the waterfront is used will be of crucial importance to the future of the Tri-Community area.”³⁷
- u. “*Although waterfront lands have high revenue generating potential, a major attraction of both the Lake Michigan and Kalamazoo River waterfronts is their*

³³ *Id.* at 5-11.

³⁴ *Id.* at 7-1.

³⁵ *Id.* at 7-18.

³⁶ *Id.*

³⁷ *Id.* at 8-1.

scenic, natural shorelines composed of forested sand dunes and large wetland areas. Should these natural areas be greatly damaged or destroyed through inappropriate development, then the 'goose that laid the golden egg' will be dead. It is essential that the natural beauty of the waterfront be maintained along the Lake Michigan shoreline, the Kalamazoo River from the channel to Saugatuck, and from the Blue Star Highway Bridge inland" (emphasis added).³⁸

- v. "This plan seeks to define a balance between competing uses. It places protection of the natural environment at first and foremost in making future land use decisions along the Lake Michigan and Kalamazoo River waterfronts. The ultimate goal is to minimize disruption of the natural environment so that new development and redevelopment is in harmony with the environment, rather than in conflict with it. Alteration of existing natural features should be very limited, and with mitigation to provide the same values and functions nearby."³⁹
- w. "Under the state Wilderness, Wild, and Natural Areas Program (Part 351 of the Natural Resources and Environmental Protection Act of 1994), the DNR is charged with identifying, dedicating and administering wilderness, wild and natural areas. Within the Saugatuck region, the DNR has dedicated the Saugatuck Dunes Natural Area to protect the unique dune ecosystem of open dunes, blowouts, interdunal wetlands and wooded dunes, Pitcher's Thistle occurs within the area and is listed as a threatened species by both the state and federal government. The Saugatuck Dunes Natural Area is within Saugatuck Dunes State Park. Sensitive dune ecosystems also occur in the dune areas on either side of the Kalamazoo River mouth at Lake Michigan. This area is planned for protection but details have yet to be finalized. Management would likely be the responsibility of the City of Saugatuck, Saugatuck Township and the State Park. The entire Kalamazoo River, including the Saugatuck/Douglas area is designated as an area of particular concern by the DNR. Areas of particular concern are those having scarce resources, unusual scenic beauty, unusual economic value, recreational attractions, or some combination of the above. They are only located in coastal areas. Altering the environment in an area of 'particular concern' could have a significant impact on the quality of coastal and Great Lakes waters."⁴⁰
- x. "As has been emphasized throughout this Plan, *the natural beauty of the waterfront has much to do with the attraction of the Tri-Community area*" (emphasis added).⁴¹

³⁸ *Id.* at 8-1 through 8-2.

³⁹ *Id.* at 8-2.

⁴⁰ *Id.* at 8-6.

⁴¹ *Id.* at 8-25

- y. "Several vistas have public values that deserve protection. These include the entry into and exit from Lake Michigan on the Kalamazoo River, the view from Mount Baldhead, the view of Kalamazoo Lake from both ends, and approaches to the Kalamazoo River Bridge" (emphasis added).⁴²
- z. "In seeking to balance economic development with environmental protection, the concept of carrying capacity should be a major consideration. If the carrying capacity of land or water is exceeded, then activities cannot be undertaken without unacceptable impacts on users, the environment, or both. Impacts can include increased trip times, decreased safety, pollution, loss of open space, and many other considerations. The key is prevention of overuse by limiting intensity of use on adjoining lands and regulating surface water use. Environmental protection must be a leading principle in making future land use decisions along the waterfront. Environmentally sensitive areas such as sand dunes, wetlands, high risk erosion areas, floodplains, and key woodlands should be protected from unnecessary destruction. Development should complement rather than destroy these areas and their values. By doing so the environmental quality of the air and water will be improved, wildlife habitat will be preserved, scenic values will be protected, and the character of the area will be maintained. Some new intensive shoreline development will be desirable and necessary, but the balance should not be disproportionately on the side of new tax base as it has been for the past three decades. Opportunities to enhance the waterfront should be seized. Parks and open spaces should eventually be linked with other public places."⁴³
- aa. "Protection mechanisms, like the Natural River designation, should be recognized for the ancillary benefits they bring to the community."⁴⁴
- bb. "Good land use planning is essential to the future quality of life in the Tri-Communities. Actual future land uses are difficult to predict and guide to achieve desired results. A future land use map and plan expresses local and use goals and policies and provides a land use scenario which a community may use as a physical guide. Goals and policies, in turn, drive land use and development decisions."⁴⁵
- cc. "The following planning and design principles are the technical foundation in support of the proposed land use arrangements graphically depicted on the Future Land Use Map. These principles are consistent with the goals and policies in Chapter I and should remain the basis for reviewing any subsequent changes to the proposed Future Land Use Map. These planning principles are:

⁴² *Id.*

⁴³ *Id.* at 8-25 through 8-26.

⁴⁴ *Id.* at 8-27.

⁴⁵ *Id.* at 10-1.

- Protection of public health and safety
- *Conservation of natural resources*
- *Environmental Protection*
- Minimizing public service costs
- Efficiency and convenience in meeting land use needs
- *Insuring compatibility between land uses*" (emphasis added).⁴⁶

dd. "Failure to consciously protect nonrenewable natural resources exposes a community to unbridled destruction of those resources which are the foundation for an area's character and quality of life. Conservation of natural resources usually focuses on: land, water, minerals, certain soils (such as prime farmland), wetlands, sand dunes, areas supporting an abundance and diversity of wildlife, and unique forested lands. Areas where the land and the water meet are the most important. Indiscriminate land subdivision frequently reduces the size or alters the shape of land, thereby compromising the resource value and production potential of those lands. This occurs frequently in prime agricultural areas and once lost, these lands may never be reclaimed for food production purposes."⁴⁷

ee. "This principle aims at preventing pollution, impairment or destruction of the environment. While there is considerable overlap with natural resource conservation issues, environmental protection measures focus primarily on air and water quality, and the impact of activities where the water meets the land. Environmental quality is best preserved by planning for appropriate land use activities in and near sensitive environmental areas, and managing development accordingly."⁴⁸

ff. "A central objective of land use planning is to locate future land uses so that they are compatible with one another. This prevents future nuisance situations between adjacent land uses, such as loud sound, ground vibrations, dust, bright lights, restricted air flow, shadows, odors, traffic, and similar impacts."⁴⁹

gg. "Other natural resource areas include sand dunes, wetlands, floodplains, streams, creeks and drains, the Kalamazoo River, Lake Kalamazoo, and areas at high risk of erosion along Lake Michigan. *These areas are proposed for very limited future development in keeping with their fragility and importance in buffering Lake Michigan storms, filtering and storing water during periods of flooding, draining stormwater from land, providing habitat for a wide range of plants and animals, and for their wide ranging open space values. Destroying these resources would destroy the essential qualities which continue to attract residents and tourists to the area.* If conserved and wisely used, waterways and farms will become a natural greenbelt system that continues to enhance the area

⁴⁶ *Id.* at 10-1.

⁴⁷ *Id.* at 10-3.

⁴⁸ *Id.*

⁴⁹ *Id.* at 10-4.

for years to come. Local zoning ordinances should be reviewed to ensure they include adequate conservation practices” (emphasis added).⁵⁰

- hh. “The R-3 Lakeshore Residential Zoned District is that area of the township where controls are placed upon the use and development of areas adjacent to the shoreline of Lake Michigan *so as to preserve the shoreline as a natural resource to prevent and/or control erosion and to maintain the aesthetic qualities of the area*” (emphasis added).⁵¹
- ii. “Public acquisition of the Denison property on both sides of the Kalamazoo River is the top priority for the Tri-Communities.”⁵²
- jj. “While the above priority initiatives are being implemented, the matters that come before planning commissions and governing bodies month-to-month will permit many opportunities to implement key policies in this Plan (see policies in Chapter 1). Following are key strategies that should be implemented at every opportunity through local zoning, subdivision regulations and capital improvement programs. Many may first require updates to existing Zoning Ordinances. Most of the following strategies focus on preservation of the existing charter of the Tri-Communities:
 - Protect the natural environment of the area AND Protect the visual quality of and visual access to the waterfront.”⁵³

50. The City finds that, as a “local agency having jurisdiction or interest over the particular activity,” the marina basin will harm the firmly established tourist-based economy and the standards and interests of the community and therefore is “contrary to the public interest” and contrary to the well-established “public and private uses to which the area is suited.”

51. The City, based on the policies and goals accepted by the tri-communities, finds that such policies and goals demonstrate that the marina basin will pose negative impacts to the local environment, tourism, and use of the Kalamazoo River, and therefore is not “needed in the market place.”

HISTORIC LAND-USE AND PLANNING: THE CANAL IS NOT UNIFORM WITH “THE PUBLIC AND PRIVATE USES TO WHICH THE AREA IS SUITED”

52. The City finds that the 2005 Master Plan and the 2016 Master Plan reflect the “public and private uses to which the area is suited.”

⁵⁰ *Id.*

⁵¹ *Id.* at 10-12.

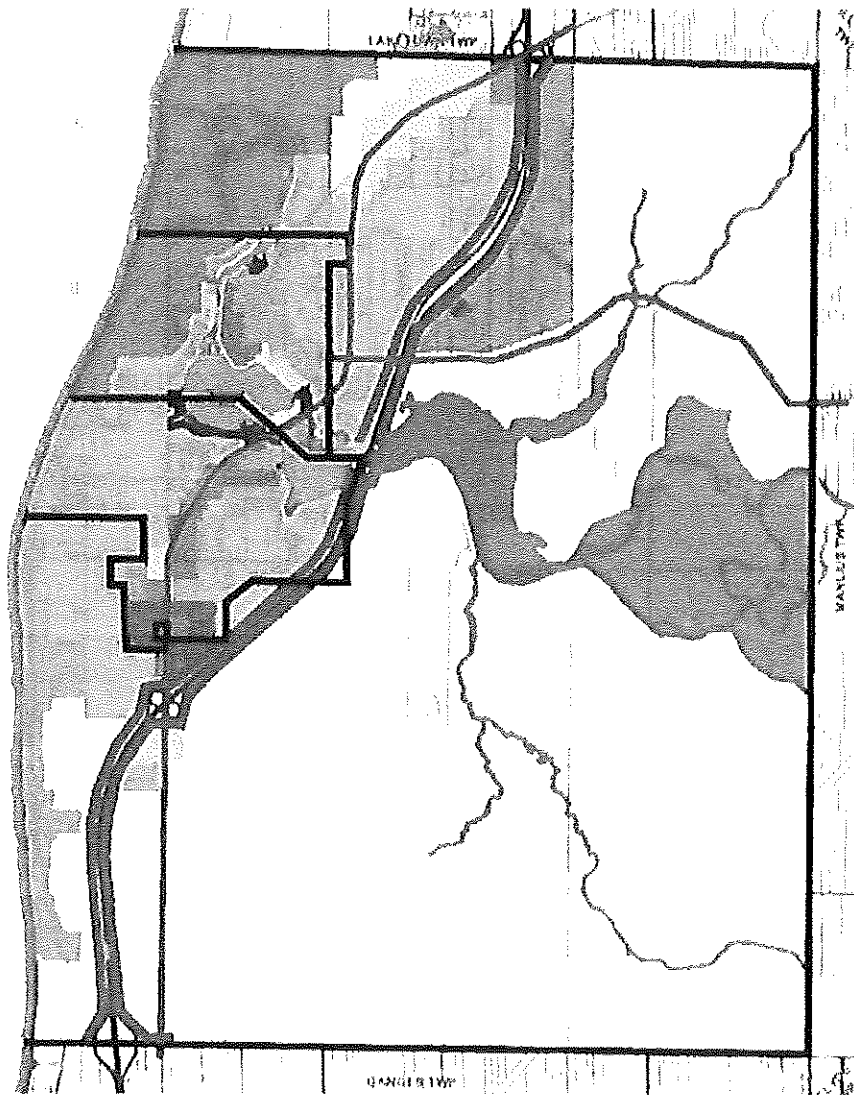
⁵² *Id.* at 13-2.

⁵³ *Id.* at 13-5.

53. The 2005 Master Plan states: “The northwest corner of the Township, along with [] most of the land in Saugatuck west of the Kalamazoo lake should be preserved for public open space and the portion that remains in private ownership should be maintained for low intensity uses (like the art colony and church camp).”⁵⁴
54. The 2005 Master Plan and the 2016 master plan state: “Although waterfront lands have a high revenue generating potential, a major attraction of both the Lake Michigan and Kalamazoo River waterfronts is their scenic, natural shorelines composed of forested sand dunes and large wetland areas. Should these natural areas be greatly damaged or destroyed through inappropriate development, then the ‘goose that laid the golden egg’ will be dead. It is essential that the natural beauty of the waterfront be maintained along the Lake Michigan shoreline, the Kalamazoo River from the channel to Saugatuck, and from the Blue Star Highway Bridge inland.”⁵⁵
55. The 300-acre Patty Birkholz Natural Area is immediately adjacent to the proposed marina basin. It is one of only 20 legally-designated natural areas in the State of Michigan, and the City finds its preservation as one of the preeminent natural areas in the State of great importance to the local community and City.
56. The Master Plan for Saugatuck Dunes State Park and Patty Birkholz Natural Area calls for a low-impact nature area.
57. The parking lot for these nature areas was situated to be as far from the natural area as possible to ensure no noise, vibrations, glare, or fumes would be introduced into this sanctuary. The proposed marina basin itself would be contrary to those extra efforts to maintain the natural area in pristine environmental condition and quality.
58. The City finds that the proposed marina basin is contrary to the well-established “public and private uses to which the area is suited.”
59. For reference, the City acknowledges that the following is the future land use map proposed by the 2016 Master Plan:

⁵⁴ City of Saugatuck, et al., Tri-Community Master Plan, 10-7 (2005).

⁵⁵ *Id.* at 8-1 through 8-2; City of Saugatuck, et al., Tri-Community Master Plan 8-1 through 8-2 (2016).



Legend

- | | |
|--|--|
| <ul style="list-style-type: none"> ○ Rural Low Density Single Family Residential/Agricultural ● Medium to High Density Single and Multi-Family Residential ▨ Mixed Use Residential/Commercial ■ Waterfront Mixed Use | <ul style="list-style-type: none"> ▨ Commercial ▨ Industrial ▨ Greenspace, Preserve ▨ Highway Buffer |
|--|--|

CONCLUSION

- 60. The City, as a "local agency having . . . interest over the particular activity," finds that the proposed marina basin is "contrary to the public interest."
- 61. The City finds that the cumulative, permanent detrimental impacts of the excavation and construction of the proposed marina basin on property held by the City, adjacent natural areas, and on the Tri-Community tourist-based economy far outweigh any benefits from the construction of the marina basin. The City therefore finds that the canal is not necessary for development of the property at issue.
- 62. The City finds that the Tri-Community tourist-based economy relies on the preservation of the historical, ecological, and cultural values in the river mouth area.
- 63. The City finds that the proposed marina basin is contrary to the well-established "public and private uses to which the area is suited."
- 64. Based on the findings in this Resolution, the City of Saugatuck asks the United States Army Corps of Engineers to make an independent review of the need for the project from the prospective of the overall public interest.
- 65. Based on the findings in this Resolution, the City of Saugatuck asks the United States Army Corps of Engineers to strongly consider the public interest factors.

YEAS: Council Members: Bekken, Gardner, Leo, Stanton, Trester

NAYS: Council Members: None

ABSTAIN: Council Members: Dean

ABSENT: Council Members: Lewis

RESOLUTION DECLARED ADOPTED. Dated: 10/24/2022



Garnet Lewis, Mayor

CERTIFICATION

I, Jamie Wolters, the City Clerk of the City of Saugatuck, do hereby certify the foregoing is a true and complete copy of a resolution adopted by the Saugatuck City Council at a regular meeting held on 10/24/2022, in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan, 1976, as amended, for which the minutes of the meeting were kept and will be or have been made available as required by said Act.

Attest:


Jamie Wolters, City Clerk