



# CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST. ■ PO BOX 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ■ FAX: (231)627-3646

**CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING  
WEDNESDAY, FEBRUARY 6, 2019 AT 7:00 PM  
ROOM 135 – COMMISSIONERS ROOM  
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

## AGENDA

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### APPROVAL OF AGENDA

### APPROVAL OF MINUTES

### PUBLIC HEARING AND ACTION ON REQUESTS

1. **TeleSite Wireless on behalf of Verizon Wireless and TowerCo and Michael O' Grady** – A request for an extension of an approved Special Use Permit for a wireless communications facility. Per Section 18.12. , an approved Special Use Permit shall expire one year following approval by the Planning Commission unless substantial construction has begun pursuant to the permit prior to permit expiration or the property owner applies to the Planning Commission for an extension prior to expiration. The subject property is zoned Agriculture and Forestry Management (M-AF) and located at 130 W. Devereaux Lake Rd., Mullett Twp., Section 24, Parcel # 130-024-400-002-03.
2. **David Frame/Frame Holdings, LLC** - The applicant has requested site plan review approval for a proposed site condominium, pursuant to Section 20.3.d. of the Zoning Ordinance for construction of private storage buildings. The property is zoned Agriculture and Forestry Management (M-AF) and located at 1685 Orchard Beach Rd., Benton Township, Section 29, Parcel # 104-029-200-007-12. This public hearing item was tabled to a time uncertain at the September 5, 2018 regular meeting of the Planning Commission.
3. **Cheboygan County Planning Commission** - PLEASE TAKE NOTE that the Cheboygan County Planning Commission will hold a public hearing on proposed amendments to the Cheboygan County Zoning Ordinance No. 200 on Wednesday, February 6, 2019 at 7:00 p.m. in the Commissioners Room, Room 135, Cheboygan County Building, 870 S. Main St., Cheboygan, MI 49721. The proposed amendments to the Cheboygan County Zoning Ordinance No. 200 would repeal in its entirety Section 17.27.3. that regards the requirement that indoor storage facilities uses be located on a County Primary Road or State Trunkline. In addition, an amendment to Section 18.7. (Standards for Special Use Permit Approval) that would delete language regarding the use of residential streets to access land uses with larger area-wide patronage. A copy of the entire text of the proposed zoning ordinance amendments may be obtained at the office of the Cheboygan County Planning & Zoning Department, P.O. Box 70, 870 South Main St., Rm. 103, Cheboygan, MI 49721 during regular business hours. The public is invited to attend and present its comments on the proposed zoning ordinance amendments. Written comments may be submitted at the public hearing or may be sent to the Cheboygan County Planning & Zoning Department at the above address before the public hearing.

**UNFINISHED BUSINESS**

1. Zoning Ordinance Amendment #150 (Solar Energy Systems)

**NEW BUSINESS**

**STAFF REPORT**

**PLANNING COMMISSION COMMENTS**

**PUBLIC COMMENTS**

**ADJOURN**



# CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST., ROOM 103 ■ PO BOX 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ■ TDD: (800)649-3777

## CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, JANUARY 16, 2019 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

- PRESENT:** Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Jazdzyk
- ABSENT:** Churchill
- STAFF:** Mike Turisk
- GUESTS:** Roberta Matelski, Eric Boyd, Gil Archambo, Carl Muscott, Roger Jacobs, Russell Crawford, Cheryl Crawford, Elyn Kallio, Ed Delana, Calvin Lewis, Gary Lewis, Max Grubinski, Dennis Lafrinere, Maureen Lafrinere, Bill Carver, Dana Carver, Martha Young, Gary Young, Cal Gouine, Ruth Wolf, Dian Praither, Charles Maziasz, Bob Lyon, Donna Keene, Chris Keene, Brad Forester, Colleen Davis, Mike Peltier, Jeff Jocks, John Moore, Marcia Rocheleau, Karen Johnson

The meeting was called to order by Chairperson Croft at 7:00pm.

Ms. Croft explained that due to the number of people attending the meeting the public hearing would have to be held at another venue to accommodate the public. Many audience members offered to step out of the meeting room to allow the meeting to continue. Ms. Croft stated that legal counsel has requested that she inform the public that by leaving the meeting they are waiving their rights to participate in the public hearing. Ms. Croft stated that she will need the names of the people who are leaving the meeting.

An audience member asked if the administrative search warrant will not be heard tonight and if this is true, it may alleviate the number of people attending the meeting. Mr. Graham stated that the administrative search warrant will not be in the solar amendment and he would like to address this issue at this time. Mr. Graham stated that there are a lot of misconceptions. Mr. Graham stated that the police cannot go into a house to search without consent or a search warrant. Mr. Graham stated that the police need a search warrant from the court if they do not receive consent because of the Fourth Amendment. Mr. Graham explained how a search warrant is obtained. Mr. Graham stated that a government employee’s right to search/inspect private property is limited, subject to the protections of the Fourth Amendment. Mr. Graham stated that the proposed amendment language puts into the zoning ordinance the recognition of the constitutional rights that everyone is entitled to under the Fourth Amendment. Mr. Graham stated that if the zoning officials want to inspect your property for a potential violation he will need your permission or ask the court for an administrative search warrant. Mr. Graham stated that in such a situation a zoning official would be requesting an administrative search warrant and he is not looking for evidence of a crime. An audience member asked if they will have to search for a specific item. Mr. Graham stated yes. The audience member asked if it is for a broad search of the property. Mr. Graham stated no. The audience member asked what does this have to do with zoning. Mr. Graham stated that there could be a zoning violation such as a garage not meeting the side setback requirement. Mr. Graham stated that the proposed language reflects the current law and protects private property rights. Mr. Maziasz asked why this language is being included in the Zoning Ordinance if it can already be done. Mr. Graham stated that it reminds the governmental official that he has the right to inspect and that it is limited by the Fourth Amendment. An audience member asked if the administrative search warrant is an open ended search warrant or is it specific to an individual case. Mr. Graham stated that it is specific to an individual case and it would have to be reviewed by the court to determine if there is sufficient reason to have a government official conduct the inspection. The audience member asked why does this need to be amended since there is precedence. Mr. Graham stated that the purpose of including this language is to remind the government official that he has the right to inspect and that it is limited by the Fourth Amendment.

Ms. Croft stated that due to capacity issues the Planning Commission will not be able to address the solar power amendment. **Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, to table the public hearing for the solar power amendment. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Jazdzyk), 0 Nays, 1 Absent (Churchill)

Mr. Graham stated that this amendment will not contain the administrative search warrant provision as part of the public hearing. Mr. Graham stated that the administrative search warrant provision can be addressed at a future meeting. Mr.

Graham explained that audience members can stay and comment during the public hearing tonight for the solar amendment. Discussion was held. Ms. Croft stated that audience members that leave the meeting are voluntarily agreeing to not participate in the discussion.

**Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, to withdraw the motion to table the public hearing for the solar power amendment. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Jazdyk), 0 Nays, 1 Absent (Churchill)

#### **APPROVAL OF AGENDA**

The meeting agenda was presented. **Motion** by Mr. Borowicz, seconded by Mr. Bartlett, to approve the agenda as presented. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Jazdyk), 0 Nays, 1 Absent (Churchill)

#### **APPROVAL OF MINUTES**

The November 7, 2018 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, to approve the meeting minutes as presented. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Jazdyk), 0 Nays, 1 Absent (Churchill)

The December 19, 2018 Planning Commission minutes were presented. **Motion** by Mr. Borowicz, seconded by Mr. Kavanaugh, to approve the meeting minutes as presented. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Jazdyk), 0 Nays, 1 Absent (Churchill)

The January 2, 2019 Planning Commission minutes were presented. **Motion** by Mr. Jazdyk, seconded by Mr. Borowicz, to approve the meeting minutes as presented. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Jazdyk), 0 Nays, 1 Absent (Churchill)

#### **PUBLIC HEARING AND ACTION ON REQUESTS**

**Ruth Wolf** – Requests a rezoning from Agriculture and Forestry Management (M-AF) to Residential Development (D-RS). The subject property is located in Tuscarora Township, addressed as 4359 Wilson Rd., Section 25, Parcel #161-025-200-050-04 .

Mr. Turisk reviewed the background information contained in the staff report covering the application. Mr. Turisk explained that the Zoning Board of Appeals tabled a request for variance. Mr. Turisk explained that the Zoning Board of Appeals suggested the applicant request that the property be rezoned to Residential Development. Mr. Turisk stated that the Residential Development zoning district has less stringent site development standards (minimum lot size and minimum lot width).

Ms. Croft asked for public comments. Mr. Muscott stated he attended the Zoning Board of Appeals meeting where Ms. Wolf's request was reviewed and he agreed with Mr. Freese that this parcel should be rezoned. Mr. Muscott stated that Mr. Freese suggested the ½ acre lots in this area also be included in the rezoning. Mr. Muscott stated his concern that these lots were not included in the rezoning request. Mr. Muscott stated that the Residential Development zoning district is not less restrictive as there are more restrictions. Mr. Muscott stated that the Residential District does allow for smaller lots.

Ms. Keene stated she believes this parcel should remain Agriculture and Forestry Management.

Public comment closed.

**Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to approve the rezoning request based on the General Findings and the 10 Rezoning Factors and to forward to the Cheboygan County Board of Commissioners with a recommendation for approval. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Jazdyk), 0 Nays, 1 Absent (Churchill)

**Cheboygan County Planning Commission** - The proposed ordinance amends the Cheboygan County Zoning Ordinance No. 200 to permit solar energy systems as land uses within the county.

Mr. Turisk stated this proposed amendment regards solar energy ranging from small scale residential to utility scale solar farms. Mr. Turisk stated that this effort has been ongoing for several months. Mr. Turisk explained that the amendment includes definitions that identify Level I, II, and III Solar Energy Systems and respective permit review processes and application and development requirements. Mr. Turisk explained that the amendment distinguishes between Level 1, Level 2 and Level 3 Solar Energy Systems and identifies specific information and the degree of detail required for application

submittals. Mr. Turisk explained that the amendment requires a decommissioning plan and adequate reclamation for Level 3 facilities.

Mr. Kavanaugh stated that this is not the first draft of the solar amendment as the Planning Commission has been working on this for months. Mr. Kavanaugh stated that this is the final draft after receiving comments from solar representatives and the public.

Ms. Croft asked for public comments.

Mr. Muscott thanked Mr. Freese for his work on the solar amendment. Mr. Muscott stated that in the Planning Commission packet there are comments from Orion Renewable Energy requesting changes to the amendment. Mr. Muscott referred to paragraph B on page 7 and questioned if a special use permit should be required as this may be intrusive for a parcel that is only 0.765 acres. Mr. Muscott stated that a Level 1 system may not be allowed or may be modified by the Michigan Building Code.

Mr. Boyd stated his concerns regarding the required berms for Level 3 systems being below road grade.

Mr. Jocks stated that he is an attorney from Traverse City and is speaking on behalf of Orion Renewable Energy. Mr. Jocks thanked the Planning Commission for their work on this amendment and for understanding the public needs. Mr. Jocks stated that he believes that delaying the meeting in November was appropriate. Mr. Jocks reviewed suggested changes to the proposed amendment from Peter Moritzburke's letter dated November 19, 2018 (see attachment A).

Ms. Carver stated she understands the rules for corporations, but questioned why there are rules for private property.

Ms. Davis asked if there is a particular location where this will take place. Mr. Freese stated that this is a regulation for the county and not a specific location.

Public comment closed.

The Planning Commission agreed to make the following changes after reviewing Orion Renewable Energy Group's suggested changes (see attachment A):

- Section 2.2, Electrical Energy Storage System – Use suggested text
- Section 2.2, Generation Station Step-Up Transformer Facility – delete “138KV, 230V or 345KV”
- Section 17.30.2 – Use suggested text
- Section 17.30.3-4A – Use suggested text
- Section 17.30.3-4B – Use suggested text
- Section 17.30.3-4E – Use suggested text
- Section 17.30.3-4G – Change to “At the time of zoning permit application submittal detailed engineering drawings shall be provided to include standard drawings of the structural components of the solar farm and any electrical storage system in support of the Level 3 SES-PV System, demonstrate compliance with the approval standards of this ordinance. Drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.
- Section 17.30.3-4H(i) – Use suggested text
- Section 17.30.3-4H(ii) – Use suggested text
- Section 17.30.3-4I – Use suggested text
- Section 17.30.3-4J – Use suggested text
- Section 17.30.4-1 – Add “within 15 business days”
- Section 17.30.6.C-B(iii, v and vi) – Add “Existing vegetation may be allowed to remain wherever it is present.”
- Section 17.30.6.C-D– Add “Existing vegetation may be allowed to remain wherever it is present.”
- Section 17.30.6.C-E – Use suggested text

Discussion was held regarding setbacks being measured from the edge of the right of way or from the center of the road. Mr. Graham stated that all references to “building permit” are to be changed to “zoning permit”.

Discussion was held regarding berms for Level 3 systems being below road grade. The Planning Commission agreed to include “The screening across from dwellings will have to be 8ft. above road grade.”

Mr. Borowicz referred to 17.30.6.C-D(i) and suggested revising this section, "Evergreen coniferous trees and or berms or a combination of the two shall be the only acceptable methods of screening....". Discussion was held.

An audience member stated he is in favor of this because you should be able to do what you want with private property but he does not want to see something similar to what happened in North Carolina. The audience member stated it cost \$5 million to put the wind farm in and when it didn't work out it cost the neighbor \$10 million to remove it. The audience member doesn't want to be required to cover any costs to remove it.

Discussion was held regarding this amendment being on the next Planning Commission agenda.

#### **UNFINISHED BUSINESS**

No comments.

#### **NEW BUSINESS**

No comments.

#### **STAFF REPORT**

Mr. Turisk stated that Jennifer Merk has been hired as the Planner. Mr. Turisk stated that she will be attending the February 6, 2019 Planning Commission meeting.

#### **PLANNING COMMISSION COMMENTS**

No comments.

#### **PUBLIC COMMENTS**

Mr. Muscott stated that some counties in Michigan, such as Antrim County, do not have zoning. Mr. Muscott stated that some zoning is administered at the township and village levels. Mr. Muscott stated that they may still have a master plan and hold 4 meetings a year, but there are no zoning restrictions at the county level. Mr. Muscott stated that Antrim County has lost some big employers, but they have lost less population than Cheboygan County. Mr. Muscott believes that property values are negatively impacted by zoning restrictions.

An audience member thanked the Planning Commission for their input on the amendment such as adding in evergreens. She stated that anytime the Planning Commission can make verbiage more understandable, it appears that they are hiding less.

Mr. Boyd asked if setbacks will be measured from the edge of the right of way or from the center of the road. Mr. Borowicz stated that the Planning Commission will address this at the next meeting as they are waiting on an interpretation.

Mr. Carver asked if the microphones and speakers could be used so the audience members in the back of the room can hear the discussion.

Mr. Keene stated his concerns regarding the degeneration of berms over time. Mr. Freese stated that the cross section of the berm along with the planting design is in the regulation. Mr. Kavanaugh stated that maintenance of the berm is also required.

Mr. Jocks thanked the Planning Commission for their work on the amendment.

#### **ADJOURN**

**Motion** by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 8:41pm.

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Charles Freese  
Planning Commission Secretary

# CHEBOYGAN COUNTY PLANNING COMMISSION

Verizon Wireless and TowerCo/TeleSite

## Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Letter from David Hockey (1 Page; dated 1.11.2019)
4. Special Use Application (6 Pages; 1.14.2019)
5. Special Use Application (6 Pages; 1.12.2018)
6. Site Plans (2 Pages)
7. Verizon Wireless Site #3263/TowerCo Site #M10337 Zoning Ordinance Responses (4 Pages)
8. Letter from Keith J. Tindall, P.E., Structural Integrity RE: Reduced Isolation Standard (1 Page)
9. Planning Commission Minutes (3 Pages; 2.21.2018)
10. Special Use Permit Approval Letter (1 Page; dated 3.8.2018)
11. Current Verizon Wireless Coverage Without Proposed Site #3263 Mullett Lake East (1 Page)
12. Proposed Verizon Wireless Coverage With Site #3263 Mullett Lake East (1 Page)
13. Mailing List (1 Page)
14. Staff Report (3 Pages)
15. Findings of Fact (6 Pages)
- 23.
- 24.
- 25.

Note: Planning Commission members have Exhibits 1 and 2.

January 11, 2019

Cheboygan County  
Department of Planning & Zoning  
Attn: Michael Turisk, Director  
870 South Main Street, Room 103  
Cheboygan, MI 49721

Re: Special Use Permit Time Extension Request- Cell Tower

Dear Mr. Turisk,

Please accept this letter accompanying the special use permit application as TowerCo's formal request for a one-time 1 year time extension request to the existing special use permit granting approval for a wireless communication facility.

TowerCo was originally granted planning and zoning approval on February 21<sup>st</sup> 2018 allowing a wireless communication facility to be placed at 130 West Devereaux Lake Road, Mullet Twp, section 24, parcel #130-024-400-002-03. The facility was requested in order to allow Verizon to expand their wireless coverage in this area of the county. Since that time, due to budgetary reasons, this site has been delayed and scheduled for construction at the end of 2019/beginning of 2020.

It is important to note that TowerCo is not requesting any changes to the physical layout or design of the approved site.

As a result, TowerCo respectfully requests the additional time needed in order to maintain the site's zoning status and construct the site within the above noted timeframe.

Included with this letter are the following:

- 1) Completed special use permit application (requesting the time extension)
- 2) Copy of the original special use permit approval
- 3) \$150 check for application fee

Should you have any questions, please feel free to reach me on my cell at (843)-452-6242.



TowerCo

Sincerely,

David Hockey  
Director of Zoning

5000 Vallestone Dr.  
Suite 200  
Cary, NC 27519

address

919.469.5559

main

919.469.5530

fax

info@towerco.com

email

towerco.com

website



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870 S. MAIN ST., RM. 103 ▪ PO Box 70 ▪ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ▪ FAX: (231)627-3646

### PROPERTY LOCATION

<i>Address</i> 130 W Devereaux Lake Road	<i>City / Village</i> Indian River	<i>Twp / Sec.</i> Mullett/24	<i>Zoning District</i> M-AF
<i>Property Tax I.D. Number</i> 130-024-400-002-03	<i>Plat or Condo Name / Lot or Unit No.</i>		

### APPLICANT

<i>Name</i> Verizon Wireless and TowerCo	<i>Telephone</i> 919-653-5746	<i>Fax</i>
<i>Address</i> 5000 Valleystone Drive	<i>City, State &amp; Zip</i> Cary, NC 27519	<i>E-Mail</i> dhockey@towerco.com

### OWNER (If different from applicant)

<i>Name</i> Michael O'Grady	<i>Telephone</i> 231-420-5365	<i>Fax</i>
<i>Address</i> 130 W Devereaux Lake Rd	<i>City, State &amp; Zip</i> Indian River, MI 49749	<i>E-Mail</i>

### PROPOSED WORK

<i>Type (check all that apply)</i> <input type="checkbox"/> New Building <input type="checkbox"/> Reconstruction <input type="checkbox"/> Addition <input type="checkbox"/> Relocated Building <input type="checkbox"/> Change in Use or Additional Use <input type="checkbox"/> Sign, Type: _____ <input checked="" type="checkbox"/> Other: <u>Extension of existing special use permit to allow a cell tower</u>	<i>Building/Sign Information</i> Overall Length: <u>N/A</u> feet Overall Width: <u>N/A</u> feet Floor Area: <u>N/A</u> sq. feet Overall Building Height: <u>N/A</u> feet Sign Area: <u>N/A</u> sq. feet Sign Height <u>N/A</u> feet
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### PROPOSED USE (check all that apply)

<input type="checkbox"/> Single-Family Residence	<input type="checkbox"/> Expansion / Addition	<input type="checkbox"/> Office	<input type="checkbox"/> Agricultural
<input type="checkbox"/> Duplex	<input type="checkbox"/> Garage or Accessory	<input type="checkbox"/> Commercial	<input type="checkbox"/> Institutional
<input type="checkbox"/> Multi-Family, # of units ____	<input type="checkbox"/> Storage	<input type="checkbox"/> Industrial	<input type="checkbox"/> Utility
<input checked="" type="checkbox"/> Other: <u>Cell Tower</u>			

Has there been a Site Plan or Special Use Permit approved for this parcel before?  YES  NO

If YES, date of approval: 02/21/2018 Approved Use: Cell Tower

Directions to site: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SPECIAL LAND USE PERMIT APPLICATION



# CHEBOYGAN COUNTY PLANNING & ZONING DEPARTMENT

870 S. MAIN ST., RM. 103 ■ PO BOX 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ■ FAX: (231)627-3646

SPECIAL LAND USE PERMIT APPLICATION

1. Describe all anticipated activities (e.g. type of business, hours of operation, number of employees, etc). Attach additional sheets if needed.

No changes from original application . This request is to extend the existing special use permit approval issued on 02/21/18. Attached narrative provides more detailed explanation

Site Plan Standards.

### PLEASE EXPLAIN HOW YOUR REQUEST MEETS EACH OF THE FOLLOWING STANDARDS

- a. The site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
- b. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas.
- c. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
- d. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- e. All buildings or groups of buildings should be so arranged as to permit emergency vehicle access by some practical means.
- f. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
- g. For subdivision plats and subdivision condominiums, there shall be a pedestrian circulation system as approved by the Planning Commission.
- h. Exterior lighting shall be arranged as follows:
  - i. It is deflected away from adjacent properties.
  - ii. It does not impede the vision of traffic along adjacent streets.
  - iii. It does not unnecessarily illuminate night skies.



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SPECIAL LAND USE PERMIT APPLICATION

- i. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Master Plan.

\_\_\_\_\_

\_\_\_\_\_

- j. Site plans shall conform to all applicable requirements of state and federal statutes and the Cheboygan County Master Plan, and approval may be conditioned on the applicant receiving necessary state and federal permits.

\_\_\_\_\_

\_\_\_\_\_

3. Size of property in sq. ft. or acres: \_\_\_\_\_

4. Present use of property:

\_\_\_\_\_

5. SUP Standards:

- a. Is the property located in a zoning district in which the proposed special land use is allowed?

\_\_\_\_\_

- b. Will the proposed special land use involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the County or the natural environment as a whole? **Explain.** \_\_\_\_\_

- c. Will the proposed special land use involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person? **Explain.** \_\_\_\_\_

\_\_\_\_\_

- d. Will the proposed special land use be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned? **Explain.** \_\_\_\_\_

\_\_\_\_\_

- e. Will the proposed special land use place demands on fire, police, or other public resources in excess of current capacity? **Explain.**

\_\_\_\_\_

\_\_\_\_\_

- f. Will the proposed special land use be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services? **Explain.** \_\_\_\_\_

\_\_\_\_\_



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SPECIAL LAND USE PERMIT APPLICATION

- g. Will the proposed special land use will be adequately served by water and sewer facilities, and refuse collection and disposal services? Please see attached narrative
- h. Will the proposed special land use comply with all specific standards required under this Ordinance applicable to it (i.e. parking, setbacks, etc)? Yes
- 6. Does the proposed use of the property include or involve either:
  - Junk or salvage yard (Section 3.6)  YES  NO
  - Mineral extraction (Section 17.17)  YES  NO
 If YES, this application must include a written plan as described in the Zoning Ordinance.
- 7. Attach a copy of Warranty Deed or other proof of ownership.
- 8. Attach a copy of certified Property Survey or dimensioned property land plat.

### AFFIDAVIT

The undersigned affirms that the information and plans submitted in this application are true and correct to the best of the undersigned's knowledge.

Applicant's Signature

Date 01/011/19

Does the property owner give permission for County zoning officials to enter his or her property for inspection purposes?

Yes  No

Owner's Signature

See signature from previous approved application

Date

### FOR PLANNING /ZONING DEPT. USE ONLY

Date Received:

Notes:

Fee Amount Received:

150.00

Receipt Number:

6590

Public Hearing Date:

Planning/Zoning Administrator Approval:

Signature

1.16.2019

Date

# SPECIAL LAND USE PERMIT APPLICATION

## SITE PLAN REQUIREMENT CHECKLIST

(TO BE SUBMITTED WITH APPLICATION AND SITE PLAN)

ALL ITEMS LISTED BELOW MUST BE SUBMITTED IN ORDER FOR THIS APPLICATION TO BE DEEMED COMPLETE. INCOMPLETE APPLICATIONS WILL NOT BE REVIEWED OR PROCESSED. EACH SITE PLAN SHALL DEPICT THE ITEMS LISTED BELOW, EXCEPT FOR THOSE ITEMS DETERMINED DURING THE PRE-APPLICATION CONFERENCE TO NOT BE APPLICABLE.

PLACE A CHECK MARK NEXT TO EACH REQUIREMENT TO SHOW THAT THE INFORMATION HAS BEEN SUPPLIED OR THAT A WAIVER IS BEING REQUESTED. IF A WAIVER IS BEING REQUESTED PLEASE NOTE ON THE NEXT PAGE THE REASON FOR THE WAIVER. SIGN AND DATE THIS CHECKLIST WHEN ALL ITEMS HAVE BEEN COMPLETED. PLEASE SUBMIT THIS CHECKLIST WITH YOUR APPLICATION.

INFORMATION SUPPLIED	WAIVER REQUESTED	REQUIREMENT
		a. North arrow, scale and date of original submittal and last revision. Site plan is to be drawn at a scale of 1 inch = 100ft. or less.
		b. Seal of the registered engineer, architect, landscape architect, surveyor, planner, or other site plan preparer. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.
		c. Location of existing and proposed public roads, rights-of-way and private easements of record and abutting streets.
		d. Topography at maximum five foot intervals or appropriate topographic elevations to accurately represent existing and proposed grades and drainage flows.
		e. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, stormwater controls, flood plains, and wetlands.
		f. Location of existing and proposed buildings and intended uses thereof.
		g. Details of entryway and sign locations should be separately depicted with an elevation view.
		h. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
		i. Location, size, and characteristics of all loading and unloading areas.
		j. Location and design of all sidewalks, walkways, bicycle paths and areas for public use as approved by the Planning Commission.
		k. Location of all other utilities on the site including but not limited to wells, septic systems, stormwater controls, natural gas, electric, cable TV, telephone and steam and proposed utility easements.
		l. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.

SPECIAL LAND USE PERMIT APPLICATION

## SITE PLAN REQUIREMENT CHECKLIST

(TO BE SUBMITTED WITH APPLICATION AND SITE PLAN)

INFORMATION SUPPLIED	WAIVER REQUESTED	REQUIREMENT
		m. Location and specifications for all fences, walls, and other screening features.
		n. Location and specifications for all existing and proposed perimeter and internal landscaping and other buffering features.
		o. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
		p. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
		q. Elevation drawing(s) for proposed commercial and industrial structures.
		r. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well
		s. Floor plans, when needed to determine the number of parking spaces required.

PLEASE LIST THE REQUIREMENT FOR WHICH A WAIVER IS BEING REQUESTED. ALSO PROVIDE AN EXPLANATION/REASON FOR THE WAIVER REQUEST.

<u>SECTION</u>	<u>REASON FOR WAIVER REQUEST</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**AFFIDAVIT**

I CERTIFY THAT ALL SITE PLAN REQUIREMENTS (A THROUGH S) ARE DRAWN ON THE SITE PLAN, ATTACHED TO THIS APPLICATION AND/OR I AM REQUESTING A WAIVER. I CERTIFY THAT ALL INFORMATION AND DATA ATTACHED TO AND MADE PART OF THIS SPECIAL LAND USE PERMIT APPLICATION ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

\_\_\_\_\_   
SIGNATURE

\_\_\_\_\_ 01/14/19 \_\_\_\_\_  
DATE





# CHEBOYGAN COUNTY PLANNING & ZONING DEPARTMENT

870 S. MAIN ST., RM. 103 ■ PO BOX 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ■ FAX: (231)627-3646

1. Describe all anticipated activities (e.g. type of business, hours of operation, number of employees, etc). Attach additional sheets if needed.

Hours of operation are 24/7. The proposed facility will be un-manned.

Site Plan Standards.

## PLEASE EXPLAIN HOW YOUR REQUEST MEETS EACH OF THE FOLLOWING STANDARDS

- a. The site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.  
No existing environmental features on the subject property will be altered. No additional access points are needed as existing access will be utilized.
- b. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas.  
This is understood by the applicant. All efforts will be made to comply with this section.
- c. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.  
The proposed tower site will not create a change in the existing drainage pattern onsite.
- d. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.  
N/A
- e. All buildings or groups of buildings should be so arranged as to permit emergency vehicle access by some practical means.  
Emergency vehicle access has been planned for as it relates to access to the site.
- f. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.  
N/A
- g. For subdivision plats and subdivision condominiums, there shall be a pedestrian circulation system as approved by the Planning Commission.  
N/A
- h. Exterior lighting shall be arranged as follows:
- It is deflected away from adjacent properties. Understood by the applicant.
  - It does not impede the vision of traffic along adjacent streets. Understood by the applicant.
  - It does not unnecessarily illuminate night skies. Understood by the applicant.

SPECIAL LAND USE PERMIT APPLICATION



# CHEBOYGAN COUNTY PLANNING & ZONING DEPARTMENT

870 S. MAIN ST., RM. 103 - PO BOX 70 - CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 - FAX: (231)627-3646

**SPECIAL LAND USE PERMIT APPLICATION**

i. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Master Plan.

N/A

j. Site plans shall conform to all applicable requirements of state and federal statutes and the Cheboygan County Master Plan, and approval may be conditioned on the applicant receiving necessary state and federal permits.

Understood and agreed to by the applicant.

3. Size of property in sq. ft. or acres: \_\_\_\_\_

4. Present use of property:  
The space the tower would occupy is currently undeveloped land.

5. SUP Standards:

a. Is the property located in a zoning district in which the proposed special land use is allowed?  
Yes. The M-AF zoning district allows towers to be established as a special land use.

b. Will the proposed special land use involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the County or the natural environment as a whole? Explain. Please see attached narrative.

c. Will the proposed special land use involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person? Explain. Please see attached narrative.

d. Will the proposed special land use be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned? Explain. Please see the attached narrative

e. Will the proposed special land use place demands on fire, police, or other public resources in excess of current capacity? Explain. Please see the attached narrative.

f. Will the proposed special land use be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services? Explain. Please see the attached narrative.



# CHEBOYGAN COUNTY PLANNING & ZONING DEPARTMENT

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PHONE: (231)627-8489 • FAX: (231)627-3646

SPECIAL LAND USE PERMIT APPLICATION

- g. Will the proposed special land use will be adequately served by water and sewer facilities, and refuse collection and disposal services? Please see the attached narrative.
- h. Will the proposed special land use comply with all specific standards required under this Ordinance applicable to it (i.e. parking, setbacks, etc)? Yes
- 6. Does the proposed use of the property include or involve either:
  - Junk or salvage yard (Section 3.6)  YES  NO
  - Mineral extraction (Section 17.17)  YES  NO
 If YES, this application must include a written plan as described in the Zoning Ordinance.
- 7. Attach a copy of Warranty Deed or other proof of ownership.
- 8. Attach a copy of certified Property Survey or dimensioned property land plat.

**AFFIDAVIT**

The undersigned affirms that the information and plans submitted in this application are true and correct to the best of the undersigned's knowledge.

Applicant's Signature  Date 1/12/18

Does the property owner give permission for County zoning officials to enter his or her property for inspection purposes?

Yes  No

Owner's Signature  Date 1-23-18

**FOR PLANNING /ZONING DEPT. USE ONLY**

Date Received:	01/18/18	Notes:
Fee Amount Received:	\$225.00	
Receipt Number:	6041	
Public Hearing Date:	2/21/18	
Planning/Zoning Administrator Approval:		
<u></u>		<u>1/23/18</u>
Signature		Date

# SPECIAL LAND USE PERMIT APPLICATION

## SITE PLAN REQUIREMENT CHECKLIST

(TO BE SUBMITTED WITH APPLICATION AND SITE PLAN)

ALL ITEMS LISTED BELOW MUST BE SUBMITTED IN ORDER FOR THIS APPLICATION TO BE DEEMED COMPLETE. INCOMPLETE APPLICATIONS WILL NOT BE REVIEWED OR PROCESSED. EACH SITE PLAN SHALL DEPICT THE ITEMS LISTED BELOW, EXCEPT FOR THOSE ITEMS DETERMINED DURING THE PRE-APPLICATION CONFERENCE TO NOT BE APPLICABLE.

PLACE A CHECK MARK NEXT TO EACH REQUIREMENT TO SHOW THAT THE INFORMATION HAS BEEN SUPPLIED OR THAT A WAIVER IS BEING REQUESTED. IF A WAIVER IS BEING REQUESTED PLEASE NOTE ON THE NEXT PAGE THE REASON FOR THE WAIVER. SIGN AND DATE THIS CHECKLIST WHEN ALL ITEMS HAVE BEEN COMPLETED. PLEASE SUBMIT THIS CHECKLIST WITH YOUR APPLICATION.

INFORMATION SUPPLIED	WAIVER REQUESTED	REQUIREMENT
X		a. North arrow, scale and date of original submittal and last revision. Site plan is to be drawn at a scale of 1 inch = 100ft. or less.
X		b. Seal of the registered engineer, architect, landscape architect, surveyor, planner, or other site plan preparer. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.
X		c. Location of existing and proposed public roads, rights-of-way and private easements of record and abutting streets.
X		d. Topography at maximum five foot intervals or appropriate topographic elevations to accurately represent existing and proposed grades and drainage flows.
	N/A	e. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, stormwater controls, flood plains, and wetlands.
X		f. Location of existing and proposed buildings and intended uses thereof.
X		g. Details of entryway and sign locations should be separately depicted with an elevation view.
	N/A	h. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
	N/A	i. Location, size, and characteristics of all loading and unloading areas.
	N/A	j. Location and design of all sidewalks, walkways, bicycle paths and areas for public use as approved by the Planning Commission.
X		k. Location of all other utilities on the site including but not limited to wells, septic systems, stormwater controls, natural gas, electric, cable TV, telephone and steam and proposed utility easements.
	N/A	l. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.

**SPECIAL LAND USE PERMIT APPLICATION**

**SITE PLAN REQUIREMENT CHECKLIST**

(TO BE SUBMITTED WITH APPLICATION AND SITE PLAN)

INFORMATION SUPPLIED	WAIVER REQUESTED	REQUIREMENT
X		m. Location and specifications for all fences, walls, and other screening features.
	N/A	n. Location and specifications for all existing and proposed perimeter and internal landscaping and other buffering features.
X		o. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
	N/A	p. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
X		q. Elevation drawing(s) for proposed commercial and industrial structures.
X		r. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well
	N/A	s. Floor plans, when needed to determine the number of parking spaces required.

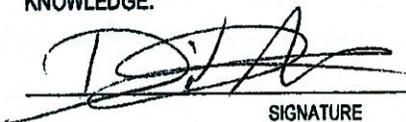
PLEASE LIST THE REQUIREMENT FOR WHICH A WAIVER IS BEING REQUESTED. ALSO PROVIDE AN EXPLANATION/REASON FOR THE WAIVER REQUEST.

**SECTION**

**REASON FOR WAIVER REQUEST**


**AFFIDAVIT**

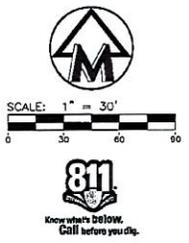
I CERTIFY THAT ALL SITE PLAN REQUIREMENTS (A THROUGH S) ARE DRAWN ON THE SITE PLAN, ATTACHED TO THIS APPLICATION AND/OR I AM REQUESTING A WAIVER. I CERTIFY THAT ALL INFORMATION AND DATA ATTACHED TO AND MADE PART OF THIS SPECIAL LAND USE PERMIT APPLICATION ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

  
 \_\_\_\_\_  
 SIGNATURE

11/21/18  
 \_\_\_\_\_  
 DATE

S:\154\1033\1541033\1541033.dwg, 1/17/2019 10:10 AM, Scott E. Fisher, P.E., Inc. Copyright © 2017 Midwestern Consulting, LLC. All rights reserved. No part of this drawing may be used or reproduced in any form or by any means, or stored in a database or retrieval system, without prior permission of Midwestern Consulting, LLC.

- ### LEGEND
- 681 — EXIST. CONTOUR
  - 681 — PROP. CONTOUR
  - +681.2 EXIST. SPOT ELEVATION
  - +681.23 PROP. SPOT ELEVATION
  - U.P. — EXIST. UTILITY POLE
  - W — OUY WIRE
  - O — EXIST. OVERHEAD UTILITY LINE
  - T — TELEPHONE RESEK
  - E — ELECTRIC METER
  - G — GAS METER
  - W — WELL
  - P — POST
  - F — FENCE
  - T — EXIST. TREE OR BRUSH LIMIT
  - S — SECTION CORNER
  - F — FOUND IRON PIPE
  - M — FOUND MONUMENT
  - R — FOUND IRON ROD
  - C — CONTROL PT.
  - D — EXIST. SATELLITE DISH



- ### TREE LEGEND
- DO BOK ELDER
  - OAK
  - P PINE

### PROPERTY INFORMATION

TAX PARCEL: 130-024-400-002-03  
 OWNER: MICHAEL O'GRADY  
 132 W. DEVEREAUX LAKE ROAD  
 INDIAN RIVER, MICHIGAN 49749  
 CELL SITE ADDRESS:  
 130 W. DEVEREAUX LAKE ROAD  
 INDIAN RIVER, MICHIGAN 49749

### LEGAL DESCRIPTION OF OVERALL PARCEL

(Taken from Title Commitment)

All that parcel of land in Township of Mullett, Cheboygan County, State of Michigan, as more fully described in Deed Liber 023, Page 003, 108 130-024-400-002-03, being known and designated as follows:

Commencing at the SE Corner of Section 24, T36N, R24W, thence West 773.20 feet to the Point of Beginning; thence continuing West 279.60 feet; thence N 02°38'42" W 599.96 feet; thence S 89°58'38" E 278.23 feet; thence S 02°51'43" E 599.88 feet to the point of beginning all being part of the SE 1/4 of the SE 1/4 of Section 24, T36N, R24W.

Also land situated in the Township of Mullett, County of Cheboygan, Michigan described as follows: Commencing at the SE Corner of Section 24, T36N, R24W, thence N 03°17'42" W 1341.57 feet; thence S 89°47'03" W 869.9 feet to the Point of Beginning; thence S 86°47'03" W 230 feet; thence S 02°28'44" E 233.5 feet; thence S 89°58'38" E 230 feet; thence N 02°28'44" W 735.5 feet to the Point of Beginning, being part of the SE 1/4 of the SE 1/4 of Section 24, T36N, R24W.

Exceptions:

S. Subject to Certificate of Survey No. 31-05, as set forth in Liber 100, Page 423, Recorded 09/09/2008, Cheboygan County Records. DOES NOT AFFECT LEASE PARCEL OR ACCESS/UTILITY EASEMENT

Subject to the conveyance of easement for right of way from Mullett Lake Lawn & Tree, Mike O'Grady, president, to Prusack Lake Electric Cooperative, Inc., as set forth in Liber 840, Page 208, recorded 04/19/1998, Cheboygan County Records. EASEMENT - DOES NOT AFFECT LEASE PARCEL OR ACCESS/UTILITY EASEMENT

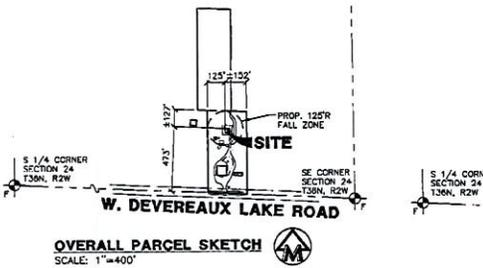
No other recorded exceptions in the vicinity of the proposed project site per ANVC Settlement Services Report of Title, File No. 11622495, dated 08/31/2017.

### NOTE

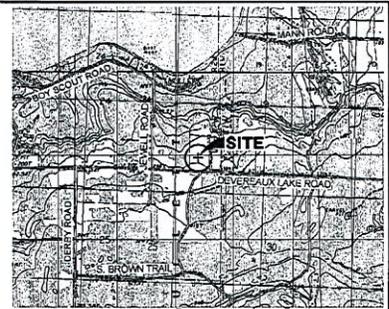
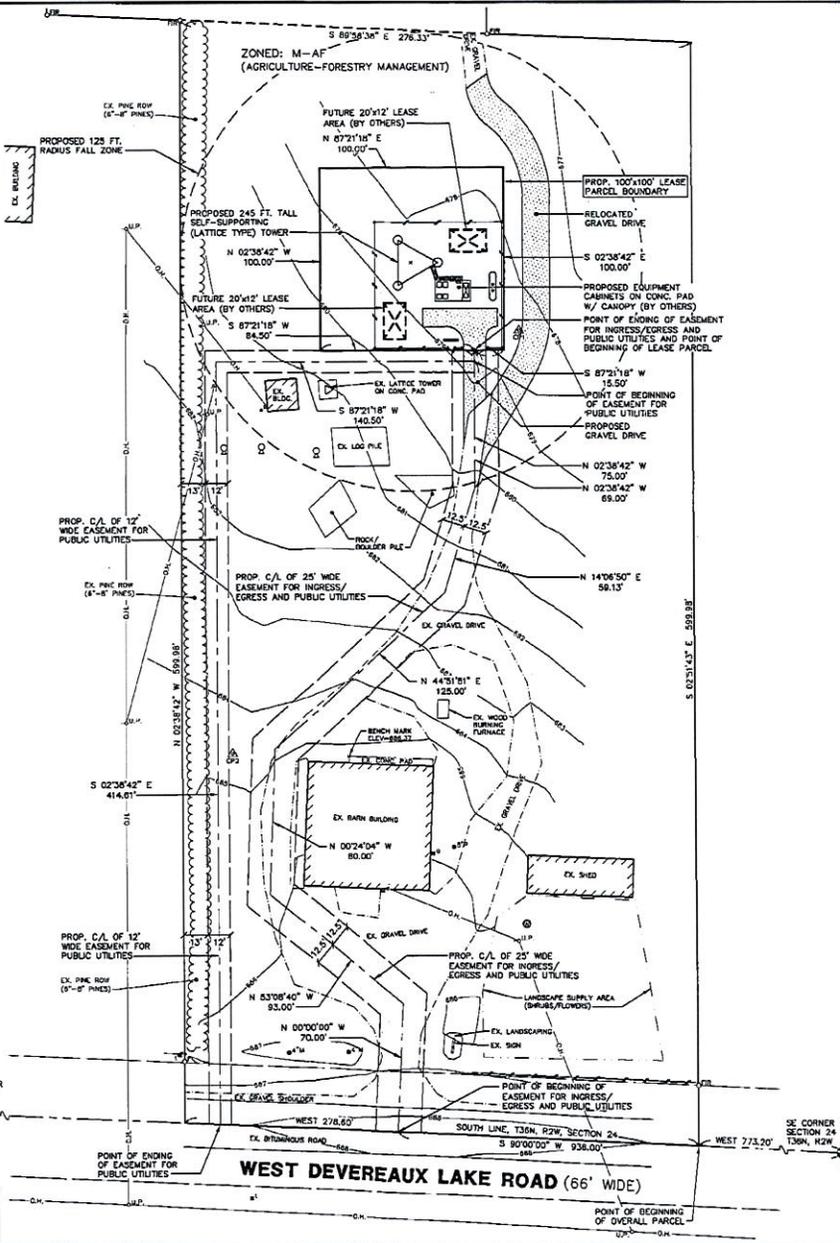
Rotate all bearings 02°28'28" clockwise to obtain bearings based on True North as determined from global positioning system (GPS).

### BENCH MARK

Top of the northeast corner of a concrete pad on the north side of the existing barn.  
Elevation: 886.37 (NAVD 88 Datum)



The underground utilities shown have been located from field survey information and existing records. The surveyor makes no guarantee that the underground utilities shown comprise all such utilities in the area, either temporary or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated. Although the surveyor does certify that they are located as accurately as possible from the information available.



### VICINITY SKETCH

SCALE: 1"=2000'

### LOCATION

LONGITUDE 84° 29' 17.7"  
 LATITUDE 45° 29' 28.8"  
 GROUND ELEV. @ TOWER BASE = 679.80

### LEGAL DESCRIPTION OF LEASE PARCEL

Commencing at the Southeast Corner of Section 24, T36N, R24W, Mullett Township, Cheboygan County, Michigan; thence S 90°00'00" W 698.00 feet along the south line of said Section 24 (also being the centerline of West Devereaux Lake Road, 66 feet wide); thence N 00°00'00" W 70.00 feet; thence N 53°08'40" W 83.00 feet; thence N 02°38'42" W 80.00 feet; thence N 44°51'51" E 125.00 feet; thence N 14°08'50" E 59.13 feet; thence N 02°38'42" W 75.00 feet to the POINT OF BEGINNING:

thence S 87°21'18" W 84.50 feet;  
 thence N 02°38'42" W 100.00 feet;  
 thence N 87°21'18" E 100.00 feet;  
 thence S 02°38'42" E 100.00 feet;  
 thence S 87°21'18" W 15.50 feet to the POINT OF BEGINNING; being a part of the Southeast 1/4 of Section 24, T36N, R24W, Mullett Township, Cheboygan County, Michigan; containing 10,000 square feet, or 0.230 acres, more or less; subject to assessments and restrictions of record, if any;

Together with a 30 foot wide easement for ingress, egress and public utilities, the centerline of said easement is described as follows:

Commencing at the Southeast Corner of Section 24, T36N, R24W, Mullett Township, Cheboygan County, Michigan; thence S 90°00'00" W 698.00 feet along the south line of said Section 24 (also being the centerline of West Devereaux Lake Road, 66 feet wide) to the POINT OF BEGINNING:

thence N 00°00'00" W 70.00 feet;  
 thence N 53°08'40" W 83.00 feet;  
 thence N 02°38'42" W 80.00 feet;  
 thence N 44°51'51" E 125.00 feet;  
 thence N 14°08'50" E 59.13 feet;  
 thence N 02°38'42" W 75.00 feet to the POINT OF ENDING; being a part of the Southeast 1/4 of Section 24, T36N, R24W, Mullett Township, Cheboygan County, Michigan; except any part taken, needed or used for public road purposes; subject to assessments and restrictions of record, if any;

And together with a 12 foot wide easement for public utilities, the centerline of said easement is described as follows:

Commencing at the Southeast Corner of Section 24, T36N, R24W, Mullett Township, Cheboygan County, Michigan; thence S 90°00'00" W 698.00 feet along the south line of said Section 24 (also being the centerline of West Devereaux Lake Road, 66 feet wide); thence N 00°00'00" W 70.00 feet; thence N 53°08'40" W 83.00 feet; thence N 02°38'42" W 80.00 feet; thence N 44°51'51" E 125.00 feet; thence N 14°08'50" E 59.13 feet; thence N 02°38'42" W 75.00 feet to the POINT OF BEGINNING:

thence S 87°21'18" W 140.50 feet;  
 thence S 02°38'42" E 414.51 feet to said south line of Section 24 and the POINT OF ENDING; being a part of the Southeast 1/4 of Section 24, T36N, R24W, Mullett Township, Cheboygan County, Michigan; except any part taken, needed or used for public road purposes; subject to assessments and restrictions of record, if any.

thence S 87°21'18" W 140.50 feet;  
 thence S 02°38'42" E 414.51 feet to said south line of Section 24 and the POINT OF ENDING; being a part of the Southeast 1/4 of Section 24, T36N, R24W, Mullett Township, Cheboygan County, Michigan; except any part taken, needed or used for public road purposes; subject to assessments and restrictions of record, if any.

APPROVED BY  
**CHEBOYGAN COUNTY PLANNING & ZONING DEPT.**

Approved as drawn  
 Approved with conditions

Date approved: 2/1/19 Page 1 of 2

*Gregory J. Larson*  
 Zoning Administrator

PREPARED BY:  
 MIDWESTERN CONSULTING, LLC.  
 SCOTT G. FISHER P.E. #58473

5000 WALKERS BARGE DRIVE  
 CANTON, MI 48106  
 313-483-8500 FAX

---

SITE # M10337  
 'MULLET LAKE E'

MULLETT TOWNSHIP  
 CHEBOYGAN COUNTY  
 MICHIGAN

---

DATE: 10/06/17	DRAWN: SGP	CHECKED: SGP	SCALE: AS SHOWN
PROJECT: M10337	CLIENT: TowerCo	LOCATION: Mullett Lake E	DATE: 10/06/17

---

M I D W E S T E R N  
 CONSULTING

---

JOB NO: 15044-3263	DATE: 10/06/17	DRAWN: SGP	CHECKED: SGP
PROJECT: M10337	CLIENT: TowerCo	LOCATION: Mullett Lake E	DATE: 10/06/17

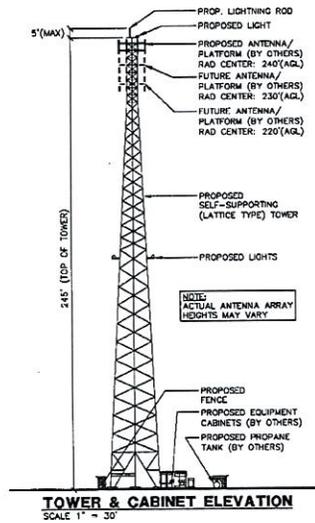
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**SITE SURVEY**

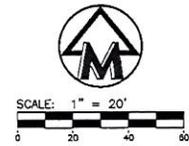
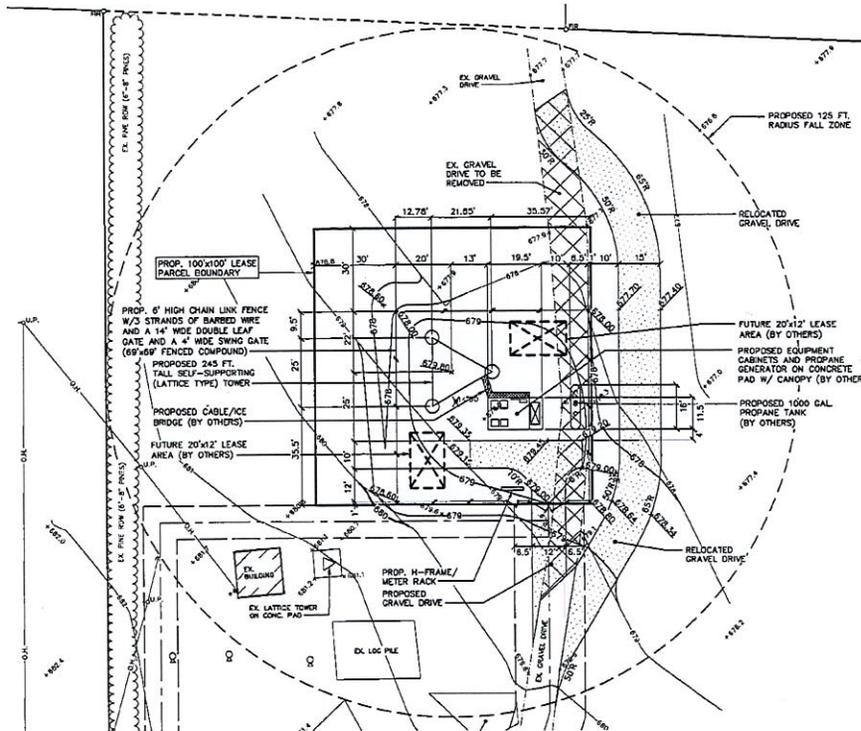
1

SHEET 1 OF 1

8/15/2017 10:17 AM, 1/12/2017 10:17 AM, 5/11/17 9:42 AM, 9/4/17 9:42 AM  
 Copyright © 2017 Midwestern Consulting, LLC. All rights reserved. No part of this drawing may be used or reproduced in any form or by any means, or stored in a database or retrieval system, without prior permission of Midwestern Consulting, LLC.



**TOWER & CABINET ELEVATION**  
SCALE 1" = 30'



**LEGEND**

---	EXIST. CONTOUR
---	PROP. CONTOUR
---	EXIST. SPOT ELEVATION
---	PROP. SPOT ELEVATION
---	EXIST. UTILITY POLE
---	GUY WIRE
---	EXIST. OVERHEAD UTILITY LINE
---	TELEPHONE RISER
---	ELECTRIC METER
---	GAS METER
---	WELL
---	POST
---	FENCE
---	EXIST. TREE OR BRUSH LIMIT
---	SECTION CORNER
---	FOUND IRON PIPE
---	FOUND MONUMENT
---	FOUND IRON ROD
---	CONTROL PT.
---	EXIST. SATELLITE DISH

**TREE LEGEND**

no	BOX ELDER
o	OAK
o	PINE
x	TO BE REMOVED

**GENERAL NOTES:**

- All site work construction shall be in accordance with the current standards and specifications of the Township of Mullett, where applicable.
- The proposed equipment cabinets are to be computerized, unattended, telephone exchange structures. No water service, sanitary facilities or gas service is needed. Telephone and electrical services will be from an existing utility pole or line adjacent to the site.
- The proposed equipment cabinets are to have security systems monitored 24 hours per day. The cabinets will also be constructed with bullet resistant materials.
- There are six, low-voltage (120V), LED lights proposed as part of the project. The lights are to be mounted under the canopy to each support post. Lights shall be connected to a technician operated on/off switch with a timer with a two-hour maximum light duration.
- There are no signs proposed for this project except for:
  - Emergency contact information purposes and FCC "call" sign placed on equipment cabinet door.
  - FCC registration number located on fence gate.
- The cellular antenna and equipment cabinets will be approved by the Federal Communications Commission (FCC) and will not impact any frequency sensitive devices whatsoever. Buyer warrants no adverse radio interference with adjacent land uses.
- There are no toxic materials used by Lessee on the site. Lessee has no need for outdoor storage or garbage disposal and pickup.
- Maintenance personnel using van type service vehicles enter and exit the site approximately 2 to 4 times per month. No loading or unloading area is needed by them.
- All areas disturbed by the construction of the tower, cabinets and driveway shall be restored in kind. Contractor is to provide soil erosion control measures as needed or as directed by owner or government agency having jurisdiction.
- All areas inside of and to 1'-0" outside of the fenced area shall be covered with 3" of crushed limestone placed over "Type" landscape fabric.
- Ingress and egress by Lessee's personnel to the site shall be via an existing proposed gravel drive from West Deveraux Lake Road.
- The proposed drive shall consist of 3" of MDOT Class 23A crushed limestone aggregate over 10" of 1"30" crushed concrete or slag over compacted subgrade. The subgrade shall be stripped free of all topsoil and organic material prior to placing aggregate base. Where poor subgrade soils are encountered, a woven geotextile fabric (Mirafi 500X or approved equal) shall be placed so that it is a minimum of 2 ft. wider and longer than the drive which it is to be constructed over the poor soils.
- This site plan is based on the survey of the existing conditions conducted by Midwestern Consulting, LLC on 08-16-2017.

APPROVED BY  
 CHEBOYGAN COUNTY PLANNING & ZONING DEPT.  
 Approved as drawn     Approved with conditions  
 Date approved: 2/10/18 Page 2 of 2  
 [Signature]  
 Zoning Administrator

6000 N. VALLEY HILLS DRIVE  
 CANTON, MI 48106  
 313-487-0000 FAX

---

**SITE # MID337**  
**'MULLET LAKE E'**  
 MULLETT TOWNSHIP  
 CHEBOYGAN COUNTY  
 MICHIGAN

---

JOB NO. 15044-3263  
 DATE: 10/09/17  
 CAD: G.S. TCS  
 DWG: SRF  
 TMR: JMF  
 TECH: PEK  
 FILE: 15044\_3263-SPT.dwg  
 PLOT: SPT16

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**SITE PLAN**  
**DETAIL**  
**2**  
 SHEET 2 OF 2

# Verizon Wireless Site #3263 / TowerCO Site #MI0337

## Zoning Ordinance Responses

### Section 17.13 Commercial Television and Radio Towers and Public Utility Microwaves and TV Transmitting Towers and Wireless Communication Facilities, Authorized by Special Use Permit (Rev. 08/2001, Amendment #20)

17.13.1. Radio and television towers, public utility microwaves and public utility T.V. transmitting towers.

a. May be permitted by the Planning commission after a Hearing, in D-CM, D-LI, D-GI and M-AF Districts provided said use shall be located centrally on a contiguous parcel of not less than one (1) times the height of the tower measured from the base of said tower to all points on each property line. The isolation standard may be reduced by up to fifty (50%) percent, if the construction plan, the tower, and its guying/anchoring systems are Certified by a Registered Professional Engineer as being safe from the hazard of falling onto public roads or adjoining properties. All guy wires/cables and anchors shall meet the zoning setback of the district. **Response: The subject parcel is located in the M-AF Zoning District. The proposed tower is 245' in height. A 125' fall zone is labeled on the site plan. In accordance with this section of the ordinance a fall zone letter indicating that the tower, should it ever fail structurally, will collapse upon itself and not fall onto any adjoining properites.**

b. In order to protect the rural dark sky environment and reduce lighting confusion for approaching aircraft, all towers shall be designed or painted to be without lighting. If the FAA requires lighting, the applicant shall apply to the FAA for painting requirements and red lighting. Intermittent strobes shall be a last option and only then with written documentation from the FAA certifying its necessity. **Response: TowerCo has filed with the FAA in December with an expected response from the FAA by February. The FAA determination will be provided to the jurisdiction at that time confirming results. If the Planning Commission hearing is held prior to receiving the FAA determination, TowerCo respectfully requests approval based on the condition of providing a copy of the determination**

c. No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower's structural integrity. **Response: Understood and agreed to by the applicant.**

17.13.2. The following standards will be required for all Wireless Communication Facilities:

a. Wireless Communication Facilities may locate in any zoning district if located on an existing building or structure, or a new structure is built within fifty (50) feet of the base of an existing tower and the Wireless Communication Facility is located within the new structure, or is otherwise hidden from view by being incorporated in an existing building, or if it collocates on an existing tower, and the proposed does not require a change in lighting by FCC and/or FAA regulations. (Rev. 02/23/11, Amendment #90). **Response: This section is not applicable to this project.**

b. Wireless Communication Facilities may be permitted by the Planning Commission, after a public hearing, by special use permit if it is found that there is no reasonable opportunity to locate per item 1 above. Information must be submitted to show efforts made to screen, co-locate or place such facilities on an existing structure. The proposed tower must also meet the following conditions and standards:

1. The proposed height meets FCC and/or FAA regulations. **Response: Understood and agreed to by the applicant.**

2. Towers must be equipped with devices to prevent unauthorized climbing. **Understood and agreed to by the applicant. Details regarding these devices will appear on construction drawings submitted for building permits.**

3. All reasonable measures are taken to blend the tower into the landscape, including greenbelt planting and/or screening, painting, and/or concealing the tower in a "stealth design. **Response: The applicant has taken measure to place the proposed tower on a parcel of land utilized for a commercial use. It is setback 473' feet from W. Devereaux Lake Road. With respect to landscaping, it is important to note that the landowner has placed landscaping treatments around the perimeter of the subject property, additionally, it is important to note that the base of the tower will not be visible to the public. The applicant respectfully requests that it not have to establish landscaping around the perimeter of the security fence as no one will see it or benefit from its placement. The applicant is proposing to construct a self-supporting style of tower versus a "stealth" design. This type of tower lends itself to maximum collocation opportunities due to its structural capabilities. Since the tower will be located in an area (and on a land parcel) that is not a particularly public zone it is the opinion of the applicant that a stealth design is not appropriate.**

4. New towers should be engineered as appropriate for co-location of other antennae. **Response: This item was addressed, in part, in the previous section. The applicant proposes to construct a 245' tall self-supporting tower which will create a maximum collocation environment for other licensed entities to utilize. Stealth designs drastically limit collocation opportunities as they limit the number of antennas that can be mounted by users. The self-supporting tower will accommodate multiple tenants/collocations, in addition to the anchor tenant, Verizon.**

5. Protective fencing and screening may be required to be placed around all guy wire anchor points as appropriate to the site. **Response: A six-foot tall chain link fence with barbed wire treatments is proposed in order to protect the compound and to discourage unauthorized access to the tower facility grounds.**

6. All new towers must meet the applicable requirements for a commercial tower, per Article 17.13.1 of this Ordinance. **Response: Understood and agreed to by the applicant.**

c. All wireless communication facilities shall be removed and the site restored to its original condition by the property owner or lessee within ninety (90) days of being abandoned (no longer used). **Response: Understood and agreed to by the applicant.**

d. Visible damage must be repaired within 90 days of occurrence. 1. The proposed height meets FCC and/or FAA regulations. **Response: Understood and agreed to by the applicant.**

2. Towers must be equipped with devices to prevent unauthorized climbing. **Response: Details regarding anti-climbing devices will be shown on the final construction plans.**

3. All reasonable measures are taken to blend the tower into the landscape, including greenbelt planting and/or screening, painting, and/or concealing the tower in a "stealth design. **Response: The applicant chose the subject property because it hosts a commercial land use, it is not accessible to the public and it features existing landscaping along its east and west property lines.**

4. New towers should be engineered as appropriate for co-location of other antennae. **Response: As explained previously, the proposed self-support tower was chosen in order to maximize collocation potential.**

5. Protective fencing and screening may be required to be placed around all guy wire anchor points as appropriate to the site. **Response: There are no guy wire points proposed for this tower. This section is not applicable.**

6. All new towers must meet the applicable requirements for a commercial tower, per Article 17.13.1 of this Ordinance. **Response: Understood by the applicant.**

c. All wireless communication facilities shall be removed and the site restored to its original condition by the property owner or lessee within ninety (90) days of being abandoned (no longer used). **Response: Understood and agreed to by the applicant.**

d. Visible damage must be repaired within 90 days of occurrence. **Response: Understood and agreed to by the applicant.**

17.13.3. Wireless communication facilities may be permitted after a public hearing by special use permit, approved for locations in the Residential Development District (D-RS), subject to the following conditions and findings: (Rev. 05/23/15, Amendment #127) **Response: Since the proposed tower is NOT located in the D-RS Zoning District the applicant finds that this section is not applicable to this project.**

a. All reasonable measures to co-locate or locate on or adjacent to an existing structure must be documented; and such location proves feasible.

b. The type of facility is a pole, and not a tower.

c. All reasonable efforts to locate in Commercial or Forestry/Ag zones have been made and are proven to infeasible, unavailable, or not a compatible land use as deemed by the Planning Commission.

d. The structure shall not exceed a height of 115 feet, including the antenna, and no lights are used or required.

e. The applicant must find a location, and/or use construction materials that will blend the pole into the physical or natural landscape in such a manner as to be compatible with the surrounding neighborhood, and so as not to be a dominant structural feature in the neighborhood skyline. The Planning Commission finds that the structure or planned site, does not change the character of the residential area.

f. The applicant proposed, or can incorporate innovative design and construction methods (or materials), and by locating in a Residential District, the applicant uses poles that are lower in height and/or narrower in profile than towers.

g. The Planning Commission finds that a location in a Residential District is the best overall alternative considering tall factors of land use, visibility, and satisfactory signal coverage and that the proposed pole complies with the standards of Article 17.13.1, of this ordinance.

h. Four (4) known County Airports to be provided copies of the Special Use Permits.

i. Tower shall not encumber the normal air traffic within the district.

17.13.4. Maximum height of structures recited in tables of 17.1 does not apply. **Response: Understood by the applicant.**

17.13.5. The conditions of this section are in addition to the conditions imposed by Section 18.7. (Rev. 04/28/08, Amendment #73). **Response: Understood by the applicant.**

17.13.6. Advertising is prohibited on towers or antennas. **Response: No advertising of any kind shall appear on the tower or within the site compound. Only signage that is required by government regulation and signage identifying ownership of the tower will appear.**

**SECTION 18.7. STANDARDS FOR SPECIAL LAND USE APPROVAL (Rev. 04/26/08, Amendment #74)**

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

- a. The property subject to the application is located in a zoning district in which the proposed special land use is allowed. **Response: The proposed tower project is located in the M-AF zoning district. Wireless communications towers are permitted in this district as a special land use.**
- b. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the County or the natural environment as a whole. **Response: The proposed tower will no negative impact upon the natural environment. It is an innocuous land use in that it does not generate any fumes, dust, smoke or noise and only requires electricity, telephone and internet services to operate.**
- c. The proposed special land use will not involve uses, activities, processes, materials, or equipment, or hours of operation that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public or private highway or seen from any adjoining land owned by another person. **Response: As mentioned above, wireless communications tower do not create or generate any of the negative conditions mentioned in this section.**
- d. The proposed special land use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned. **Response: Wireless communications towers do not diminish developmental opportunities for neighboring properties, in fact, it's quite the opposite. Wireless towers of today offer nearby developments an opportunity to be adjacent to high-speed communications systems that offer not only telephone service but many forms of data transmission services as well. In addition, it will enhance E911 communication abilities in the area.**
- e. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity nor increase hazards from fire or other dangers to the subject property or adjacent properties. **Response: Wireless communications towers are not manned facilities nor do they require hazardous materials to operate. No demands on police or fire services are expected.**
- f. The proposed special land use shall not increase traffic hazards or cause congestion on the public or private highways and streets of the area in excess of current capacity. Adequate access to the site shall be furnished either by existing roads and highways or proposed roads and highways. Minor residential streets shall not be used to serve as access to uses having larger area-wide patronage. Signs, buildings, plantings, or other elements of the proposed project shall not interfere with driver visibility or safe vehicle operation. Entrance drives to the use and to off-street parking areas shall be no less than 25 feet from a street intersection (measured from the road right-of-way) or from the boundary of a different zoning district. **Response: It is expected that a wireless communications tower will generate 1-2 vehicle trips per month per user that is located on the tower. These visits are for the purpose of routine maintenance and occasional equipment upgrades. These vehicle trips generally go completely unnoticed.**
- g. The proposed special land use will be adequately served by water and sewer facilities, and refuse collection and disposal services. **Response: None of the services mentioned in this section are needed.**
- h. The proposed special land use will comply with all specific standards required under this Ordinance applicable to it. **Response: Understood by the applicant.**

January 2, 2018

Ms. Amanda V. Fry  
TowerCo

RE: Proposed 245' Self-Supporting Tower for MI0337 Mullet Lake E, MI

Dear Ms. Fry,

Upon receipt of order, we propose to design and supply the above referenced tower for a Basic Wind Speed of 89 mph (115 mph Ultimate) with no ice and 40 mph + 1/2" ice, Structure Class II, Exposure Category D, and Topographic Category 1, in accordance with the Telecommunications Industry Association Standard ANSI/TIA-222-G, "Structural Standard for Antenna Supporting Structures and Antennas".

When designed according to this standard, the wind pressures and steel strength capacities include several safety factors, resulting in an overall minimum safety factor of 25%. Therefore, it is highly unlikely that the tower will fail structurally in a wind event where the design wind speed is exceeded within the range of the built-in safety factors.

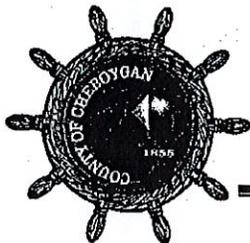
Should the wind speed increase beyond the capacity of the built-in safety factors, to the point of failure of one or more structural elements, the most likely location of the failure would be within one or more of the tower members in the upper portion. This would result in a buckling failure mode, where the loaded member would bend beyond its elastic limit (beyond the point where the member would return to its original shape upon removal of the wind load).

Therefore, it is likely that the overall effect of such an extreme wind event would be localized buckling of a tower section. Assuming that the wind pressure profile is similar to that used to design the tower, the tower is most likely to buckle at the location of the highest combined stress ratio in the upper portion of the tower. This would result in the portion of the tower above the failure location "folding over" onto the portion of the tower below the failure location. **Please note that this letter only applies to the above referenced tower designed and manufactured by Sabre Towers & Poles.** In the unlikely event of total separation, this would result in collapse within a radius of 125 feet.

Sincerely,

Keith J. Tindall, P.E.  
Vice President of Engineering





# CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST., ROOM 103 ■ PO BOX 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ■ TDD: (800)649-3777

## CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, FEBRUARY 21, 2018 AT 7:00 P.M. ROOM 135 - COMMISSIONER'S ROOM - CHEBOYGAN COUNTY BUILDING

**PRESENT:** Bartlett, Freese, Kavanaugh, Croft, Ostwald, Lyon  
**ABSENT:** Borowicz, Churchill, Jazdzyk  
**STAFF:** Scott McNeil  
**GUESTS:** David Antoun, Rob LaBelle, Carl Muscott, Jeff Lawson, Betsy Hanson, Larry Hanson, Cal Gouine, Bob Lyon, Roberta Matelski, Russell Crawford, Cheryl Crawford, Karen Johnson, Carl Muscott, C. Veneros, John Moore, John F. Brown Hobart Kirsch

The meeting was called to order by Chairperson Croft at 7:00pm.

### PLEDGE OF ALLEGIANCE

Chairperson Croft led the Pledge of Allegiance.

### APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Bartlett, to approve the agenda as presented. Motion carried. 6 Ayes (Bartlett, Freese, Kavanaugh, Croft, Ostwald, Lyon), 0 Nays, 3 Absent (Borowicz, Churchill, Jazdzyk)

### APPROVAL OF MINUTES

The February 7, 2018 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Bartlett, to approve the meeting minutes as presented. Motion carried. 6 Ayes (Bartlett, Freese, Kavanaugh, Croft, Ostwald, Lyon), 0 Nays, 3 Absent (Borowicz, Churchill, Jazdzyk)

### PUBLIC HEARING AND ACTION ON REQUESTS

**TeleSite Wireless on behalf of Verizon Wireless and TowerCo and Michael O'Grady** - Requests a Special Use Permit for a wireless communication facility (section 17.13.). The property is located at 130 West Devereaux Lake Road, Mullett Twp., section 24, parcel #130-024-400-002-03, and is zoned Agriculture and Forestry Management (M-AF).

Mr. McNeil stated that the applicant is seeking approval for construction of a new cellular tower in the Agriculture and Forestry Management zoning district. Mr. McNeil stated that the facilities are proposed to be located in a 100ft. x 100ft. leased area with easement access via the driveway. Mr. McNeil stated that the applicant is proposing a 245ft. tower. Mr. McNeil stated that there is a 125ft. fall zone indicated on the site plan. Mr. McNeil stated that regarding the isolation standard, the applicant has submitted the letter from an engineer that is required to reduce the standard up to 50%. Mr. McNeil stated that there is an existing 80ft. tower that will be removed before this tower will be constructed.

Mr. Antoun stated that he represents TowerCo and Verizon Wireless. Mr. Antoun introduced Rick Russell, who is counsel for TowerCo and Verizon Wireless. Mr. Antoun introduced Bill Duffy, who is a Verizon Wireless Engineer. Mr. Antoun stated that this is a 245ft. tower (including the lightning rod). Mr. Antoun stated that he did submit a fall zone letter showing that the tower will collapse upon itself. Mr. Antoun stated that the tower and the fencing will be galvanized steel and will not rust. Mr. Antoun stated that all the equipment will be located in cabinets. Mr. Antoun stated that the proposed access drive is the existing access drive that is used by Mullett Tree Services. Mr. Antoun referred to the propagation maps and explained that there are areas with no coverage. Mr. Antoun stated that over 50% of people do not use land lines. Mr. Antoun stated that 97% of 911 calls are made from a cell phone. Mr. Antoun stated that it is very important for our health, safety, and welfare to have coverage in this area. Mr. Antoun stated that the existing tower will be removed and a new tower will be constructed. Mr. Antoun stated that the proposed tower is a much taller tower so that they will be able to achieve Verizon's objectives. Mr. Antoun stated that TowerCo is building this tower for Verizon and TowerCo want co-locators on this tower.

Mr. Freese asked if the dish antennas on the ground will also be removed. Mr. Antoun stated that everything on the existing tower will be removed and if these dishes are not needed he will have them taken down as well. Discussion was held. Mr.

Freese noted that the application states that screening is not needed, however, the adjacent property owners are objecting to the fact that there isn't any screening. Mr. Antoun stated that they could screen around the compound. Mr. Freese stated that the regulation explains what is allowed for screening.

Mr. Kavanaugh stated that there have been several letters of opposition to this request. Mr. Kavanaugh asked how the tower site location is determined. Mr. Antoun stated that it is a science and they use the propagation maps. Mr. Antoun stated that the coverage provided by the towers have to barely touch each other and if they overlap it will cause interference. Mr. Antoun stated that if they are too far away from each other there will be a gap that will never be filled. Discussion was held.

Ms. Croft asked for public comments. There were no public comments. Public comment closed.

Board held discussion. Mr. Kavanaugh stated that there were several letters of opposition submitted regarding this request.

The Planning Commission reviewed and approved the General Findings, Findings Of Fact Under Section 17.13.1, Findings Of Fact Under Section 17.13.2.b, Conditions And Standards Under Subsections 17.13.2.b.1. Through 17.13.2.b.6, Findings of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to approve the special use permit based on the General Findings, Findings Of Fact Under Section 17.13.1, Findings Of Fact Under Section 17.13.2.b, Conditions And Standards Under Subsections 17.13.2.b.1 Through 17.13.2.b.6, Findings of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10 subject to meeting the screening requirements and documentation must be submitted that FAA requirements are met. Motion carried. 6 Ayes (Bartlett, Freese, Kavanaugh, Croft, Ostwald, Lyon), 0 Nays, 3 Absent (Borowicz, Churchill, Jazdyk)

#### **UNFINISHED BUSINESS**

##### **Draft Zoning Ordinance Amendment For Planned Unit Development**

Mr. McNeil stated that he has removed the reference to the PUD zoning district as this is not a zoning district and the review will be based on the standards under the approval of the Planning Commission.

Mr. McNeil stated that the following has been added to section 19.3: "Also, common open space, water access facilities, single family, two family and multi-family dwelling uses shall be allowed within three hundred and fifty (350) feet of the highwater mark of any lake, river or perennial stream for a PUD proposed in a Lake and Stream Protection (P-LS) zoning district." Mr. McNeil stated that the following has been added under a new section 19.4.2.b: "Uses proposed in a Lake and Stream Protection (P-LS) zoning district shall comply with all applicable minimum yard setbacks and minimum lot size per dwelling as required under section 17.1 and Shared Waterfront Access provisions as required in section 10.4.4." Mr. McNeil stated that the following has been added to section 19.4.4: "Common open space provided along a lake or river shall contain a minimum average depth from the high water mark of fifty (50) feet." Mr. McNeil noted that the ability for the Planning Commission to waive any standard is in section 19.7.3. Mr. McNeil stated that in section 19.7.3 there should be language regarding waivers for minimum lot size and minimum dwelling requirements. Mr. Freese requested that the new language in section 19.3 be changed to "Also, only common open space, water access facilities, single family, two family and multi-family dwelling uses shall be allowed within three hundred and fifty (350) feet of the highwater mark of any lake, river or perennial stream for a PUD proposed in a Lake and Stream Protection (P-LS) zoning district."

Mr. Kavanaugh referred to section 19.7.3 and stated that because this is a protection district he would like to see that any standard can be waived except in the Lake and Stream Protection zoning district. Mr. Kavanaugh stated that this would allow PUD's in the Lake and Stream Protection zoning district but the applicant would have to meet the standards. Mr. McNeil asked if this should also apply to section 19.7.4 and 19.7.5 (minimum dwelling size and minimum lot size). Discussion was held. Mr. Freese stated that we could get by with restricting the waivers in the Lake and Stream Protection zoning district at this time and it is something that can be changed in the future. Mr. Freese stated that waivers should be allowed in the other districts. Mr. Kavanaugh agreed with Mr. Freese. Mr. McNeil stated that he will add language as requested.

Mr. Kavanaugh asked if this proposed amendment has been reviewed by legal counsel. Mr. McNeil stated that it has not been reviewed by legal counsel. Mr. Freese asked Mr. McNeil to add the proposed language before sending it to legal counsel for review. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to make the changes to the proposed amendment and forward to legal counsel for review. Motion carried. 6 Ayes (Bartlett, Freese, Kavanaugh, Croft, Ostwald, Lyon), 0 Nays, 3 Absent (Borowicz, Churchill, Jazdyk)

#### **NEW BUSINESS**

No comments.

**STAFF REPORT**

**Work Plan - Remaining Priority Items**

Mr. McNeil provided the Planning Commission a document that listed the priority items that have been identified with an update for each priority item. Mr. McNeil stated that regarding the use terminology review he has provided the Planning Commission with information regarding existing definitions, proposed definitions and use listings that can be eliminated.

Mr. Lawson stated that the director position has been open for approximately 2½ months and he is currently talking with a couple of candidates. Mr. Lawson stated that there has not been a lot of response. Mr. Lawson stated that if these candidates do not work out, he may have to hire a planner who will have to be mentored. Mr. Lawson stated that he would like to see a director and support staff. Mr. Lawson stated the clerk has been promoted to the assistant to the director and will continue with the same responsibilities along with approving residential zoning applications. Mr. Lawson explained that there will also be another position that will be for enforcement and possibly soil erosion or planning. Mr. Lawson stated that there will be three people in the office. Mr. Lawson stated that he will be attending the Planning Commission meetings and arrangements have been made with NEMCOG for support on the findings of fact.

**PLANNING COMMISSION COMMENTS**

Mr. Kavanaugh wished Mr. McNeil good luck in his retirement. Mr. Kavanaugh stated that it has been nice working with Mr. McNeil who is very professional, personable and dedicated. Mr. Kavanaugh thanked Mr. McNeil and stated he will be missed. Mr. Freese agreed with Mr. Kavanaugh and stated that Mr. McNeil will be missed. Discussion was held.

**PUBLIC COMMENTS**

Mr. Muscott thanked Mr. McNeil and stated that he the type of valuable employee that is very rare nowadays.

Ms. Crawford asked if there is something that can be done about the applicant leaving during the meeting and having a conversation outside the door. Ms. Crawford stated that it is very distracting. Ms. Croft stated that this is an open meeting and the door can't be closed. Mr. Kavanaugh stated that the Chairperson should be notified of the disturbance and she will deal with it at that time. Discussion was held.

**ADJOURN**

Motion by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 7:38pm.



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Charles Freese  
Planning Commission Secretary



# CHEBOYGAN COUNTY PLANNING & ZONING DEPARTMENT

870 S. MAIN ST., #103 ▪ PO Box 70 ▪ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ▪ TDD: (800)649-3777

Thursday, March 8, 2018

David Antoun  
TeleSite Wireless  
1015 S. Lake Drive  
Novi, MI 48377

Dear Mr. Antoun,

Please be advised that the Planning Commission met on Wednesday, February 21, 2018 and took action on your request for a Special Use Permit for a wireless communication facility (section 17.13.). The property is located at 130 West Devereaux Lake Road, Mullett Twp., section 24, parcel #130-024-400-002-03, and is zoned Agriculture and Forestry Management (M-AF).

The board voted to approve the special use permit based on the General Findings, Findings Of Fact Under Section 17.13.1, Findings Of Fact Under Section 17.13.2.b, Conditions And Standards Under Subsections 17.13.2.b.1 Through 17.13.2.b.6, Findings of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10 subject to meeting the screening requirements and submitting documentation that FAA requirements are met.

Cheboygan County Zoning Ordinance # 200 requires a Zoning Certificate of Occupancy be issued before a permitted use of land or building begins. The Zoning Certificate of Occupancy ensures that the proposed use of the property and the site plan are in conformance with the special use permit or site plan review permit that was approved by the Planning Commission. There is no fee for the Certificate of Occupancy application or the Zoning Certificate of Occupancy.

Once your project is complete and before the building is occupied for the approved use, a Certificate of Occupancy must be issued. Please fill out the enclosed Zoning Certificate of Occupancy Application and return it with 2 as built site plans and 2 floor plans. Please note that the Zoning Certificate of Occupancy does not replace the Construction Code Certificate of Occupancy.

If you have any questions, please contact me at (231)627-8489.

Sincerely,

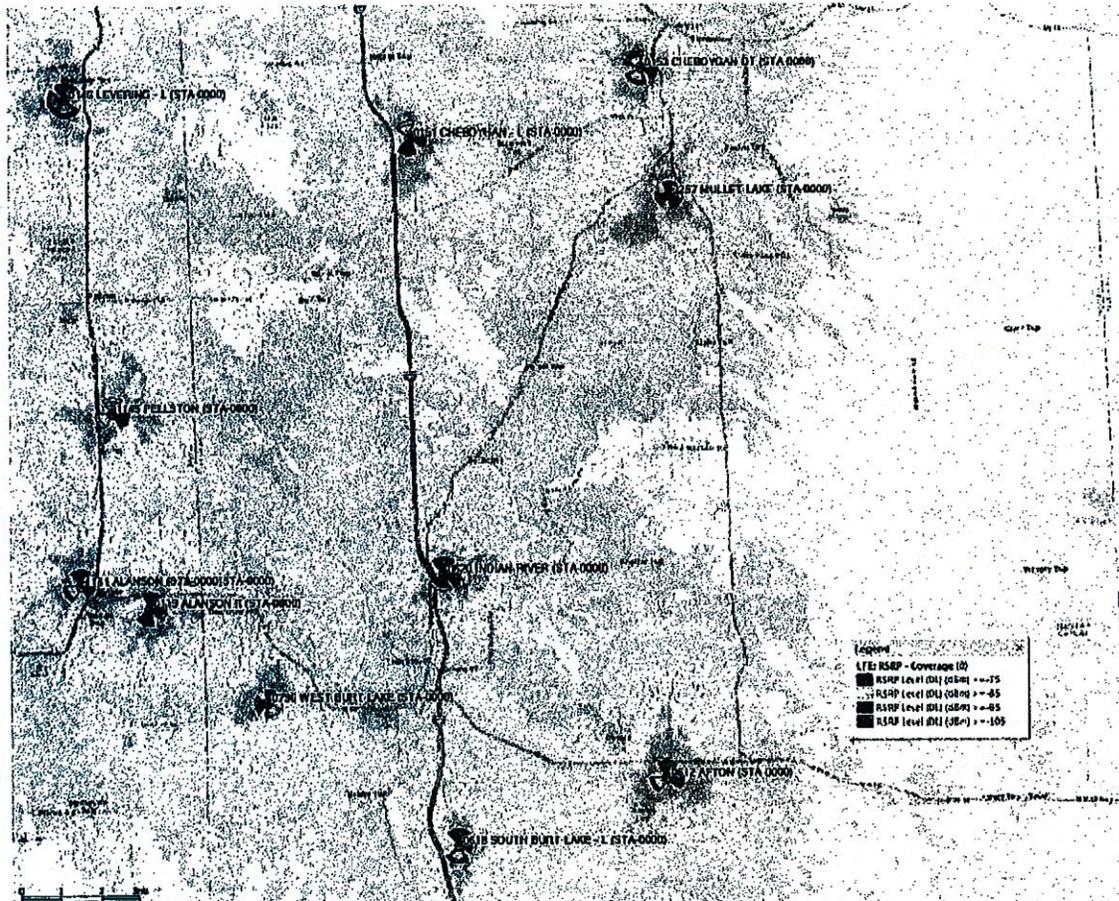
A handwritten signature in black ink that reads "Jeffery 3 Lawson".

Jeffery Lawson  
Cheboygan County Administrator

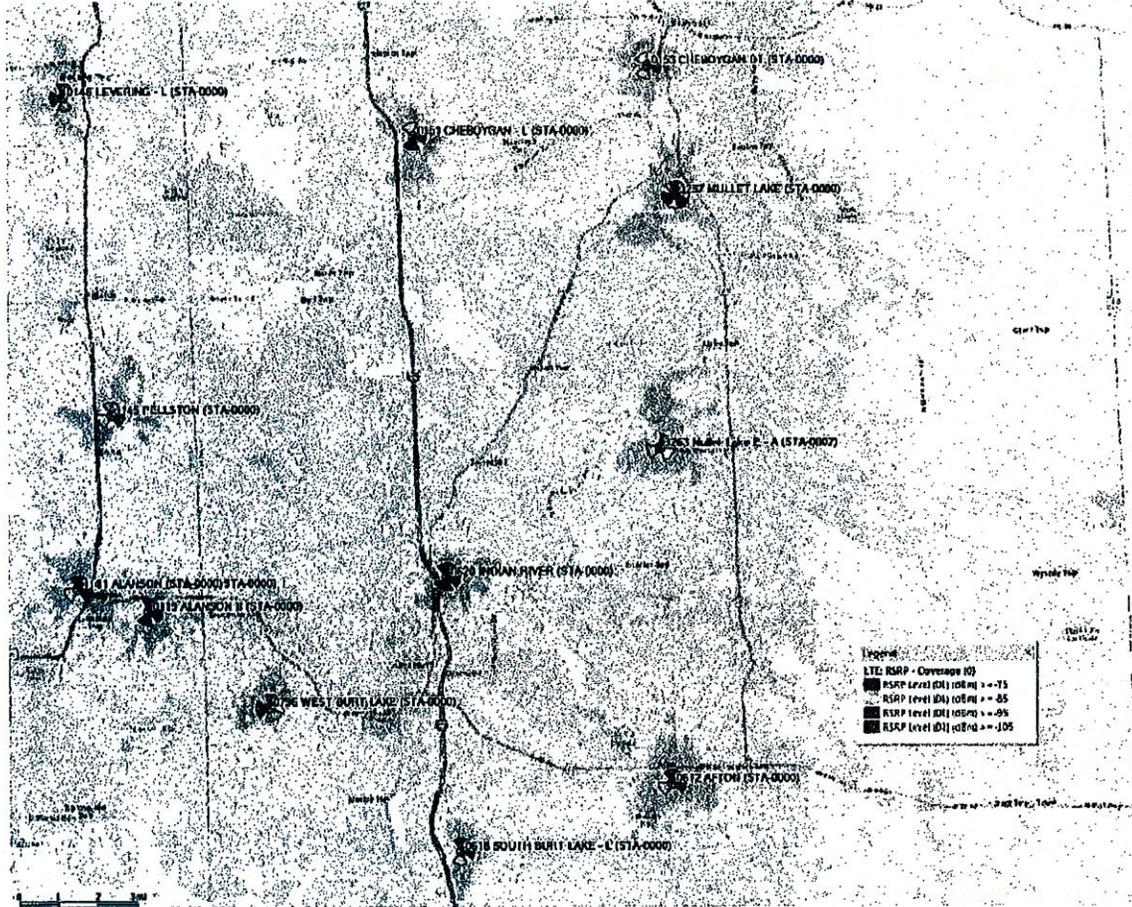
cc: Township Supervisor  
Michael O'Grady

JL/dt

# Current Verizon Wireless Coverage WITHOUT Proposed Site #3263 Mullett Lake East



# Proposed Verizon Wireless Coverage WITH Site #3263 Mullett Lake East



130-025-200-004-00  
PARROTT, JOHN R L/EWPTS;  
83 W DEVEREAUX LAKE RD  
INDIAN RIVER, MI 49749

130-025-200-005-01  
BROWN, JOHN & CARLENE H/W  
21 W DEVEREAUX LAKE RD  
INDIAN RIVER, MI 49749

130-024-400-002-01  
PATRICK, PETER JR & SARAH FURMAN  
186 PATRICK DR  
INDIAN RIVER, MI 49749

130-024-400-002-00  
BROWN, GERALD  
2150 BROWN RD  
INDIAN RIVER, MI 49749

130-024-400-002-04  
LUND, DENNIS CRAIG  
1163 W GRAND RIVER  
OKEMOS, MI 48864

130-024-400-003-01  
BROWN, GERALD A  
2150 BROWN RD  
INDIAN RIVER, MI 49749

130-024-400-002-03  
O'GRADY, MICHAEL  
130 W DEVEREAUX LAKE RD  
INDIAN RIVER, MI 49749

130-024-400-001-02  
POWELL, GARY DANA L/EWPTS &  
298 RANCH RD  
INDIAN RIVER, MI 49749

130-025-200-003-00  
PARROTT, JOHN R L/EWPTS;  
83 W DEVEREAUX LAKE RD  
INDIAN RIVER, MI 49749

130-024-400-002-03  
OCCUPANT  
130 W DEVEREAUX LAKE RD  
INDIAN RIVER, MI 49721

130-025-200-005-01  
OCCUPANT  
21 W DEVEREAUX LAKE RD  
INDIAN RIVER, MI 49721

130-025-200-003-00  
OCCUPANT  
83 W DEVEREAUX LAKE RD  
INDIAN RIVER, MI 49721

130-024-400-002-00  
OCCUPANT  
2171 BROWN RD  
INDIAN RIVER, MI 49721

130-024-400-002-04  
OCCUPANT  
218 W DEVEREAUX LAKE RD  
INDIAN RIVER, MI 49721

130-024-400-003-01  
OCCUPANT  
2137 BROWN RD  
CHEBOYGAN, MI 49721



# CHEBOYGAN COUNTY PLANNING AND ZONING DEPARTMENT

CHEBOYGAN COUNTY BUILDING ■ 870 S. MAIN STREET, PO BOX 70 ■ CHEBOYGAN, MI 49721  
 PHONE: (231) 627-8489 ■ FAX: (231) 627-3646  
[www.cheboygancounty.net/planning/](http://www.cheboygancounty.net/planning/)

## STAFF REPORT

<b>Item:</b> Request for a one-year extension of a Special Use Permit approved for a new wireless communication facility, per Section 18.12. (Expiration of a Special Use Permit) of the Zoning Ordinance	<b>Prepared by:</b> Michael Turisk
<b>Date:</b> January 29, 2019	<b>Expected Meeting Date:</b> February 6, 2019

### GENERAL INFORMATION

**Applicant:** TeleSite Wireless on behalf of Verizon Wireless and Tower Co.

**Property Owner:** Michael O’Grady

**Property Location:** 130 W. Devereaux Lake Rd., Mullett Township

**Current Zoning:** Agriculture and Forestry Management (M-AF)

**Contact:** David Antoun, TeleSite Wireless

**Phone:** 248.798.4429

### BACKGROUND INFORMATION

#### Introduction:

The applicant is seeking approval of an extension of a Special Use Permit approved on February 21, 2018 for construction of a new 245-ft. wireless self-supporting lattice tower and related facilities including an equipment cabinet. Wireless Communication Facilities are authorized by Special Use Permit in the Agriculture and Forestry Management (M-AF) districts pursuant to Section 17.13.1.a of the Zoning Ordinance.

The unmanned facility is to be placed on a leased eight-acre parcel with access provided from Devereaux Lake Rd. in Mullett Township. There is an existing 80-ft. tower with related equipment (Special Use Permit approved on July 2, 2008) slated for removal to accommodate the new tower and associated equipment.

The applicant is seeking an isolation standard reduction under Section 17.13.1.a. This Section requires not less than one (1) times the height of the tower to all points to the property lines, and also provides for up to a 50% reduction in the isolation standard if the construction plan, the tower, and its guying/anchoring systems are certified by a registered professional engineer as being safe from the hazard of falling onto public roads or adjoining properties.

The applicant has provided a letter from a registered engineer relative to this request stating that this standard is met. As noted, the height of the proposed tower is 245-ft. The applicant is indicating the nearest separation distance is 125-ft. on the site plan and is requesting a reduction in the isolation standard accordingly.

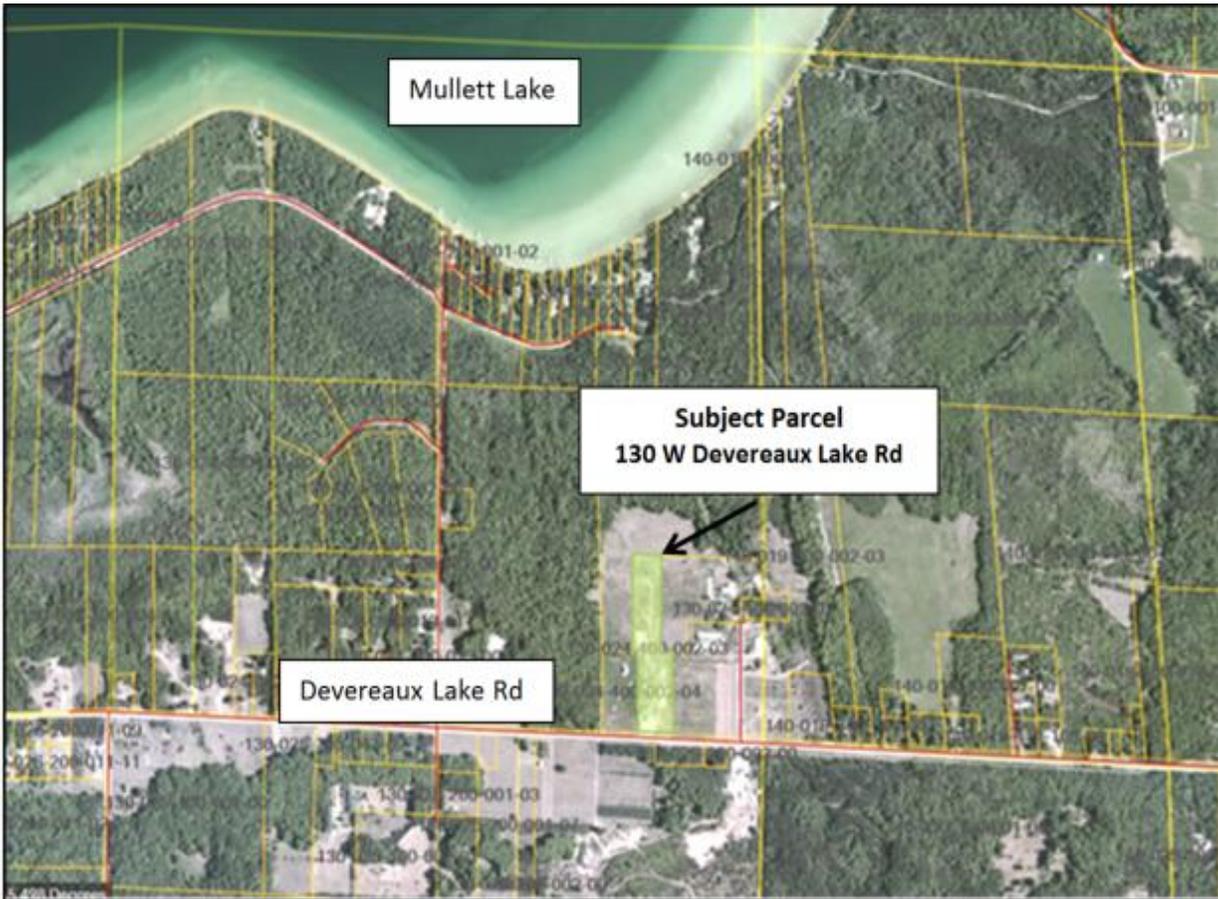


Fig. 1; Location of subject property at 130 W. Devereaux Lake Rd.; Mullett Twp.

**Surrounding land uses:**

Surrounding properties are zoned M-AF and show primarily low-density residential uses.

**Environmentally sensitive areas (steep slopes, wetlands, woodlands, stream corridor, floodplain):** There are no known environmentally sensitive areas on the subject property.

**Historic buildings/features:**

There are no known historic buildings or historic features on the subject property.

**Traffic implications:**

The project will have minimal, if any, impact upon current area traffic conditions.

**Parking:**

A specific parking standard for the use is not noted in the parking table (Section 17.6.) However, a designated parking area would be provided in order for technicians to service the facility.

**Access and street design: (secondary access, pedestrian access, sidewalks, residential buffer, ROW width, access to adjacent properties):**

Access to the site is provided via W. Devereaux Lake Rd. and an access roadway that runs north from the Devereaux Lake Rd. right-of-way.

**Signs:**

Emergency contact information and Federal Communications Commission (FCC) registration number and related information would be provided on the equipment shelter.

**Fence/Hedge/Buffer:**

A locked chain link fence 6-ft. in height is located around the leased area. No other screening or buffers are proposed or required.

**Lighting:**

Lighting would be installed on the tower per Federal Aviation Administration (FAA) requirements. No other exterior lighting is proposed.

**Stormwater management:**

There would not be any significant change to existing stormwater runoff flows and/or patterns.

**Review or permits from other government entities:**

Applicable FAA and FCC review.

**Recommendations (proposed conditions):**

The same conditions attached to the Special Use approval in February 2018 are recommended, including:

1. Removal of existing tower and related facilities.
2. Written confirmation of meeting FAA and FCC requirements before construction.

**CHEBOYGAN COUNTY PLANNING COMMISSION**

**SPECIAL USE PERMIT**

**EXTENSION REQUEST**

Wednesday, February 6, 2019, 7:00 PM

Applicant

TeleSite Wireless  
1015 S. Lake Dr.  
Novi, Mi. 48370

Property Owner

Michael O'Grady  
130 W. Devereaux Lake Rd.  
Indian River, Mi. 49749

Parcel

130 W. Devereaux Lake Rd.  
Mullett Township  
130-024-400-005-03

**GENERAL FINDINGS**

1. The property is located in an Agriculture and Forestry Management Zoning District (M-AF).
2. The Applicant is seeking approval of a Special Use Permit extension application for construction of a Wireless Communications Facility that includes a tower up to 245-ft. above ground level and related equipment to be located on leased land in Mullett Township.
3. New Wireless Communication Facilities are allowed in the M-AF zoning districts pursuant to Section 17.13.2 by Special Use Permit. (see Exhibit 14)
4. There is an existing 80-ft. communication tower and related communication facilities located on the subject property. (see Exhibit 14)
5. The existing communications tower and facilities were approved by Special Use Permit on July 2, 2008.
6. The exiting communication tower and facilities are to be removed prior to the new Wireless Communications Facility are constructed.
7. The applicant is seeking a reduction in the isolation standard, per section 17.13.1.

**Findings of Fact Under Section 17.13.1. of the Zoning Ordinance**

17.13.1 Radio and television towers, public utility microwaves and public utility T.V. transmitting towers.

- a. May be permitted by the Planning commission after a Hearing, in D-CM, D-LI, and M-AF Districts provided said use shall be located centrally on a contiguous parcel of not less than one (1) times the height of the tower measured from the base of said tower to all points on each property line. The isolation standard may be reduced by up to fifty (50%) percent, if the construction plan, the tower, and its guy/anchoring systems are Certified by a Registered Professional Engineer as being safe from the hazard of falling on to public roads or adjoining properties. All guy wires/cables and anchors shall meet zoning setback of the district.
  1. The subject property is in an M-AF District.
  2. The application and site plan indicates a proposed tower 245-ft. in height.
  3. An isolation standard of 245-ft. is required pursuant to Section 17.13.1.a.
  4. Section 17.13.1.a. also provides that the isolation standard may be reduced by up to fifty (50%) percent if the construction plan, the tower, and its guy/anchoring systems are Certified by a Registered Professional Engineer as being safe from the hazard of falling on to public roads or adjoining properties.
  5. The site plan indicates a 125-ft. fall zone which is a 49% reduction in the isolation standard (see Exhibit 8).
  6. The applicant has submitted a letter from a registered professional engineer certifying the tower as being safe form the hazard of falling outside of the fall zone indicated on the site plan (see Exhibit 5)
  7. The Planning Commission finds that the fall zone indicated on a site plan is clear of falling on to a public road and adjoining properties. (see Exhibits 5, 6 and 14)
  - 8.
  9. Requirement has been met.

### **Finding of Fact under Section 17.13.2.b of the Zoning Ordinance**

Wireless Communication Facilities may be permitted by the Planning Commission, after a public hearing, by special use permit if it is found that there is no reasonable opportunity to locate per item 1 above. Information must be submitted to show efforts made to screen, co-locate or place such facilities on an existing structure. The proposed tower must also meet the following conditions and standards. The reference to item 1 in this section states as follows:

Wireless Communication Facilities may locate in any zoning district if located on an existing building or structure, or a new structure is built within fifty (50) feet of the base of an existing tower and the Wireless Communication Facility is located within the new structure, or is otherwise hidden from view by being incorporated in an existing building, or if it collocates on an existing tower, and the proposed does not require a change in lighting by FCC and/or FAA regulations.

The Planning Commission finds that the documentation has been submitted and/or statements have been made on the record which demonstrates that there is no reasonable opportunity for collocation or placement of the proposed facility on an existing structure. (see Exhibits 5 and 6)

### **Conditions and Standards under subsections 17.13.2.b.1. through 17.13.2.b.6.**

1. The proposed height meets FCC and/or FAA Regulations.
  - a. Evidence of FCC and FAA approval shall be required.
  - b. The application indicates that the tower will be subject to all FAA and FCC standards (see Exhibit 5)
  - c.
  - d. Standard has been met.
2. Towers must be equipped with devices to prevent unauthorized climbing.
  - a. The site plan indicates that the tower will be surrounded by a 6-ft. in height locked chain link fence. (see Exhibits 5 and 6)
  - b.
  - c. Standard has been met
3. All reasonable measures are taken to blend the tower into the landscape, including greenbelt planting and/or screening, painting, and/or concealing the tower in a “stealth design.”
  - a. The proposed tower and associated facilities are to be constructed at the location where the existing 80-ft. tower is located – generally at the central portion of the eight-acre subject property. (see Exhibit 6)
  - b.
  - c. Standard has not been met
4. New towers should be engineered as appropriate for co-location of other antennae.
  - a. The tower design proposes several antennae. (see Exhibit 6)
  - b.
  - c. Standard has been met.
5. Protective fencing and screening may be required to be placed around all guy wire anchor points as appropriate to the site.
  - a. A self-support tower is proposed. (see Exhibit 6)
  - b.. Screening will be provided on the exterior of the proposed compound.
  - c.
  - d. Standard has been met.

6. All new towers must meet the applicable requirements for a commercial tower, per Section 17.13.1 of the Zoning Ordinance.
  - a. See applicable findings above.
  - b.
  - c. Requirements have been met.

**FINDINGS OF FACT UNDER SECTION 18.7 OF THE ZONING ORDINANCE**

The Planning Commission makes the following findings of fact as required by Section 18.7. of the Zoning Ordinance for each of the following standards listed in that Section:

- a. The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
  1. The property is located in an Agriculture and Forest Management District (M-AF) which allows Wireless Communication Facilities by Special Use Permit, per Section 17.13. (see Exhibit 14)
  - 2.
  3. Standard has been met.
- b. The proposed Special Use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the County or the natural environment as a whole.
  1. The proposed tower and related facilities are unmanned stand-alone facilities and finds on evidence that proposed wireless communication facilities will not cause the use of materials or involve processes that will create substantially negative impacts on county natural resources or the natural environment. (see Exhibits 5 and 14)
  2. This use is compatible with surrounding land uses. (see Exhibits 4 and 8)
  - 3.
  4. Standard has been met.
- c. The proposed Special Use will not involve uses, activities, processes, materials, or equipment, or hours of operation that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public or private highway or seen from any adjoining land owned by another person.
  1. The proposed tower and associated facilities are unmanned stand-alone facilities and would not cause the use of materials or involve equipment or processes which would generate noise or traffic which is incompatible with surrounding land uses. No smoke, glare, fumes or odors will be produced. (see Exhibits 5 and 6)
  - 2.
  3. Standard has been met.
- d. The Special Use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
  1. The proposed tower and facilities are to be constructed approximately 500-ft. from the W. Devereaux Lake Rd. right-of -way on an eight-acre parcel of leased land zoned M-AF, and will not diminish the opportunity for surrounding properties to be used and developed as zoned.(see Exhibit 6)
  - 2.
  3. Standard has been met.

- e. The proposed Special Use will not place demands on fire, police, or other public resources in excess of current capacity nor increase hazards from fire or other dangers to the subject property or adjacent properties.
  - 1. The proposed use will not require public resources greater than current capacity nor increase hazards from fire or other dangers. The facility would be unmanned and secured by locked fencing. (see Exhibit 5)
  - 2.
  - 3. Standard has been met.
  
- f. The proposed special land use shall not increase traffic hazards or cause congestion on the public or private highways and streets of the area in excess of current capacity. Adequate access to the site shall be furnished either by existing roads and highways or proposed roads and highways. Minor residential streets shall not be used to serve as access to uses having larger area-wide patronage. Signs, buildings, plantings, or other elements of the proposed project shall not interfere with driver visibility or safe vehicle operation. Entrance drives to the use and to off-street parking areas shall be no less than 25 feet from a street intersection (measured from the road right-of-way) or from the boundary of a different zoning district.
  - 1. Adequate access to the site is provided via W. Devereaux Lake Rd. (see Exhibits 5, 6 and 14)
  - 2. The entrance roadway is not within 25 feet of an intersection. (see Exhibit 6)
  - 3.
  - 4. Standard has been met.
  
- g. The Special Use will be adequately served by water and sewer facilities, and refuse collection and disposal services.
  - 1. The use is an unmanned stand-alone wireless communications facility and thus will not require a water well, septic facilities or refuse collection. (see Exhibit 5)
  - 2.
  - 3. Standard has been met.
  
- h. The Special Use will comply with all specific standards required under this Ordinance applicable to it.
  - 1. The Special Use will comply with all relevant standards required under the Ordinance. (see Exhibit 5)
  - 2.
  - 3. Standard has been met.

**SPECIFIC FINDINGS OF FACT UNDER SECTION 20.10 OF THE ZONING ORDINANCE**

The Planning Commission makes the following findings of fact as required by Section 20.10 of the Zoning Ordinance for each of the following standards listed in that Section:

- a. The site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
  - 1. Changes to the overall natural features of the site will be minimal. (see Exhibits 5 and 6)
  - 2.
  - 3. Standard has been met.
  
- b. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas.
  - 1. No major changes are proposed that would significantly affect the landscape or natural state of the site. (see Exhibit 5)
  - 2.
  - 3. Standard has been met.

- c. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
  - 1. No changes in drainage on the site are proposed or anticipated (see Exhibits 5, 6 and 14)
  - 2.
  - 3. Standard has been met.
- d. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
  - 1. Not applicable. No dwellings are proposed.
- e. All buildings or groups of buildings should be so arranged as to permit emergency vehicle access by some practical means.
  - 1. Emergency vehicle access is provided via W. Devereaux Lake Rd. and a connecting easement. (see Exhibit 6)
  - 2.
  - 3. Standard has been met.
- f. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
  - 1. Access to the structures is provided via W. Devereaux Lake Rd. and a connecting easement. (see Exhibit 6)
  - 2.
  - 3. Standard has been met.
- g. For subdivision plats and subdivision condominiums, there shall be a pedestrian circulation system as approved by the Planning Commission.
  - 1. Not applicable. No subdivision plats or subdivision condominiums are proposed.
- h. Exterior lighting shall be arranged as follows: a. It is deflected away from adjacent properties, b. It does not impede the vision of traffic along adjacent streets and c. It does not unnecessarily illuminate night skies.
  - 1. Lighting per FAA requirements are proposed for the tower and will not affect adjacent properties, impede vision of traffic and should not unnecessarily illuminate night skies. (See Exhibits 6 and 14)
  - 2.
  - 4. Standard has been met
- i. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Master Plan.
  - 1. Not applicable. No common ways are proposed.
- j. Site plans shall conform to all applicable requirements of state and federal statutes and the Cheboygan County Master Plan, and approval may be conditioned on the applicant receiving necessary state and federal permits. The site plan will conform to state and federal statutes and the Cheboygan County Master Plan.
  - 1. The site plan shall conform to all applicable requirements.

**DECISION**

**TIME PERIOD FOR JUDICIAL REVIEW**

State law provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Planning Commission to the Circuit Court. Pursuant to MCR 7.101 any appeal must be filed within twenty-one (21) days after this Decision and Order is adopted by the Planning Commission.

**DATE DECISION AND ORDER ADOPTED**

Wednesday, February 6, 2019

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Patty Croft, Chairperson

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Charles Freese, Secretary

# CHEBOYGAN COUNTY PLANNING COMMISSION

David Frame/Frame Holdings, LLC

## Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Site Plan Review Application (6 Pages)
4. Site Plan (1 Page)
5. Building Elevations (3 Pages)
6. Certificate of Survey (2 Pages)
7. Warranty Deed (3 Pages)
8. Site Plan Application Responses from Applicant (3 Pages)
9. Notes Regarding Control of Stormwater Runoff and Erosion (1 Page; dated 8.30.2018)
10. Description of Drainage Plan (3 Pages; dated 1.2019)
11. Cross Section Sketch of Road Easement (1 Page; dated 1.5.2019)
12. Oversized Drainage Plan (1 Page)
13. Amended Drainage Plan (1 Page)
14. Master Deed of Orchard Beach Private Storage Condominium (17 Pages)
15. Condominium Bylaws of Orchard Beach Private Storage Condominium (27 Pages)
16. Comments from Brent Shank, County Road Commission (1 Page; dated 8.28.2018)
17. Comments from David Frame, Applicant (2 Pages; dated 9.6.2018)
18. Comments from Kyle Keller, District 4 Health Dept. (1 Page; dated 1.23.2019)
19. Comments from Jason Gailitis, MDOT (1 Page; dated 1.25.2019)
20. Mailing List (1 Page)
21. Staff Report (4 Pages)
22. Findings of Fact (3 Pages)
- 23.
- 24.
- 25.

Note: Planning Commission members have Exhibits 1 and 2.





# CHEBOYGAN COUNTY PLANNING & ZONING DEPARTMENT

870 S. MAIN ST., RM. 103 ■ PO BOX 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ■ FAX: (231)627-3646

1. Describe all anticipated activities (e.g. type of business, hours of operation, number of employees, etc). Attach additional sheets if needed.

Site Condominium development for privately owned pole barns, to be used for private storage of boats and other items generally required at lake homes.

2. Site Plan Standards.

### PLEASE EXPLAIN HOW YOUR REQUEST MEETS EACH OF THE FOLLOWING STANDARDS

- a. The site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

See Attachment A for site plan checklist and standards, for all items.

- b. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas.
- c. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
- d. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- e. All buildings or groups of buildings should be so arranged as to permit emergency vehicle access by some practical means.
- f. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
- g. For subdivision plats and subdivision condominiums, there shall be a pedestrian circulation system as approved by the Planning Commission.
- h. Exterior lighting shall be arranged as follows:
- i. It is deflected away from adjacent properties. \_\_\_\_\_
  - ii. It does not impede the vision of traffic along adjacent streets. \_\_\_\_\_
  - iii. It does not unnecessarily illuminate night skies. \_\_\_\_\_

SITE PLAN REVIEW APPLICATION



# CHEBOYGAN COUNTY PLANNING & ZONING DEPARTMENT

870 S. MAIN ST., RM. 103 ■ PO BOX 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ■ FAX: (231)627-3646

i. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Master Plan.

j. Site plans shall conform to all applicable requirements of state and federal statutes and the Cheboygan County Master Plan, and approval may be conditioned on the applicant receiving necessary state and federal permits.

3. Size of property in sq. ft. or acres: 23 acres

4. Present use of property: Ag / Forestry

5. Does the proposed use of the property include or involve either:

- Junk or salvage yard (Section 3.6)  YES  NO
- Mineral extraction (Section 17.17)  YES  NO

*If YES, this application must include a written plan as described in the Zoning Ordinance.*

6. Attach a copy of Warranty Deed or other proof of ownership.

7. Attach a copy of certified Property Survey or dimensioned property land plat.

### AFFIDAVIT

The undersigned affirms that the information and plans submitted in this application are true and correct to the best of the undersigned's knowledge.

Applicant's Signature David Frame Date 8-4-18

Does the property owner give permission for County zoning officials to enter his or her property for inspection purposes?

Yes  No

Owner's Signature David Frame Date 8-13-18

SITE PLAN REVIEW APPLICATION



# CHEBOYGAN COUNTY PLANNING & ZONING DEPARTMENT

870 S. MAIN ST., RM. 103 ▪ PO BOX 70 ▪ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ▪ FAX: (231)627-3646

## FOR PLANNING /ZONING DEPT. USE ONLY

Date Received:	08/15/18	Notes:
Fee Amount Received:	\$ 170.00	
Receipt Number:	6386	
Public Hearing Date:	·9/5/18	
Planning/Zoning Administrator Approval:		
		
Signature		Date

SITE PLAN REVIEW APPLICATION

# SITE PLAN REQUIREMENT CHECKLIST

(TO BE SUBMITTED WITH APPLICATION AND SITE PLAN)

## SITE PLAN REVIEW APPLICATION

ALL ITEMS LISTED BELOW MUST BE SUBMITTED IN ORDER FOR THIS APPLICATION TO BE DEEMED COMPLETE. INCOMPLETE APPLICATIONS WILL NOT BE REVIEWED OR PROCESSED. EACH SITE PLAN SHALL DEPICT THE ITEMS LISTED BELOW, EXCEPT FOR THOSE ITEMS DETERMINED DURING THE PRE-APPLICATION CONFERENCE TO NOT BE APPLICABLE.

PLACE A CHECK MARK NEXT TO EACH REQUIREMENT TO SHOW THAT THE INFORMATION HAS BEEN SUPPLIED OR THAT A WAIVER IS BEING REQUESTED. IF A WAIVER IS BEING REQUESTED PLEASE NOTE ON THE NEXT PAGE THE REASON FOR THE WAIVER. SIGN AND DATE THIS CHECKLIST WHEN ALL ITEMS HAVE BEEN COMPLETED. PLEASE SUBMIT THIS CHECKLIST WITH YOUR APPLICATION.

INFORMATION SUPPLIED	WAIVER REQUESTED	REQUIREMENT
✓		a. North arrow, scale and date of original submittal and last revision. Site plan is to be drawn at a scale of 1 inch = 100 ft. or less.
✓		b. Seal of the registered engineer, architect, landscape architect, surveyor, planner, or other site plan preparer. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.
✓		c. Location of existing and proposed public roads, rights-of-way and private easements of record and abutting streets.
	✓	d. Topography at maximum five foot intervals or appropriate topographic elevations to accurately represent existing and proposed grades and drainage flows.
	✓	e. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, stormwater controls, flood plains, and wetlands.
✓		f. Location of existing and proposed buildings and intended uses thereof.
✓		g. Details of entryway and sign locations should be separately depicted with an elevation view.
✓		h. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
✓		i. Location, size, and characteristics of all loading and unloading areas.
	✓	j. Location and design of all sidewalks, walkways, bicycle paths and areas for public use as approved by the Planning Commission.
✓		k. Location of all other utilities on the site including but not limited to wells, septic systems, stormwater controls, natural gas, electric, cable TV, telephone and steam and proposed utility easements.
✓		l. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.

SITE PLAN REVIEW APPLICATION

# SITE PLAN REQUIREMENT CHECKLIST

(TO BE SUBMITTED WITH APPLICATION AND SITE PLAN)

INFORMATION SUPPLIED	WAIVER REQUESTED	REQUIREMENT
✓		m. Location and specifications for all fences, walls, and other screening features.
✓		n. Location and specifications for all existing and proposed perimeter and internal landscaping and other buffering features.
✓		o. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
	✓	p. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
✓		q. Elevation drawing(s) for proposed commercial and industrial structures.
✓		r. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well
✓		s. Floor plans, when needed to determine the number of parking spaces required.

PLEASE LIST THE REQUIREMENT FOR WHICH A WAIVER IS BEING REQUESTED. ALSO PROVIDE AN EXPLANATION/REASON FOR THE WAIVER REQUEST.

**SECTION**

**REASON FOR WAIVER REQUEST**

d&e      See Attachment A, pg 1

j&p      See Attachment A, pg 2

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**AFFIDAVIT**

I CERTIFY THAT ALL SITE PLAN REQUIREMENTS (A THROUGH S) ARE DRAWN ON THE SITE PLAN, ATTACHED TO THIS APPLICATION AND/OR I AM REQUESTING A WAIVER. I CERTIFY THAT ALL INFORMATION AND DATA ATTACHED TO AND MADE PART OF THIS SPECIAL LAND USE PERMIT APPLICATION ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

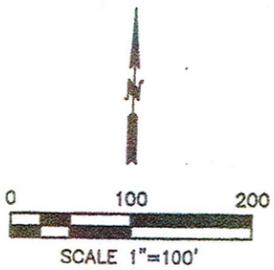
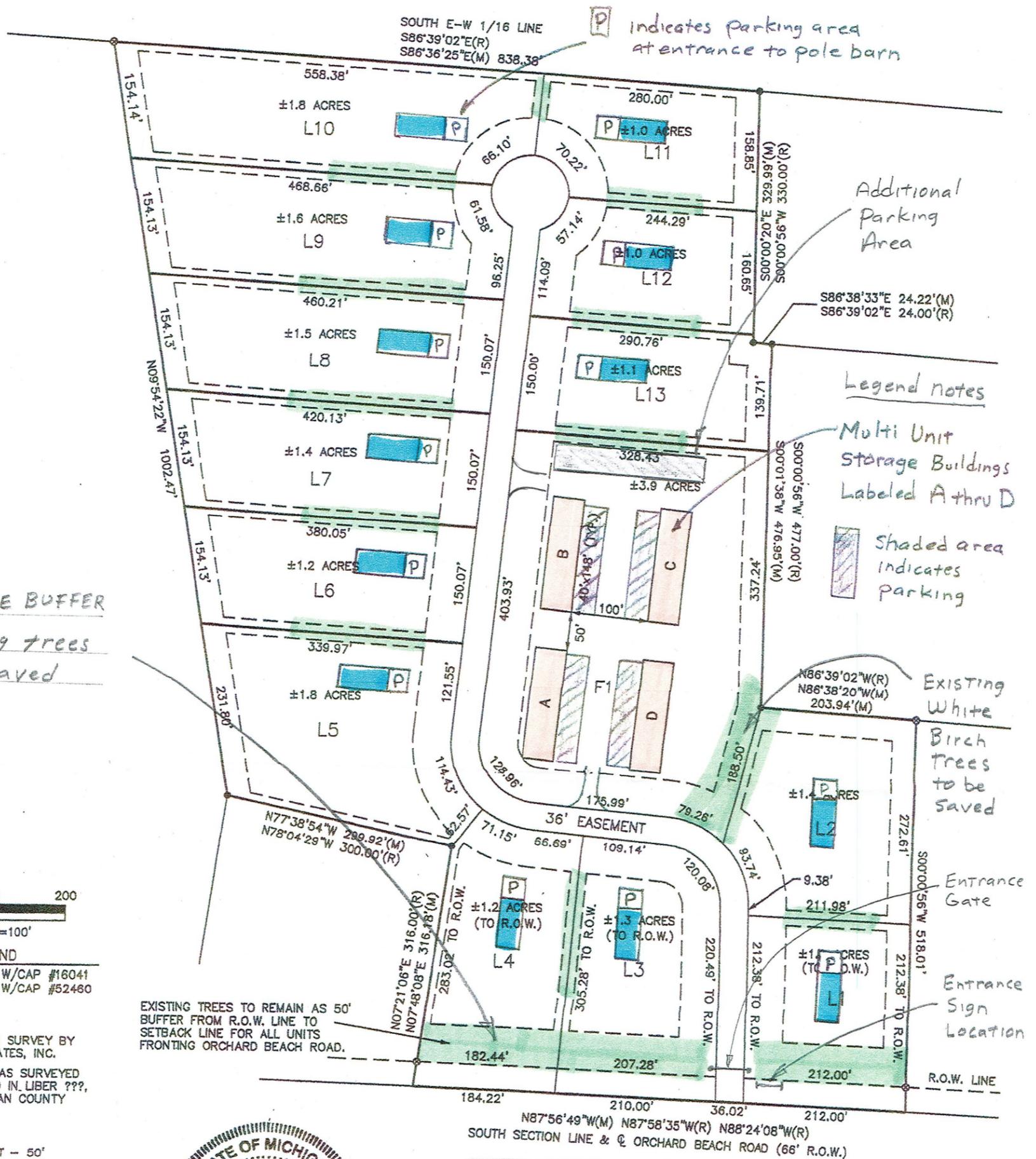
David Trame

SIGNATURE

8-15-18

DATE

PART OF THE S1/2 OF THE SE1/4, SECTION 29, T37N, R1W,  
BENTON TOWNSHIP, CHEBOYGAN COUNTY, MICHIGAN



**LEGEND**

- FD 1/2" REBAR W/CAP #18041
- FD 1/2" REBAR W/CAP #52460
- (R) RECORDED AS
- (M) MEASURED AS

BEARINGS BASED ON SURVEY BY GRANGER & ASSOCIATES, INC.

LEGAL DESCRIPTION AS SURVEYED PER DEED RECORDED IN LIBER ???, PAGE ???, CHEBOYGAN COUNTY RECORDS.

**SETBACKS:** FRONT - 50'  
REAR - 30'  
SIDE - 10'  
(REPRESENTED BY DASHED LINES)

PROPOSED STORAGE BUILDINGS A-D ARE TO BE BUILT.

36' EASEMENT IS FOR INGRESS/EGRESS AND UTILITIES.



*Alan J. Granger*

**Legend**

- Blue** Proposed location of privately owned pole barns. Barns shown in blue are approx 30' x 50' as an example
- Orange** Location of proposed Multi-Unit storage buildings which are planned as 40' x 148', 6 units/bldg
- Green** Indicates existing or planned buffer or screening

Road Easement note; Right 10' and Left 10' of the 36' easement is utility easement for electrical service

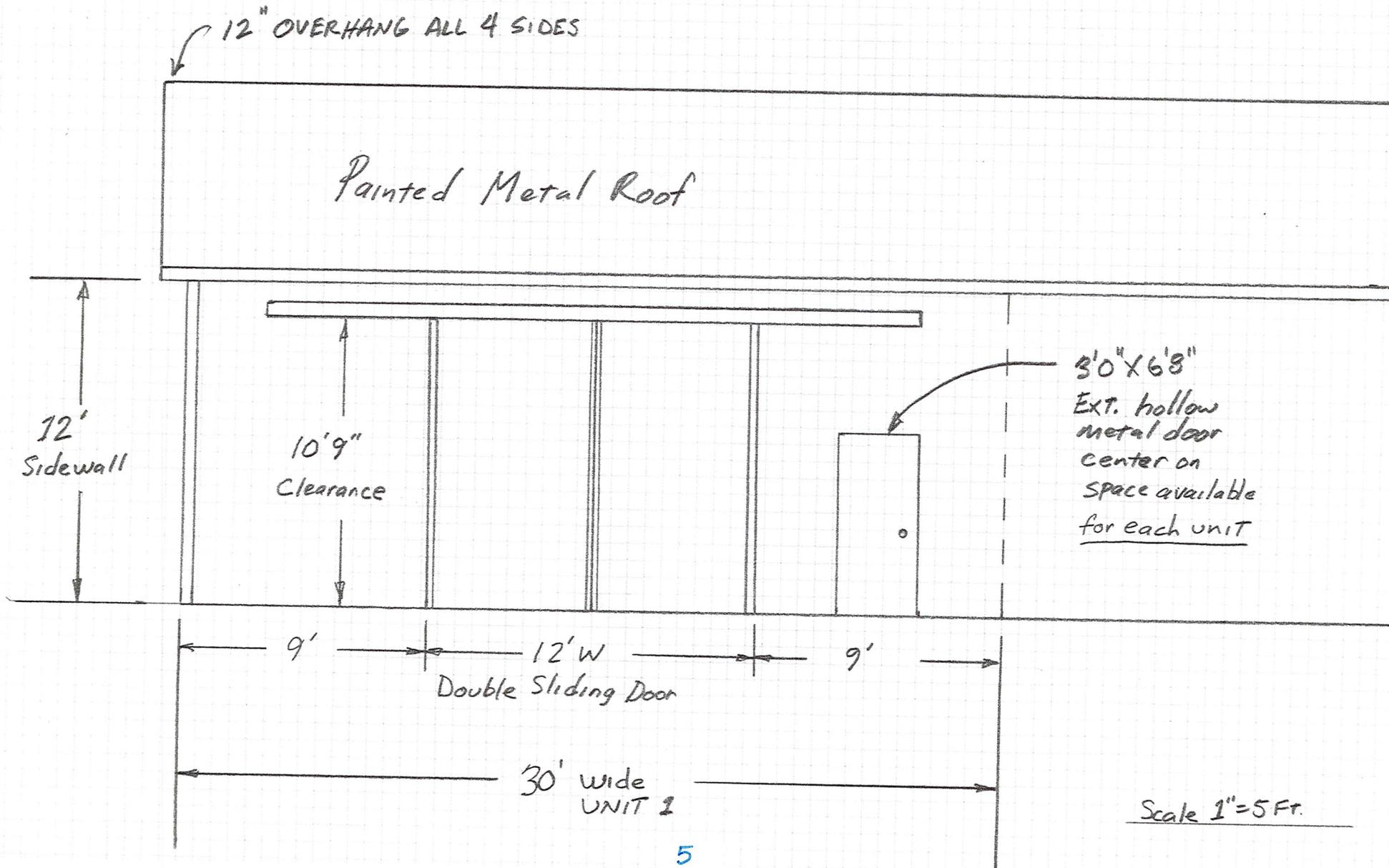
DATE JULY 30, 2018	REVISIONS	TITLE: SITE PLAN	SCALE: 1"=100'
		CLIENT: DAVID FRAME	SHEET: 1 OF 1 DRAWN BY: AJG
			JOB NO. C6815-01
			Granger and Associates, Inc. Engineers • Surveyors 224 S. Main St., Cheboygan, MI 49721 Email: grangerandassociates@gmail.com 231-627-2763

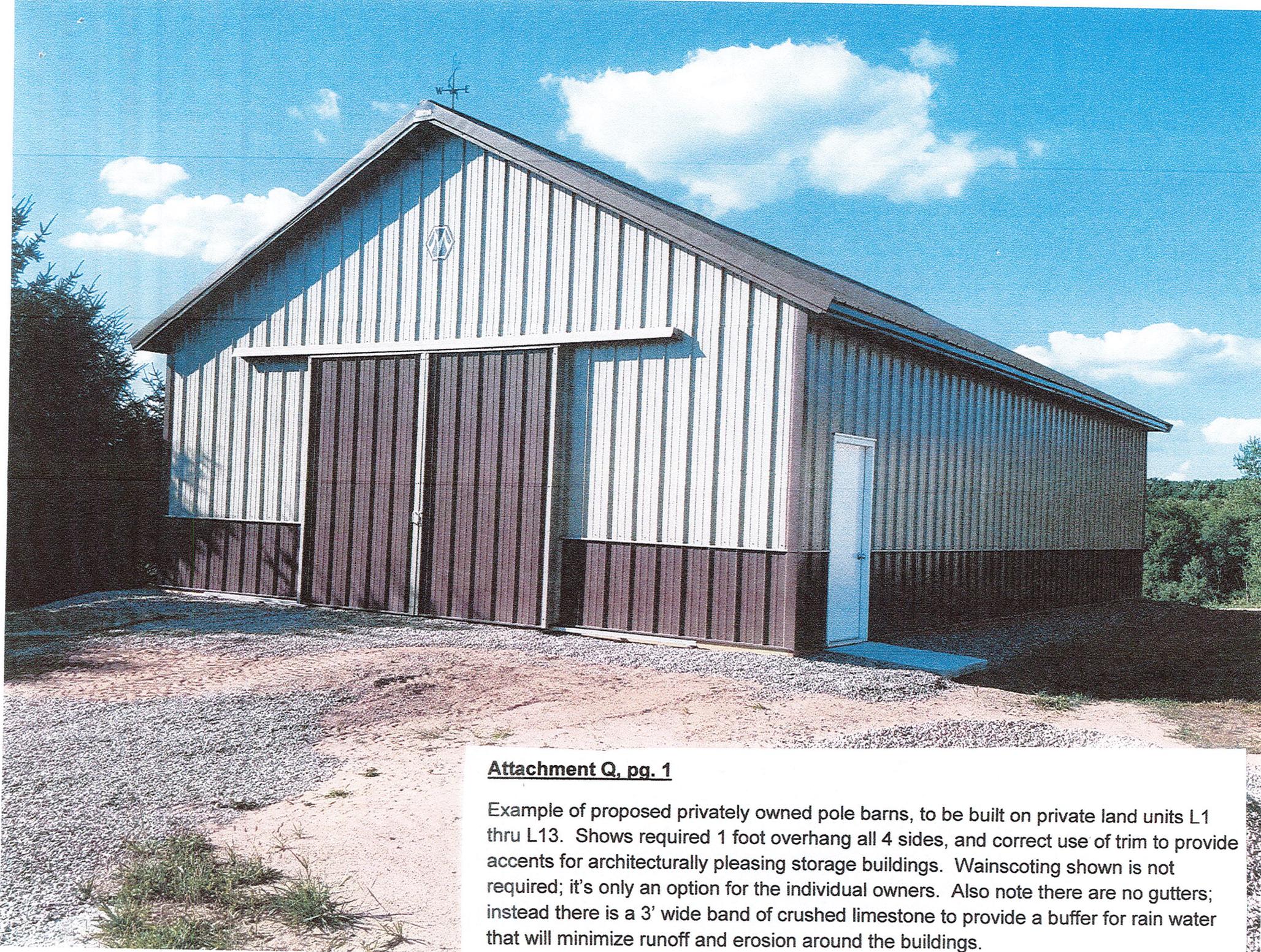
Attachment M

Elevation View Unit 1 of Building A, Multi-Unit Storage Building

Standard engineered trusses, 12" Overhang all 4 sides, no windows

Standard painted metal siding and roof, siding 1-color, roof & trim Sec. color





**Attachment Q, pg. 1**

Example of proposed privately owned pole barns, to be built on private land units L1 thru L13. Shows required 1 foot overhang all 4 sides, and correct use of trim to provide accents for architecturally pleasing storage buildings. Wainscoting shown is not required; it's only an option for the individual owners. Also note there are no gutters; instead there is a 3' wide band of crushed limestone to provide a buffer for rain water that will minimize runoff and erosion around the buildings.



Private Road  
Entrance here



Orchard Beach Private Storage  
1 acre land units available 2019  
For privately owned pole barns  
Turn-Key private storage  
units 800 to 1200 sq.ft.  
available for purchase  
starting in 2019

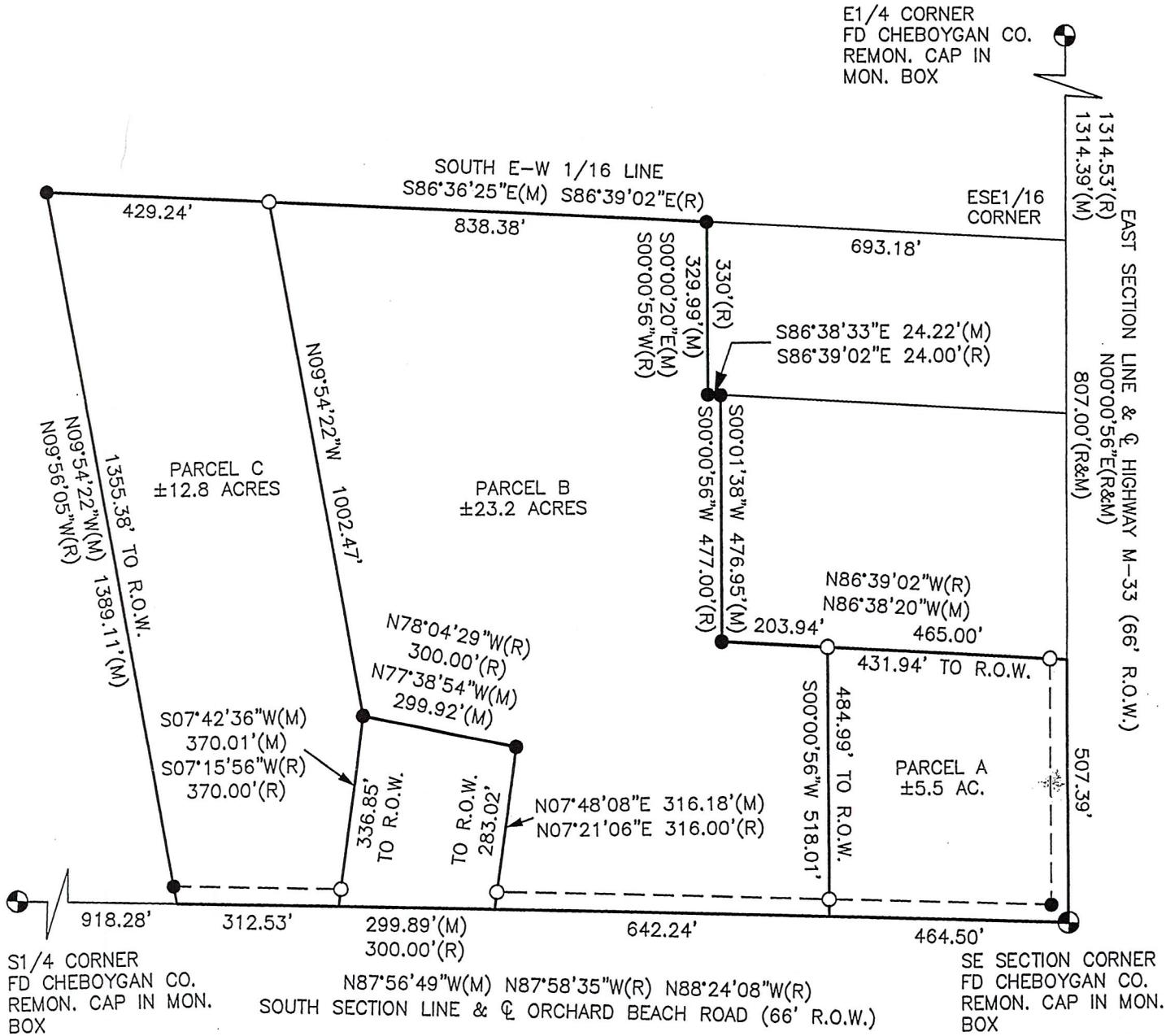


for more information see website;  
[OrchardBeachPrivateStorage.com](http://OrchardBeachPrivateStorage.com)

Orchard Beach Road

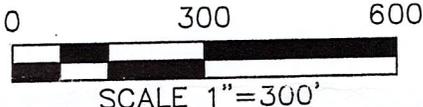
# CERTIFICATE OF SURVEY

PART OF THE S1/2, OF THE SE1/4 SECTION 29, T37N, R1W,  
BENTON TOWNSHIP, CHEBOYGAN COUNTY, MICHIGAN



S1/4 CORNER  
FD CHEBOYGAN CO.  
REMON. CAP IN MON.  
BOX

SE SECTION CORNER  
FD CHEBOYGAN CO.  
REMON. CAP IN MON.  
BOX



### LEGEND

- FD IRON W/CAP #16041
- SET 1/2" REBAR W/CAP #52460
- (R) RECORDED AS
- (M) MEASURED AS

BEARINGS BASED ON SURVEY BY  
GRANGER & ASSOCIATES, INC.

LEGAL DESCRIPTION AS SURVEYED PER  
DEED RECORDED IN LIBER 728, PAGE 58,  
CHEBOYGAN COUNTY RECORDS.

COPYRIGHTED GRANGER & ASSOCIATES INC. 2018

*Alan J. Granger*  
ALAN J. GRANGER P.S. No. 52460

I hereby state that I have surveyed and mapped the above parcel of land and that the error of closure is no greater than 1 in 5000 and that all requirements of PA 132, 1970, as amended, have been met.

CLIENT:  DAVE SIMMONS  DATE: JUNE 3, 2018	<b>Granger and Associates, Inc.</b> Engineers • Surveyors 224 S. Main St., Cheboygan, MI 49721 Email: grangerandassociates@gmail.com 231-627-2763	SEC. 29, T37N, R1W	
		DRAWN	AJG
		JOB NO.	C7678-00

# CERTIFICATE OF SURVEY

PART OF THE S1/2, OF THE SE1/4 SECTION 29, T37N, R1W,  
BENTON TOWNSHIP, CHEBOYGAN COUNTY, MICHIGAN

**PARCEL A**

SITUATED IN THE TOWNSHIP OF BENTON, COUNTY OF CHEBOYGAN, STATE OF MICHIGAN:  
PART OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4, SECTION 29, T37N, R1W, DESCRIBED AS BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION; THENCE N 00°00'56" E, ALONG THE EAST LINE OF SAID SECTION, 507.39 FT.; THENCE N 86°38'20" W (PREVIOUSLY RECORDED AS N 86°39'02" W) 465.00 FT.; THENCE S 00°00'56" W, PARALLEL TO SAID EAST LINE, 518.01 FT., TO THE SOUTH LINE OF SAID SECTION; THENCE S 87°56'49" E (PREVIOUSLY RECORDED AS S 87°58'35" E AND S 88°24'08" E), ALONG THE SOUTH LINE OF SAID SECTION, 464.50 FT., TO THE P.O.B. CONTAINS 5.5 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT OF WAY OF ORCHARD BEACH ROAD AND HIGHWAY M-33. SUBJECT TO RESTRICTIONS, RESERVATIONS, AND EASEMENTS OF RECORD, IF ANY.

**PARCEL B**

SITUATED IN THE TOWNSHIP OF BENTON, COUNTY OF CHEBOYGAN, STATE OF MICHIGAN:  
PART OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4, SECTION 29, T37N, R1W, DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION; THENCE N 87°56'49" W (PREVIOUSLY RECORDED AS N 87°58'35" W AND N 88°24'08" W), ALONG THE SOUTH LINE OF SAID SECTION, 464.50 FT., TO THE POINT OF BEGINNING; THENCE CONTINUING N 87°56'49" W (PREVIOUSLY RECORDED AS N 87°58'35" W AND N 88°24'08" W), ALONG SAID SOUTH LINE, 642.24 FT.; THENCE N 07°48'08" E 316.18 FT. (PREVIOUSLY RECORDED AS N 07°21'06" E 316.00 FT.); THENCE N 77°38'54" W 299.92 FT. (PREVIOUSLY RECORDED AS N 78°04'29" W 300.00 FT.); THENCE N 09°54'22" W 1002.47 FT., TO THE SOUTH E-W 1/16 LINE AS MONUMENTED; THENCE S 86°36'25" E (PREVIOUSLY RECORDED AS S 86°39'02" E), ALONG SAID 1/16 LINE, 838.38 FT.; THENCE S 00°00'20" E 329.99 FT. (PREVIOUSLY RECORDED AS S 00°00'56" W 330.00 FT.); THENCE S 86°38'33" E 24.22 FT. (PREVIOUSLY RECORDED AS S 86°39'02" E 24.00 FT.); THENCE S 00°01'38" W 476.95 FT. (PREVIOUSLY RECORDED AS S 00°00'56" W 477.00 FT.); THENCE S 86°38'20" E (PREVIOUSLY RECORDED AS S 86°39'02" E) 203.94 FT.; THENCE S 00°00'56" W, PARALLEL TO THE EAST LINE OF SAID SECTION, 518.01 FT., TO THE P.O.B. CONTAINS 23.2 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT OF WAY OF ORCHARD BEACH ROAD. SUBJECT TO RESTRICTIONS, RESERVATIONS, AND EASEMENTS OF RECORD, IF ANY.

**PARCEL C**

SITUATED IN THE TOWNSHIP OF BENTON, COUNTY OF CHEBOYGAN, STATE OF MICHIGAN:  
PART OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4, SECTION 29, T37N, R1W, DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION; THENCE N 87°56'49" W (PREVIOUSLY RECORDED AS N 87°58'35" W AND N 88°24'08" W), ALONG THE SOUTH LINE OF SAID SECTION, 1406.63 FT. (PREVIOUSLY RECORDED AS 1406.74 FT.), TO THE POINT OF BEGINNING; THENCE CONTINUING N 87°56'49" W (PREVIOUSLY RECORDED AS N 87°58'35" W AND N 88°24'08" W), ALONG SAID SOUTH LINE, 312.53 FT.; THENCE N 09°54'22" W (PREVIOUSLY RECORDED AS N 09°56'05" W) 1389.11 FT., TO THE SOUTH E-W 1/16 LINE AS MONUMENTED; THENCE S 86°36'25" E (PREVIOUSLY RECORDED AS S 86°39'02" E), ALONG SAID 1/16 LINE, 429.24 FT.; THENCE S 09°54'22" E 1002.47 FT.; THENCE S 07°42'36" W 370.01 FT. (PREVIOUSLY RECORDED AS S 07°15'56" W 370.00 FT.), TO THE P.O.B. CONTAINS 12.8 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT OF WAY OF ORCHARD BEACH ROAD. SUBJECT TO RESTRICTIONS, RESERVATIONS, AND EASEMENTS OF RECORD, IF ANY.

**WITNESSES**

EAST 1/4 CORNER	SE SECTION CORNER	SOUTH 1/4 CORNER
END 18" CMP N59°E 44.33'	POWER POLE N45°W 62.32'	8" SPRUCE N16°E 33.79'
POWER POLE S44°E 48.95'	POWER POLE N56°E 65.65'	6" CEDAR N37°W 41.81'
POWER POLE S59°W 47.70'	POWER POLE S38°E 99.95'	8" POPLAR S52°E 39.23'
FENCE POST N85°W 38.61'	POWER POLE S60°W 50.53'	6" BIRCH S45°W 21.66'

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ALAN J. GRANGER P.S. No. 52460



CLIENT: DAVE SIMMONS	<b>Granger and Associates, Inc.</b> Engineers • Surveyors 224 S. Main St., Cheboygan, MI 49721 Email: grangerandassociates@gmail.com 231-627-2763	SEC. 29, T37N, R1W
DATE: JUNE 3, 2018		DRAWN AJG SHEET 2 OF 2 JOB NO. C7678-00

## WARRANTY DEED

The Grantor, David Simmons,  
whose address is 2929 Cedar Beach Dr., Cheboygan, Michigan 49721  
conveys and warrants to Frame Land Holdings, LLC  
whose address is 740 N. Industrial Dr., Chelsea, MI 48118  
the following described premises situated in the Township of Benton,  
County of Cheboygan, and State of Michigan:

See legal description attached hereto on Exhibit A.

The consideration paid for this transfer is the sum of Forty Nine Thousand Five Hundred Dollars (\$49,500.00).

This transfer is subject to easements, reservations and restrictions of record including building and use restrictions of record and any other item of record.

Subject to rights of the public and of any governmental unit in any part of the land taken, used or deeded for street, road, or highway purposes.

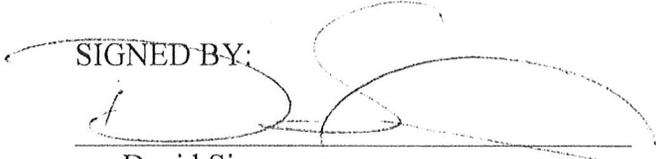
Subject to any provisions contained in any Instruments of record which provisions pertain to the transfer of divisions under Section 109(3) of the Subdivision Control Act of 1967, as amended.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors and other associated conditions may be used and are protected by the Michigan right to farm act.

The Grantor also grants to the Grantee the right to make zero (0) divisions under Section 108 of the Land Division Act, Act No. 288 of P.A. of 1967.

DATE: August 13, 2018

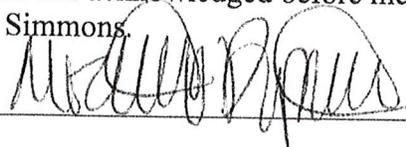
SIGNED BY:

  
David Simmons

STATE OF MICHIGAN

COUNTY OF CHEBOYGAN

The foregoing instrument was executed and acknowledged before me on August 13, 2018 in said County by David Simmons.



Martina Dupertuis  
NOTARY PUBLIC-STATE OF MICHIGAN  
COUNTY OF CHEBOYGAN  
My Commission Expires 05/06/2024  
Acting in the County of Cheboygan

Notary Public  
State of Michigan, County of Cheboygan  
My Commission expires:  
Acting in the County of Cheboygan

DRAFTED BY:  
Robert C. Kerzka, Attorney  
P.O. Box 98  
Indian River, Michigan 49749  
(231) 238-8981

AFTER RECORDING RETURN TO:  
Frame Land Holdings, LLC  
740 N. Industrial Dr. ✓  
Chelsea, MI 48118

PARCEL NUMBER: Out of tax code #104-029-200-007-10

## Exhibit A

Situated in the Township of Benton, Cheboygan County, Michigan:

Parcel B: Part of the South  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  Section 29, T37N, R1W, described as: Commencing at the Southeast corner of said Section; thence North  $87^{\circ} 56' 49''$  West (previously recorded as North  $87^{\circ} 58' 35''$  West and North  $88^{\circ} 24' 8''$  West) along the South line of said Section, a distance of 464.50 feet to the Point of Beginning; thence continuing North  $87^{\circ} 56' 49''$  West (previously recorded as North  $87^{\circ} 58' 35''$  West and North  $88^{\circ} 24' 8''$  West) along said South line 642.24 feet; thence North  $7^{\circ} 48' 8''$  East 316.18 feet (previously recorded as North  $7^{\circ} 21' 6''$  East 316.00 feet); thence North  $77^{\circ} 38' 54''$  West 299.92 feet (previously recorded as North  $78^{\circ} 4' 29''$  West 300.00 feet); thence North  $9^{\circ} 54' 22''$  West 1002.47 feet to the South East-West  $\frac{1}{16}$  line as monumented; thence South  $86^{\circ} 36' 25''$  East (previously recorded as South  $86^{\circ} 39' 2''$  East) along said  $\frac{1}{16}$  line 838.38 feet; thence South  $0^{\circ} 0' 20''$  East 329.99 feet (previously recorded as South  $0^{\circ} 0' 56''$  West 330.00 feet); thence South  $86^{\circ} 38' 33''$  East 24.22 feet (previously recorded as South  $86^{\circ} 39' 2''$  East 24.00 feet); thence South  $0^{\circ} 1' 38''$  West 476.95 feet (previously recorded as South  $0^{\circ} 0' 56''$  West 477.00 feet); thence South  $86^{\circ} 38' 20''$  East (previously recorded as South  $86^{\circ} 39' 2''$  East 203.94 feet); thence South  $0^{\circ} 0' 56''$  West parallel to the East line of said Section, a distance of 518.01 feet to the Point of Beginning.

Parcel ID No. \*\*OUT OF\*\* 104-029-200-007-10

Site Plan Application for Site Condominium Development,  
1685 Orchard Beach Road, Cheboygan, MI

The planned development of this 23 acre site is for a site condominium exclusively for pole barns for storage. The project includes a private road servicing all units, to be jointly owned by the private owners of the individual units. There are 13 private land units, and 4 multi-unit buildings planned as shown on the site plan prepared by Alan Granger. The private land units are to be sold to individuals who want to have a pole barn built to their specifications for storage use. There are also 4 multi-unit buildings with 6 units per building for storage that will be sold as private building units. The owners of the building units will jointly own the 3.9 acre land unit labeled F1. The master deed will prohibit by deed restriction the following; Retail businesses or dwelling units. There will also be deed restrictions on outside storage of materials and vehicles to insure the property is maintained properly. The primary usage will be for storage of boats and other items associated with lakefront property.

**Site Plan Requirement Checklist items;**

Item a thru c; See Site Plan prepared by Alan Granger

Item d; requesting waiver for this item. The existing property is covered by a very dense plantation of Scotch Pines planted 35 years ago and never harvested or thinned. It would be very difficult and expensive at the present time to do a topo on this property, and I don't believe it is necessary at this stage of the project. I have walked the property extensively 3 times and mapped the existing topography to the aerial map provided by the county website, and used this information to develop the basis for the site plan that is provided.

Item e; There are no bodies of water within 500 feet of the property lines, there are no streams or other waterways on the property. It is basically high and dry, and very well drained soils, with no outflow of water apparent to any neighboring properties.

Item f; There are no existing buildings on the property. Proposed buildings are shown on the color coded site plan.

Item g; Requesting approval for a sign appropriate for identifying the project, it's intended use, and contact information for the developer. See attachment G for this.

Items h; Parking Areas are shown on Attachment M. The minimum size shown is 30' x 30', for the privately owned pole barns, shown on land units L1 thru L13.

For the Multi-Unit storage buildings the parking and loading areas are shown as 30 feet by the width of the individual units, e.g. 30' x 24'. The location for additional parking is also shown for area F1, as 30' x 200'.

Item i; Loading and Unloading areas are shown on Attachment M, this is labeled parking area. The surface will be 5" of compacted crushed limestone road gravel, to be used for both parking, and loading area.

Item j; There are no public use areas in this project. The entire project is to be privately owned. A gateway will be built to keep access limited to the owners, or authorized contractors, other authorized persons, and emergency personnel and vehicles.

Item k; The only Utility to be provided to the project is electrical power. This will be run underground next to the planned road, within the 36' wide right-of-way. Connection boxes to individual properties will be within the right-of-way. The 36 foot wide right-of-way provides for a 16' wide road, plus 10' on each side for the electrical power lines run underground.

Item l; There are no common facilities or buildings in this project. The only common element in the project is the road, and gateway that is owned jointly by the property owners.

Item m & n; Location of fences, walls, and other screening; The color coded site plan shows a row of pine trees to be planted on the property lines between the buildings to provide a measure of separation and screening between individual buildings. Also shown is a 50' wide buffer of existing trees at the road frontage on Orchard Beach road. In addition, there is an area of existing White Birch and other existing trees between area F1 and unit L2. See attachment M for this.

Item o; Lighting. The master deed will limit the lighting to downward projecting fixtures on the building entrances only, and not allow any pole type lighting on the project. This limitation along with the 50' wide tree buffer, would limit any outside effect of lighting to the road and neighboring properties. Examples of the proposed lighting fixtures are shown in Attachment O.

Item p; No common waste receptacles are provided in the project. Owners are required to use their own waste receptacles and arrange for pickup or delivery to approved transfer station(s).

Item q; Elevation drawings, see Attachment Q, pages 1 thru 4

Item r; There are no common facilities in the project to house any chemicals, salts, flammable materials or hazardous materials. The master deed will require the owners to use an approved double wall steel cabinet for any fuel or flammable liquids stored inside the pole barns.

Item s; Floor Plans; See attachment Q, page 4.

## **SITE PLAN STANDARDS**

Item a; The site plan has been designed to minimize the need for any filling or reshaping of the existing land, giving each unit a relatively level building site near the private road.

Item b; The existing property is covered with a 35 year old plantation of Scotch Pines that were never harvested or thinned. The original intention was to harvest these for Christmas trees, but it never happened. The property in its current form is unusable for anything other than hunting, and is a fire hazard for all neighboring properties. The plan is to have the Scotch Pines clear cut and used as feed stock to the new particle board plant in Grayling to open this year. There are some areas covered with Aspens and White Birch trees that will be left for a buffer and for natural beauty of the site. In addition, there will be a 50' wide strip of trees left at the Orchard Beach road frontage for a screen, or buffer to road and neighboring properties. These areas are marked in green on the site plan labeled Attachment M.

Item c; Site Drainage; Requesting approval of the project with this item waived. However, my plan is to schedule a topo of the property once the Scotch Pine trees have been cleared and to have Alan Granger develop a drainage plan for the site before the road is built.

Item d; See Attachment M for this. Green shaded areas show location for existing and proposed buffers and screening.

Item e & f; The private road services all units, and is to be 16 foot wide, compacted crushed limestone road gravel. The end of the private road has a circle drive with radius large enough for emergency vehicles such as fire trucks to be able to easily turn around, and the road wide enough for 2 fire trucks to pass each other. The road easement is 36' wide, allowing 10' on each side for underground power lines. This private road will be owned in common by the owners of the condominium units, and will be maintained by the property owners association.

Item g; Streets and drives in this area do not have pedestrian walkways. Since this development is designated as private storage only, this item seems to be not applicable.

Item h; Lighting. The plan is to limit the lighting to downward projecting fixtures on the building entrances only, and not allowing any pole type lighting on the project. This limitation along with the 50' wide tree buffer, would limit any outside effect of lighting to the road and neighboring properties.

Item i; Since there are no dwelling units allowed in this project, this seems to be not applicable. There are no public use areas in this project. The entire project is to be privately owned. A gateway will be built to keep access limited to the owners, or authorized contractors, other authorized persons, and emergency personnel and vehicles.

## **Orchard Beach Private Storage**

Notes regarding; **Control of storm water runoff and erosion during the construction phase**

8-30-18

During the process of clearing the scotch pine plantation the logging equipment produces ground bark and branches into a mulch type material that is spread over the ground. This mulch will provide a ground cover, helping to absorb storm water and reduce erosion.

Also, due to the nature of the topography, any storm water runoff or erosion will be deposited on the 23 acre parcel (parcel B) under development in the lower area indicated on the drawing showing Existing Natural Drainage of Storm Water, and not affect adjacent parcels. The adjacent 12 acre parcel to the west of Parcel B is all wooded, and would absorb any remaining runoff water that left parcel B.

Because of this, I believe I can say with certainty that any storm water runoff or erosion would not affect any neighboring residential parcels, or county roadways or ditches.

David Frame

## Description of Drainage Plan

### Orchard Beach Private Storage Condominium

There are 2 existing drainage swales that are integrated into the drainage plan. These are highlighted in green on the plan.

A shallow drainage swale is to be built on each side of the roadway to control the water flow. This is within the 36' wide road easement, and is shown highlighted in blue on the drainage plan. This is also shown in the cross section sketch on an 8-1/2 x 11 attachment.

The drainage plan is designed to direct water flow around the road thru 3 culverts to the existing natural drainage swales. The runoff will be naturally absorbed into the grass covered areas on the lower sections of lots L5, L6, and L7.

The master deed for the condominium project requires each building to have appropriate rainwater runoff control.

If gutters are used; These must be run into an area of crushed limestone aggregate (with no fines), to absorb the rain water.

If gutters are not used; The building must have a 3' wide strip of crushed limestone aggregate around the perimeter of the building immediately below the eaves, to absorb rainwater from the roof.

This requirement will significantly reduce the amount of rainwater runoff that enters the drainage swales. The roof rainwater runoff will largely be absorbed into the ground immediately around the buildings.

This requirement is part of section 7.6 Specific Requirements, Building Restrictions, in the sub-section: Construction Materials. This is in the Condominium By-Laws which is part of the Master Deed, page 20-21. These 2 pages are attached for reference.

Page 20-21 of Condominium ByLaws  
Orchard Beach Private Storage Condominium

**7.6 Specific Requirements.** All approvals required by this section shall comply with the following requirements:

**Building Restrictions:**

Units L1 thru L13; these land units are designated for privately owned pole barns, for use as storage and associated work shop area. No multi-unit buildings are allowed on these land units.

All units are to be sold for private ownership, not rented or leased.

No dwelling units, or residential buildings are allowed in this project.

Well and septic are allowed in the project for use by an owner who wishes to use their pole barn as a working shop, project area, or office for contracting work. Owners must receive the necessary permits from the county zoning department and health department for this.

Buildings must be pole barn type construction with painted steel roof, and painted steel siding and trim. Buildings must have a minimum of 12" overhang on all 4 sides. All buildings must be professionally built to quality standards by a contractor approved by the Review Committee.

Electrical Service must be run underground from the power company connection to the pole barn. There will be no power poles on the project, all power will be run underground from the road by the power company.

Lighting fixtures are limited to approved downward facing fixtures. All lighting fixtures must be approved by the Review Committee. No pole lighting is allowed in the project. This is designed to minimize any light pollution to neighboring property owners.

**Permitted Uses:**

Storage of boats and other items associated with lake home property.

Shop area for contractors and storage of tools, equipment, and supplies related to contracting work, provided that all tools, and supplies are stored inside, with limited storage of larger equipment outside.

No Retail businesses are allowed.

No rental businesses are allowed.

### **Limited Outside Storage:**

No outside storage of building materials, except during the construction period of the storage building on-site, and limited to 6 month time frame, from the start of construction.

No outside storage of vehicles is permitted.

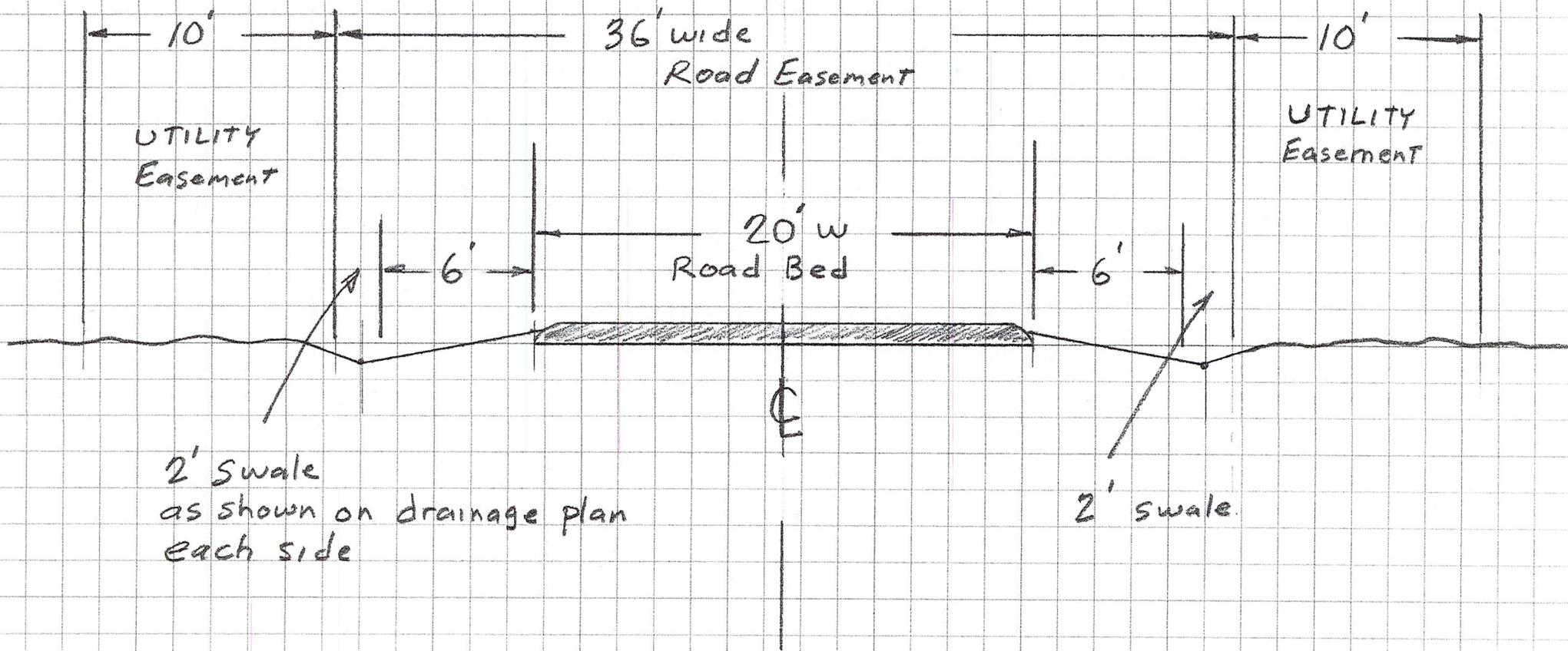
Parking is permitted within the designated parking area shown on the site plan approved by the county zoning department, and limited to currently licensed and insured vehicles. Additional temporary parking is allowed on the owners' private property for special events, such as parties, re-unions, weddings, in a manner as not to block the roadway or any of the private driveways.

Outside storage of boat trailers, utility trailers, equipment and construction trailers are permitted uses.

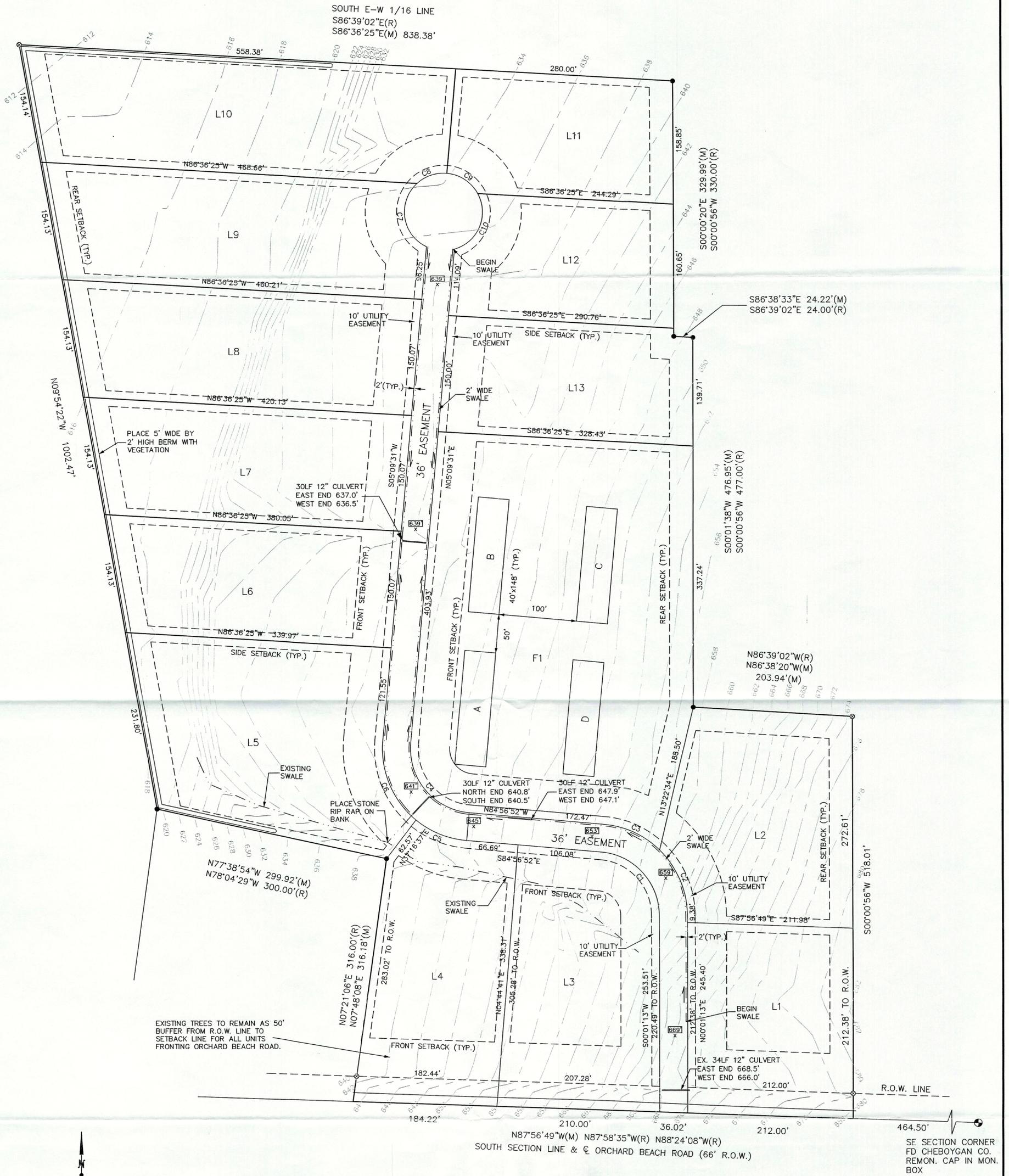
### **Construction Materials:**

- Must be pole barn type construction
- Must be painted steel roof panels, painted steel siding panels, and painted metal trim.
- Minimum 12" overhang on all 4 sides, using painted metal trim and soffit. Vinyl is not allowed for siding, roofing, trim, or soffit material.
- Siding, roof panels and trim must be installed with manufacturer approved screws with seals. Nails are not allowed.
- Minimize use of wood trim to create a storage building that's low maintenance and will hold its' original look and value for many decades.
- Seal strips are required for the ridge cap, and at eaves. Also a bottom seal and metal trim is required on the siding panels. This provides a complete seal for weather and keeps out potential pests.
- Gutters are not required, but are optional. If gutters are used they must run to an area of crushed limestone to buffer the rainwater runoff and control erosion.
- An alternative to gutters is a 3 foot wide strip of crushed limestone around the perimeter of the building. This is an acceptable method to provide a buffer for rainwater runoff and to control erosion.
- Concrete floor is required, a minimum of 4" thick, installed by a qualified experienced contractor.

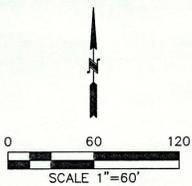
# Cross Section Sketch Road Easement 1-5-19



PART OF THE S1/2 OF THE SE1/4, SECTION 29, T37N, R1W,  
BENTON TOWNSHIP, CHEBOYGAN COUNTY, MICHIGAN



EXISTING TREES TO REMAIN AS 50' BUFFER FROM R.O.W. LINE TO SETBACK LINE FOR ALL UNITS FRONTING ORCHARD BEACH ROAD.



LEGEND

- FD 1/2" REBAR W/CAP #16041
  - ⊙ FD 1/2" REBAR W/CAP #52460
  - (R) RECORDED AS
  - (M) MEASURED AS
- BEARINGS BASED ON SURVEY BY GRANGER & ASSOCIATES, INC.
- SETBACKS: FRONT - 50'  
REAR - 30'  
SIDE - 10'  
(REPRESENTED BY DASHED LINES)
- PROPOSED STORAGE BUILDINGS A-D ARE TO BE BUILT.
- 36' EASEMENT IS FOR INGRESS/EGRESS AND UTILITIES.

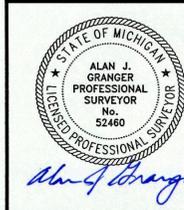
AREA TABLE

UNIT NO.	AREA (ACRES)
L1	1.19
L2	1.03 (TO R.O.W.)
L3	1.42
L4	1.48
L5	1.32 (TO R.O.W.)
L6	1.38
L7	1.24
L8	1.38
L9	1.52
L10	1.61
L11	1.84
L12	1.03
L13	1.00
F1	1.10
F1	3.87

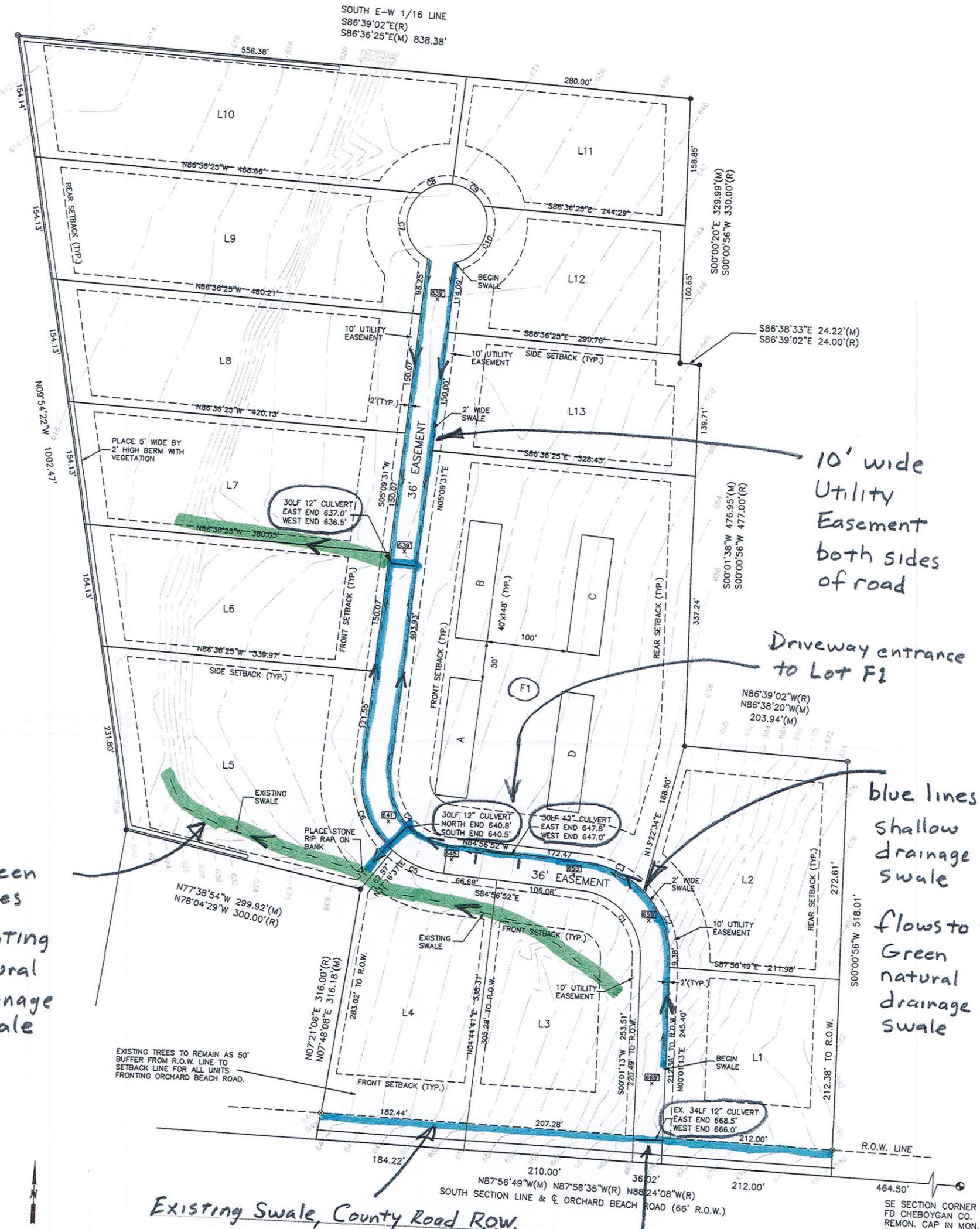
CURVE TABLE

CURVE NO.	ARC LENGTH	DELTA ANGLE	RADIUS	CHORD	
				BEARING	DISTANCE
L1	123.13'	86°02'11"	82.00'	S42°59'52"E	111.89'
L2	93.73'	45°29'35"	118.00'	N22°44'11"W	91.29'
L3	83.09'	40°20'42"	118.00'	N65°39'46"W	81.38'
L4	128.96'	90°06'23"	82.00'	N39°53'41"W	116.07'
L5	71.15'	34°32'43"	118.00'	S67°40'31"E	70.07'
L6	114.43'	55°33'40"	118.00'	S22°37'19"E	110.00'
L7	97.23'	111°24'44"	50.00'	N08°02'06"W	82.62'
L8	41.44'	47°29'15"	50.00'	N71°24'53"E	40.26'
L9	49.26'	56°26'48"	50.00'	S56°37'05"E	47.29'
L10	89.41'	102°27'11"	50.00'	S22°49'55"W	77.96'

TITLE SITE PLAN/DRAINAGE PLAN	
CLIENT DAVID FRAME 1503 ORCHARD BEACH ROAD CHEBOYGAN, MI 49721	
DATE	REVISIONS
JULY 30, 2018	ORIGINAL ISSUE
DEC. 15, 2018	ADD CONTOURS & DRAINAGE PLAN
DEC. 26, 2018	ADD CULVERT & UTILITY EASEMENT
DEC. 30, 2018	MOVE CUL-DE-SAC
JAN. 7, 2019	REVISE CULVERTS
SCALE: 1"=60'	
SHEET: 1 OF 1 DRAWN BY: AJG	
JOB NO. C6815-01	
<p>Granger and Associates, Inc. Engineers - Surveyors 224 S. Main St., Cheboygan, MI 49721 Email: grangerandassociates@gmail.com 231-627-2763</p>	



PART OF THE S1/2 OF THE SE1/4, SECTION 29, T37N, R1W,  
BENTON TOWNSHIP, CHEBOYGAN COUNTY, MICHIGAN



Green lines  
existing  
Natural  
drainage  
swale

10' wide  
Utility  
Easement  
both sides  
of road

Driveway entrance  
to Lot F1

blue lines  
shallow  
drainage  
swale

flows to  
Green  
natural  
drainage  
swale

Existing Swale, County Road ROW.

existing  
Culvert  
New 2018



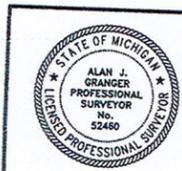
LEGEND

- FD 1/2" REBAR W/CAP #18041
- FD 1/2" REBAR W/CAP #52450
- (R) RECORDED AS
- (M) MEASURED AS
- BEARINGS BASED ON SURVEY BY GRANGER & ASSOCIATES, INC.
- SETBACKS: FRONT - 50'
- REAR - 30'
- SIDE - 10'
- (REPRESENTED BY DASHED LINES)
- PROPOSED STORAGE BUILDINGS A-D ARE TO BE BUILT.
- 36' EASEMENT IS FOR INGRESS/EGRESS AND UTILITIES.

UNIT NO.	AREA (ACRES)
L1	1.19
L2	1.03 (TO R.O.W.)
L3	1.48
L4	1.32 (TO R.O.W.)
L5	1.38
L6	1.24 (TO R.O.W.)
L7	1.82
L8	1.24
L9	1.38
L10	1.52
L11	1.61
L12	1.03
L13	1.00
F1	1.10
F1	3.87

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CLIENT DAVID FRAME 1503 ORCHARD BEACH ROAD CHEBOYGAN, MI 49721	
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SCALE: 1"=60' 1 Inch = 133 ft	
SHEET: 1 OF 1 DRAWN BY: AJG	
JOB NO. C6815-01	
Granger and Associates, Inc. Engineers - Surveyors 224 S. Main St., Cheboygan, MI 49721 Email: grangerandassociates@gmail.com 231-627-2763	



Drainage Plan: Orchard Beach Private Storage Condominium

MASTER DEED OF ORCHARD BEACH PRIVATE STORAGE CONDOMINIUM  
(Pursuant to the Condominium Act, MCL 559.101 et seq.)

Condominium Subdivision Plan for parcel [tax id# ] located in Benton Township of  
Cheboygan County

1. Master Deed establishing Orchard Beach Private Storage Condominium;
2. form A to Master Deed: Condominium Bylaws;
3. form B to Master Deed: Condominium Subdivision Plan;
4. form C to Master Deed: Mortgagee's Consent to Submission to Condominium Ownership; and
5. form D to Master Deed: Affidavit of Mailing for Notices required by MCL 559.171.

This document is exempt from transfer tax under MCL 207.505(a) and MCL 207.526(t).

This document drafted by and after recording return to:

Walter K. Hamilton (P14577)  
HAMILTON, GRAZIANO & LONDON PLC  
905 W. Eisenhower Circle, Suite 104  
Ann Arbor, MI 48103  
Telephone: (734) 769-7503  
Fax: (734) 769-7066  
Email: whamilton@a2mich.com

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                  Condominium
- Form C      Mortgagee's Consent to Submission to Condominium Ownership
- Form D      Affidavit of Mailing for Notices Required by MCL 559.171

## MASTER DEED of ORCHARD BEACH PRIVATE STORAGE CONDOMINIUM

This Master Deed is signed and delivered on [date], by Frame Land Holdings, LLC, a Michigan Limited Liability Company, of 740 West Industrial Drive, Chelsea, Michigan (Developer), on the terms and conditions set forth below.

### Section 1. ESTABLISHMENT OF CONDOMINIUM

1.1 Project. Developer is engaged in the development of a condominium project to be known as Orchard Beach Private Storage Condominium (the Project), in Benton Township, Cheboygan County, Michigan, on a parcel of land as described in section 2.

1.2 Establishment of Condominium. Developer desires, by recording this Master Deed together with the Condominium Bylaws attached as form A and the Condominium Subdivision Plan attached as form B to establish the real property described in section 2 (the Property), together with the improvements located and to be located on the Property, as a condominium project (the Condominium) under the provisions of the Michigan Condominium Act (the Act). Developer declares that on the recording of this Master Deed, the Condominium shall be a Project under the Act and shall be held, conveyed, encumbered, leased, rented, occupied, improved, or in any other manner used subject to the provisions of the Act and to the covenants, conditions, restrictions, uses, limitations, and affirmative obligations in this Master Deed, all of which shall be deemed to run with the land and to be a burden on and a benefit to Developer; its successors and assigns; any persons who may acquire or own an interest in the Condominium; and their grantees, successors, heirs, personal representatives, administrators, and assigns.

1.3 Project Description. The Project is a non-residential site condominium, exclusively for pole barns to be used for storage and associated work shop area. There are no dwelling units allowed in this development. The Condominium units that may be developed in the Project, including the number, boundaries, dimensions, and area of each unit (Unit), are shown on the Condominium Subdivision Plan. Each of the Units is capable of individual use having its own entrance from and exit to a common element of the Project (a private road).

1.4 Owner Rights. Each owner of a Unit (Owner) in the Project shall have an exclusive property right to Owner's Unit and to the limited common elements that are appurtenant to Owner's Unit and shall have an undivided right to share with other Owners in the ownership and use of the general common elements of the Project as described in this Master Deed.

### Section 2. LEGAL DESCRIPTION OF THE PROPERTY

2.1 Condominium Property. The land that is being submitted to Condominium

ownership in accordance with the provisions of the Act is described on the first page of the attached Subdivision Plan.

2.2 Beneficial Easements. Easements are created and conveyed in this Master Deed to and for the benefit of the Project and the Units located in the Project, and the Project and the Units located in the Project are benefitted and burdened by the ingress, egress, utility, and other easements described or shown on form B.

### Section 3. DEFINITIONS

3.1 Definitions. Certain terms used in this Master Deed are defined terms and have the meaning given them in the text where they are defined, and the same meaning shall be ascribed to the term in various other instruments with regard to the Project such as, by way of example and not limitation, the Articles of Incorporation, Association Bylaws, and Rules and Regulations of the Orchard Beach Private Storage Condominium Association, a Michigan nonprofit corporation, and various deeds, mortgages, land contracts, easements, and other instruments affecting the establishment or transfer of interests in the Project. As used in documents regarding the Project, unless the context otherwise requires:

- a. Act or Condominium Act means the Michigan Condominium Act, MCL 559.101 et seq.
- b. Association or Association of Owners means Orchard Beach Private Storage Condominium Association, the Michigan nonprofit corporation of which all Owners shall be members, which shall administer, operate, manage, and maintain the Project.
- c. Association Bylaws means the corporate bylaws of the Association organized to manage, maintain, and administer the Project.
- d. Common Elements means the portions of the Project other than the Condominium Units, including all general and limited common elements described in section 4 of this Master Deed.
- e. Condominium Bylaws means form A to this Master Deed, which are the bylaws that describe the substantive rights and obligations of the Owners.
- f. Condominium Documents means this Master Deed with its forms, the Articles of Incorporation and Bylaws of the Association, the Rules and Regulations adopted by the board of directors of the Association, and any other document that affects the rights and obligations of an Owner in the Condominium.
- g. Condominium Property or Property means the land referenced in section 2, as that may be amended, together with all structures, improvements, easements, rights, and appurtenances on or belonging to the Condominium Property.

h. Condominium Subdivision Plan or Subdivision Plan means form B to this Master Deed, which are the survey and other drawings depicting the real property and improvements to be included in the Project.

i. Condominium Unit or Unit means the portion of the Project that is designed and intended for separate ownership and use, as described in this Master Deed.

j. Owner means the person, firm, corporation, partnership, association, trust, other legal entity, or combination of entities that owns a Condominium Unit in the Project, including both the vendees and vendors of any land contract of purchase.

k. Developer means Frame Land Holdings, LLC, a Michigan Limited Liability Corporation, which has signed, delivered, and recorded this Master Deed, and its successors and assigns.

l. Development and Sales Period means the period continuing for as long as Developer or its successors continue to own and offer for sale any Unit in the Project, excepting any Unit that was previously conveyed by Developer and then repurchased by Developer.

m. General Common Elements means the Common Elements described in section 4.1, which are for the use and enjoyment of all Owners in the Project.

n. Limited Common Elements means the Common Elements described in section 4.2, which are reserved for the exclusive use of the Owners of a specified Unit or Units.

o. Master Deed means this document, together with the forms attached to it and all amendments that may be adopted in the future, by which the Project is being submitted to condominium ownership.

p. Percentage of Value means the percentage assigned to each Unit by this Master Deed, which is determinative of the value of an Owners vote at meetings of the Association and the proportionate share of each Owner in the Common Elements of the Project.

q. Project or Condominium means Orchard Beach Private Storage Condominium, a non-residential site condominium development of 37 Units established under the provisions of the Act.

r. Transitional Control Date means the date on which a board of directors for the Association takes office pursuant to an election in which the votes that may be cast by eligible Owners unaffiliated with Developer exceed the votes that Developer may cast.

3.2 Applicability. Whenever any reference is made to one gender, it will be assumed to include both genders where the reference is appropriate; similarly, whenever a reference is made to the singular, it will be assumed to include the plural where the

reference is appropriate.

## Section 4. COMMON ELEMENTS

### 4.1 General Common Elements. The General Common Elements are

a. Real Estate. The Property referenced in section 2 of this Master Deed (except for that portion of the Property described in section 5.1 constituting a part of a Unit and any portion of the Property designated in form B as a Limited Common Element), including easement interests appurtenant to the Condominium, including but not limited to easements for ingress, egress, and utility installation over, across, and through non-Condominium property or individual Units in the Project;

b. Improvements. The private roadway; the common sidewalks (if any); and the lawns, trees, shrubs, and other improvements not located within the boundaries of a Unit (all structures and improvements located within the boundaries of a Unit shall be owned in their entirety by the Owner of the Unit within which they are located and shall not, unless expressly provided in the Condominium Documents, constitute Common Elements);

c. Electrical. Any electrical transmission system which may be created throughout the Project up to, but not including, the point of lateral connection for service to each structure now located or subsequently constructed within Unit's boundaries; Developer will not establish any electrical transmission system.

d. Gas. Any natural gas line network and distribution system which may be created throughout the Project, up to, but not including, the point of lateral connection for service to each structure now located or subsequently constructed within Unit boundaries; Developer will not establish any gas network.

e. Water. Any water distribution system throughout the Project up to, but not including, the point of lateral connection for service to each structure now located or subsequently constructed within Unit boundaries; Developer will not establish any water system.

f. Sanitary Sewer. The sanitary sewer system throughout the Project, up to, but not including, the point of lateral connection for service to each structure now located or subsequently constructed within Unit boundaries; Developer will not establish any sewer system.

g. Storm Drainage. The storm drainage and water retention system throughout the Project;

h. Telephone. Any telephone wiring system throughout the Project up to, but not including, the point of lateral connection for service to each structure now located or

subsequently constructed within Unit boundaries; Developer will not establish a telephone wiring system.

i. Telecommunications. The cable television and other telecommunications systems installed throughout the Project up to, but not including, the point of lateral connection for service to each structure now located or subsequently constructed within Unit boundaries. Developer will not establish a telecommunication system.

j. Project Entrance Improvements. Any entry signage and other improvements located at or near the entrance to the Project; and gateway.

k. Miscellaneous Common Elements. All other Common Elements of the Project not designated as Limited Common Elements and not enclosed within the boundaries of a Condominium Unit, which are intended for common use or are necessary to the existence, upkeep, or safety of the Project.

Some or all of the utility lines, equipment, and systems (including mains and service leads) and the telecommunications systems described above may be owned by the local public authority or by the company that is providing the pertinent service. Accordingly, such utility or telecommunication lines, equipment, and systems shall be General Common Elements only to the extent of the Owners interest in them, and Developer makes no warranty with respect to the nature or extent of that interest.

4.2 Limited Common Elements. The Limited Common Elements are

a. Utility Service Lines. The wiring and conduits supplying service to or from a Unit for electrical service, up to and including the point of lateral connection with a General Common Element of the Project or utility line or system owned by the local public authority or company providing the service;

b. Subterranean Land. The subterranean land located within Unit boundaries, from and below a depth of 20 feet as shown on form B, including all utility and supporting lines located on or beneath that land;

c. Subsurface Improvements. The portion of any footing or foundation extending more than 20 feet below surrounding grade level;

d. Water Wells. The water well (including well shafts, pumps, and distribution lines) located within or beneath Unit boundaries and serving only the structure constructed on that Unit;

e. Septic Systems. The septic tank and drain field (including distribution lines) located within or beneath Unit boundaries and serving only the structure constructed on that Unit;

f. Yard Areas. The portion of any yard area designated as a Limited Common Element

on the Condominium Subdivision Plan, which is limited in use to the Unit of which it is a part;

g. Delivery Boxes. The mail and paper box that is located on a Unit or is permitted by the Association to be located on the General Common Elements to serve a Condominium Unit;

h. Driveways and Walkways. The portion of any driveway and walkway, if any, exclusively serving the structure constructed within a Unit, located between the Unit and the paved roadway; and

i. Miscellaneous. Any other improvement designated as a Limited Common Element appurtenant to a particular Unit or Units in the Subdivision Plan or in any future amendment to the Master Deed made by Developer or the Association.

If no specific assignment of one or more of the Limited Common Elements described in this section has been made in the Subdivision Plan, Developer (during the Development and Sales Period) and the Association (after the Development and Sales Period has expired) reserve the right to designate each such space or improvement as a Limited Common Element appurtenant to a particular Unit or Units by subsequent amendment to this Master Deed.

4.3 Maintenance Responsibilities. Responsibility for maintenance, repair, and replacement of the Common Elements will be as follows:

a. Limited Common Elements. Each Owner shall be individually responsible for the routine cleaning, snow removal, maintenance, repair, and replacement of all Limited Common Elements appurtenant to the Owner's Unit

b. Unit Improvements and Other Owner Responsibilities. Unless otherwise stated in this Master Deed, Unit Owners shall be responsible for the maintenance, repair, and replacement of all structures and improvements and the maintenance and mowing of all yard areas situated within the boundaries of a Unit. If an Owner elects, with the prior written consent of the Association, to construct or install any improvements within a Unit or on the Common Elements that increase the costs of maintenance, repair, or replacement for which the Association is responsible, those increased costs or expenses may, at the option of the Association, be specially assessed against the Unit.

c. Association Oversight. The exterior appearance of all structures, improvements, and yard areas (to the extent visible from any other Unit or from a Common Element) shall be subject at all times to the approval of the Association and to any reasonable aesthetic and maintenance standards prescribed by the Association in duly adopted rules and regulations. The Association may not disapprove the appearance of an improvement so long as it is maintained as constructed by Developer or constructed with Developer's approval.

d. Other Common Elements. The cost of maintenance, repair, replacement of all Common Elements other than that described above shall be the responsibility of the Association, except for the repair or replacement of a Common Element due to an act or the neglect of an Owner or an Owner's agent, invitee, family member, or pet.

e. Maintenance by the Association. If an Owner fails, as required by this Master Deed, the By-laws, or any rules or regulations promulgated by the Association, to properly and adequately repair, replace, or otherwise maintain the Owner's Unit, any structure or improvement located within the Unit, or any appurtenant Limited Common Element, the Association (or Developer during the Development and Sales Period) shall have the right, but not the obligation, to undertake periodic exterior maintenance functions with respect to improvements constructed or installed within any Unit boundary as it deems appropriate (including, without limitation, painting or other lawn mowing, snow removal, tree trimming, and replacement of shrubbery and other plantings). The Association (or Developer) will in no event be obligated to repair or maintain any such Common Element or improvement. Failure of the Association (or Developer) to take any such action shall not be deemed a waiver of the Association's (or Developer's) right to take any such action at a future date.

f. Assessment of Costs. All costs incurred by the Association or Developer in performing any maintenance functions that are the primary responsibility of an Owner shall be charged to the affected Owner or Owners on a reasonably uniform basis and collected in accordance with the assessment procedures established by the Condominium Bylaws. A lien for nonpayment shall attach to Owner's Unit for any such charges, as with regular assessments, and may be enforced by the use of all means available to the Association under the Condominium Documents or by law for the collection of assessments, including, without limitation, legal action, foreclosure of the lien securing payment, and the imposition of fines.

4.4 Assignment of Limited Common Elements. A Limited Common Element may be assigned or reassigned by written application to the board of directors of the Association by all Owners whose interest will be affected by the assignment. On receipt and approval of an application, the board shall promptly prepare and execute an amendment to this Master Deed assigning or reassigning all rights and obligations with respect to the Limited Common Elements involved and shall deliver the amendment to the Owners of the Units affected on payment by them of all reasonable costs for the preparation and recording of the amendment.

4.5 Power of Attorney. By acceptance of a deed, mortgage, land contract, or other document of conveyance or encumbrance, all Owners, mortgagees, and other interested parties are deemed to have appointed Developer (during the Development and Sales Period) or the Association (after the Development and Sales Period has expired) as their agent and attorney to act in connection with all matters concerning the Common Elements and their respective interests in the Common Elements. Without limiting the generality of this appointment, Developer or the Association will have full power and authority to grant easements over, to sever or lease mineral interests in, and

to convey title to the land or improvements constituting the General Common Elements or any part of them; to dedicate as public streets any parts of the General Common Elements; to amend the Condominium Documents to assign or reassign the Limited Common Elements; and in general to sign and deliver all documents and to do all things necessary or convenient to exercise such powers.

4.6 Boundary Relocation. The boundaries of two or more adjacent Units may be relocated by amendment of the Master Deed in accordance with the provisions of MCL 559.148, provided that the expense of preparing the amendment is paid in full by the Owner or Owners desiring to relocate the boundaries.

4.7 Separability. Condominium Units shall not be separable from their appurtenant Common Elements, and neither shall be used in any manner inconsistent with the purposes of the Project or in any other way that might interfere with or impair the rights of other Owners in the use and enjoyment of their Units or their appurtenant Common Elements.

## Section 5. UNITS

5.1 Description of Units. As shown on the attached site-plan, units L1 thru L13 are land units, 1.0 acre to 1.8 acres in size, designed as private units so the owner can have their pole building for storage built to order. Individual storage buildings must meet minimum specifications described in the Association By-Laws.

The area labeled F1 is a common area for multi-unit storage buildings. The building units are labels A1 thru A6, B1 thru B6, C1 thru C6, and D1 thru D6. Unit A1 for example is unit 1 of building A. These units share common ownership of Area F1.

5.2 Percentage of Value. The total percentage value of the Project is 100. This total value of 100 equals the total assessed value of all units combined. The individual units in the project will have various values depending on what is built on the land units, and will change yearly until the entire project is totally built out with all 13 land units built out and all 4 multi-unit buildings built out. Each unit will be assigned an assessed value by the township assessor at the end of each year. The percentage of value of an individual unit is the assessed value of that unit divided by the total assessed value of the project. The assessments are generally mailed out in February of the following year in which the assessed values are assigned, so the percentage value calculation must be done after all the assessed values are known.

5.3 Unit Modification. The number, size, style, boundary, or location of a Unit or of any Limited Common Element appurtenant to a Unit may be modified from time to time by Developer or its successors without the consent of any Owner, mortgagee (except as provided in the Act), or other interested person, so long as the modifications do not unreasonably impair or diminish the appearance of the Project or the view, privacy, or other significant attribute of any Unit that adjoins or is proximate to the modified Unit or Limited Common Element. However, no Unit that has been sold or is subject to a binding Purchase Agreement shall be modified without the consent of the Owner or

Purchaser and the mortgagee of the Unit. Developer may also, in connection with any modification, readjust Percentages of Value for all Units in a manner that gives reasonable recognition to the changes based on the method of original determination of Percentages of Value for the Project. All Owners, mortgagees of Units, and other persons interested or to become interested in the Project from time to time shall be deemed to have granted a Power of Attorney to Developer and its successors for any purpose that is similar in nature and effect to that described in section 4.5 of this Master Deed.

## Section 6. NONEXPANDABILITY OF THE CONDOMINIUM

The Project is not an expandable project under the Michigan Condominium Act.

## Section 7. CONTRACTABILITY OF CONDOMINIUM

7.1 Limit of Unit Contraction. The Project established by this Master Deed consists of 37 Units and may, at the election of the Developer, be contracted to a minimum of 14 Units.

7.2 Withdrawal of Land. The number of Units in the Project may, at Developer's option, from time to time within a period ending not later than six years after the recording of this Master Deed be decreased by the withdrawal of all or any portion of the lands described in section 2.1. However, no Unit that has been sold or is the subject of a binding Purchase Agreement may be withdrawn without the consent of the Owner or purchaser and the mortgagee of the Unit. Developer may also, in connection with any contraction, readjust the Percentages of Value for Units in the Project in a manner that gives reasonable recognition to the number of remaining Units, based on the method of original determination of the Percentages of Value. Other than as provided in this section 7, there are no restrictions or limitations on Developer's right to withdraw lands from the Project or on the portion or portions of land that may be withdrawn, the time or order of the withdrawals, or the number of Units or Common Elements that may be withdrawn. However, the lands remaining shall not be reduced to less than that necessary to accommodate the remaining Units in the Project with reasonable access and utility service to the Units.

7.3 Contraction Not Mandatory. There is no obligation on the part of Developer to contract the Project, nor is there any obligation to withdraw portions of the Project in any particular order or to construct particular improvements on any withdrawn lands. Developer may, in its discretion, establish all or a portion of the lands withdrawn from the Project as a separate condominium project (or projects) or as any other form of development. Any development on the withdrawn lands will not be detrimental to the adjoining condominium project.

7.4 Amendments to the Master Deed. A withdrawal of lands from this Project by Developer will be given effect by appropriate amendments to the Master Deed, which will not require the consent or approval of any Owner, mortgagee, or other interested

person. Amendments will be prepared by and at the sole discretion of Developer and may adjust the Percentages of Value assigned by section 5.2 to preserve a total value of 100 percent for the entire Project resulting from any amendment.

7.5 Additional Provisions. Any amendments to the Master Deed made by Developer to contract the Condominium may also contain provisions as Developer determines are necessary or desirable (i) to create easements burdening or benefitting portions or all of the parcel or parcels being withdrawn from the Project and (ii) to create or change restrictions or other terms and provisions, including designations and definition of Common Elements, affecting the parcel or parcels being withdrawn from the Project or affecting the balance of the Project, as reasonably necessary in Developer's judgment to preserve or enhance the value or desirability of the parcel or parcels being withdrawn from the Project.

Section 8. Reserved.

## Section 9. EASEMENTS

9.1 Easements for Maintenance and Repair. If any portion of a Unit or Common Element encroaches on another Unit or Common Element due to the shifting, settling, or moving of a building or due to survey errors or construction deviations, reciprocal easements shall exist for the maintenance of the encroachment for so long as the encroachment exists and for the maintenance of the encroachment after rebuilding in the event of destruction. There shall also be permanent easements in favor of the Association (or Developer during the Development and Sale Period) for the maintenance and repair of Common Elements for which the Association (or Developer) may from time to time be responsible or for which it may elect to assume responsibility, and there shall be easements to, through, and over those portions of the land (including the Units) as may be reasonable for the installation, maintenance, and repair of all utility services furnished to the Project. Public utilities shall have access to the Common Elements and to the Units at reasonable times for the installation, repair, or maintenance of those services; and any costs incurred in the opening or repairing of any Common Element or other improvement to install, repair, or maintain common utility services to the Project shall be an expense of administration assessed against all Owners in accordance with the Condominium Bylaws.

9. 2 Easements Reserved by Developer. Developer reserves nonexclusive easements for the benefit of itself and its successors and assigns, which may be used at any time or times,

a. to use, improve, or extend all roadways, drives, and walkways in the Project for the purpose of ingress and egress to and from any Unit or real property owned by it and to and from all or any portion of the land described in section 6 and

b. to use, tap, tie into, extend, or enlarge all utility lines and mains, public and private, located on the land described in Section

for the benefit of real property in which Developer owns an interest that adjoins the Project. The easements described in this section are subject to payment by the owners of the benefitted property of a reasonable share of the cost of maintenance and repair of the improvements constructed on the easements.

## Section 10. AMENDMENT, TERMINATION, AND WITHDRAWAL

10.1 Preconveyance Amendments. If there is no Owner other than Developer, Developer may unilaterally amend the Condominium Documents or, with the consent of any interested mortgagee, unilaterally terminate the Project. All documents reflecting an amendment to the Master Deed or the Condominium Bylaws or a termination of the Project shall be recorded in the register of deeds office in the county where the Project is located.

10.2 Postconveyance Amendments. If there is an Owner other than Developer, the recordable Condominium Documents may be amended for a proper purpose as follows:

a. Nonmaterial Changes. An amendment may be made without the consent of any Owner or mortgagee if the amendment does not materially alter or change the rights of any Owner or mortgagee of a Unit in the Project, including, but not limited to, (i) amendments to modify the types and sizes of unsold Condominium Units and their appurtenant Limited Common Elements; (ii) amendments correcting survey or other errors in the Condominium Documents; or (iii) amendments to facilitate conventional mortgage loan financing for existing or prospective Owners and enable the purchase of such mortgage loans by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, or any other agency of the federal government or the State of Michigan.

b. Material Changes. An amendment may be made even if it will materially alter or change the rights of the Owners with the consent of not less than two-thirds of the Owners and, to the extent required by law, mortgagees. However, an Owner's Unit dimensions or Limited Common Elements may not be modified without that Owner's consent, nor may the method or formula used to determine the percentage of value of Units in the Project for other than voting purposes be modified without the consent of each affected Owner and mortgagee. Rights reserved by Developer, including without limitation rights to amend for purposes of contraction or modification of units, shall not be amended without the written consent of Developer so long as Developer or its successors continue to own and to offer for sale any Unit in the Project.

c. Compliance with Law. Amendments may be made by Developer without the consent of Owners and mortgagees, even if the amendment will materially alter or change the rights of Owners and mortgagees, to achieve compliance with the Act, administrative rules, or orders adopted by the courts pursuant to the Act or with other federal, state, or local laws, ordinances, or regulations affecting the Project.

d. Reserved Developer Rights. Developer may also unilaterally make a material

amendment without the consent of any Owner or mortgagee for the specific purposes reserved by Developer in this Master Deed. During the Development and Sales Period, this Master Deed and forms A and B shall not be amended nor shall provisions be modified in any way without the written consent of Developer or its successors or assigns.

e. Costs of Amendments. A person causing or requesting an amendment to the Condominium Documents shall be responsible for costs and expenses of the amendment, except for amendments based on a vote of the Owners, the costs of which are expenses of administration. The Owners shall be notified of proposed amendments under this section not less than 10 days before the amendment is recorded.

10.3 Project Termination. If there is an Owner other than Developer, the Project may be terminated only with consent of Developer and not less than 80 percent of the Owners and mortgagees, in the following manner:

a. Termination Agreement. Agreement of the required number of Owners and mortgagees to termination of the Project shall be evidenced by the Owners' execution of a Termination Agreement, and the termination shall become effective only when the Agreement has been recorded in the register of deeds office in the county where the Project is located.

b. Real Property Ownership. On recordation of a document terminating the Project, the property constituting the Condominium shall be owned by the Owners as tenants in common in proportion to their respective undivided interests in the Common Elements immediately before recordation. As long as the tenancy in common lasts, each Owner and their heirs, successors, or assigns shall have an exclusive right of occupancy of that portion of the property that formerly constituted their Condominium Unit.

c. Association Assets. On recordation of a document terminating the Project, any rights the Owners may have to the net assets of the Association shall be in proportion to their respective undivided interests in the Common Elements immediately before recordation, except that common profits (if any) shall be distributed in accordance with the Condominium Documents and the Act.

d. Notice to Interested Parties. Notification of termination by first-class mail shall be made to all parties interested in the Project, including escrow agents, land contract vendors, creditors, lienholders, and prospective purchasers who have deposited funds.

10.4 Withdrawal of Property.

a. Withdrawal by Developer. Notwithstanding anything in this Master Deed to the contrary, if Developer has not completed development and construction of Units or Improvements in the Project that are identified as "need not be built" during a period ending 10 years after the date of commencement of construction by Developer of the Project, Developer has the right to withdraw from the Project all undeveloped portions of the Project not identified as "must be built" without the prior consent of any Owners,

mortgagees of Units in the Project, or any other person having an interest in the Project. If this Master Deed contains provisions permitting the expansion, contraction, or rights of convertibility of Units or Common Elements in the Project, the time period is the greater of (i) the 10-year period set forth above or (ii) 6 years after the date Developer exercised its rights regarding either expansion, contraction, or rights of convertibility, whichever right was exercised last. The undeveloped portions of the Project withdrawn shall also automatically be granted easements for utility and access purposes through the Project for the benefit of the undeveloped portions of the Project, subject to the payment of a reasonable pro rata share of the costs of maintaining the easements.

b. **Withdrawal by Association.** If Developer does not withdraw the undeveloped portions of the Project from the Project or convert the undeveloped portions of the Project to "must be built" before the time periods set forth in section 10.4(a) expire, the Association, by an affirmative two-thirds majority vote of Owners in good standing, may declare that the undeveloped land shall revert to the general common elements and all rights to construct Units on the undeveloped land shall cease. When such a declaration is made, the Association shall provide written notice of the declaration to Developer or its successor by first-class mail at its last known address. Within 60 days after receipt of the notice, Developer or its successor may withdraw the undeveloped land or convert the undeveloped condominium units to "must be built" However, if the undeveloped land is not withdrawn or the undeveloped condominium units are not converted within 60 days, the Association may file the notice of the declaration with the register of deeds. The declaration takes effect on recording by the register of deeds. The Association shall also file notice of the declaration with the local supervisor or assessing officer.

Section 11. ASSIGNMENT OF DEVELOPER RIGHTS

Developer may assign any or all of the rights and powers granted to or reserved by Developer in the Condominium Documents or by law, including without limitation the power to approve or to disapprove any act, use, or proposed action, to any other entity or person, including the Association. Any such assignment or transfer shall be made by an appropriate document in writing and shall be duly recorded in the register of deeds office in the county where the Project is located.

This Master Deed has been signed by Developer and shall be effective as of the date stated on page 1.

DEVELOPER

\_\_\_\_\_  
By David Frame  
Managing member,  
Frame Land Holdings, LLC

STATE OF MICHIGAN

)

\_\_\_\_\_ COUNTY

)

Acknowledged before me in Cheboygan County, Michigan on [date], by [name of acknowledging partner or agent], [partner / agent] on behalf of [name of partnership], a partnership.

/s/ \_\_\_\_\_

[Notary public's name, as it appears on application for commission]

Notary public, State of Michigan, County of Cheboygan.

My commission expires [date].

[If acting in county other than county of commission: Acting in the County of Cheboygan.]

CONDOMINIUM BYLAWS  
OF ORCHARD BEACH PRIVATE STORAGE CONDOMINIUM

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## CONDOMINIUM BYLAWS

### Section 1. ASSOCIATION OF OWNERS

1.1 Organization. ORCHARD BEACH PRIVATE STORAGE CONDOMINIUM is a non-residential site condominium project located in Benton Township, Cheboygan County, Michigan, being developed in single phase, to comprise a maximum of 37 units consisting of 24 built units and 13 building sites. On the recording of the Master Deed, the management, maintenance, operation, and administration of the Project shall be vested in an Association of Owners organized as a nonprofit corporation under the laws of the State of Michigan. The Association will keep current copies of the Master Deed, all amendments to the Master Deed, and other Condominium Documents for the Project available at reasonable hours for inspection by Owners, prospective buyers, mortgagees, and prospective mortgagees of Units in the Project.

1.2 Compliance. All present and future Owners, mortgagees, lessees, or other persons who may use the facilities of the Condominium in any manner shall be subject to and comply with the provisions of the Act, the Master Deed and any amendments, the Condominium Bylaws, the Association's Articles of Incorporation, and other Condominium Documents that pertain to the use and operation of the Project. The acceptance of a deed of conveyance, the entering into of a lease, or the act of occupying a Condominium Unit in the Project shall constitute an acceptance of the terms of the Condominium Documents and an agreement to comply with their provisions.

### Section 2. MEMBERSHIP AND VOTING

2.1 Membership. Each Owner of a Unit in the Project shall be a member of the Association during the period of ownership, and no other person or entity will be entitled to membership. The share of a member in the funds and assets of the Association may be assigned, pledged, or transferred only as an appurtenance to a Unit.

2.2 Voting Rights. Each Owner will be entitled to one vote for each Unit owned when voting by number and one vote, the value of which shall equal the total of the percentages assigned to the Unit or Units owned, when voting by value. Voting shall be by number except when the Master Deed or Bylaws specifically require voting to be by number and value, and no cumulation of votes shall be permitted.

2.3 Eligibility to Vote. No Owner other than Developer will be entitled to vote at any meeting of the Association until the Owner has presented written evidence of ownership of a Unit in the Project, nor shall the Owner be entitled to vote (except for elections pursuant to section 3.4) before the Initial Meeting of Members. A Owner shall be permitted to vote only if the Owner is not in default in payment of assessments levied against the Owner's unit. Developer shall be entitled to vote only those Units to which Developer still holds title.

2.4 Designation of Voting Representative. The person entitled to cast the vote for each Unit and to receive all notices and other communications from the Association shall be designated by a certificate signed by all the record owners of a Unit and filed with the secretary of the Association. The certificate shall state the name and address of the individual representative designated; the number of the Unit owned; and the name and address of the person or persons, firm, corporation, partnership, association, trust, or other legal entity who is the Unit owner. All certificates shall be valid until revoked, until superseded by a subsequent certificate, or until a change has occurred in the ownership of the Unit.

2.5 Proxies. Votes may be cast in person or by proxy. Proxies may be made by any designated voting representative who is unable to attend the meeting in person. Proxies will be valid only for the particular meeting designated and any adjournment and must be filed with the Association before the appointed time of the meeting.

2.6 Majority. At any meeting of members at which a quorum is present, 51 percent of the Owners entitled to vote and present in person or by proxy (or written vote, if applicable) shall constitute a majority for the approval of the matters presented to the meeting, except when these Bylaws, the Master Deed, or law required a majority exceeding a simple majority.

### Section 3. MEETINGS AND QUORUM

3.1 Initial Meeting of Members. The initial meeting of the members of the Association may be convened only by the Developer and may be called at any time after two or more of the Units in Phase I of the Project have been sold and the buyers qualified as members of the Association. In no event, however, shall the initial meeting be called later than (a) 120 days after the conveyance of legal or equitable title to nondeveloper Owners of 75 percent of the total number of Units that may be created in the Project or (b) 54 months after the first conveyance of legal or equitable title to a nondeveloper Owner of a Unit, whichever first occurs, at which meeting the eligible Owners may vote for the election of directors of the Association. The maximum number of Units that may be added to the Project under section 6 of the Master Deed shall be included in the calculation of the number of Units that may be created. Developer may call meetings of members of the Association for informational or other appropriate purposes before the initial meeting, but no such informational meeting shall be construed as the initial meeting of members.

3.2 Annual Meeting of Members. After the initial meeting has occurred, annual meetings of the members shall be held in each year on a date and at a time and place selected by the Board of Directors. At least 20 days before the date of an annual meeting, written notice of the date, time, place, and purpose of the meeting shall be mailed or delivered to each member entitled to vote at the meeting; but no less than 30 days written notice shall be provided to each member of any proposed amendment to these Bylaws or to other recorded Condominium Documents.

3.3 Advisory Committee. Within one year after the initial conveyance by Developer of legal or equitable title to an Owner of a Unit in the Project or within 120 days after conveyance of one-third of the total number of Units that may be created in the Project, whichever first occurs, Developer shall select two or more persons from the nondeveloper Owners to serve as an advisory committee to the Board of Directors (the Advisory Committee). The purpose of the Advisory Committee is to facilitate communication between the Developer-appointed Board of Directors and the nondeveloper Owners and to aid in the ultimate transition of control to the Owners. The members of the Advisory Committee shall serve for one year or until their successors are selected, and the Committee shall automatically cease to exist at the Transitional Control Date. The Board of Directors and the Advisory Committee shall meet with each other at the request of the Advisory Committee, but there shall be not more than two such meetings each year unless both parties agree.

3.4 Board Composition. Not later than 120 days after conveyance of legal or equitable title to nondeveloper Owners of 25 percent of the Units that may be created in the Project, at least one director and not less than one-fourth of the Board of Directors of the Association shall be elected by nondeveloper Owners. Not later than 120 days after conveyance of legal or equitable title to nondeveloper Owners of 50 percent of the Units that may be created in the Project, not less than one-third of the Board of Directors shall be elected by nondeveloper Owners. Not later than 120 days after conveyance of legal or equitable title to nondeveloper Owners of 75 percent of the Units that may be created in the Project and before conveyance of 90 percent of those Units, the nondeveloper Owners shall elect all directors on the board except that Developer shall have the right to designate at least one director as long as Developer owns and offers for sale at least 10 percent of the Units in the Project or as long as 10 percent of the Units remain that may be created.

3.5 Owner Control. If 75 percent of the Units that may be created in the Project have not been conveyed within 54 months after the first conveyance of legal or equitable title to a nondeveloper Owner, the nondeveloper Owners shall have the right to elect the percentage of members of the Board of Directors of the Association equal to the percentage of Units they hold, and Developer will have the right to elect the percentage of members of the board equal to the percentage of Units that are owned by Developer and for which all assessments are payable by Developer. This election may increase, but shall not reduce, the minimum election and designation rights of directors otherwise established in section 3.4. Application of this provision does not require a change in the size of the board as designated in the Association bylaws.

3.6 Mathematical Calculations. If the calculation of the percentage of members of the board that the nondeveloper Owners have a right to elect or the product of the number of members of the board multiplied by the percentage of Units held by the nondeveloper Owners results in a right of nondeveloper Owners to elect a fractional number of members of the board, a fractional election right of 0.5 or greater shall be rounded up to the nearest whole number. After application of this formula, Developer shall have the right to elect the remaining members of the board. Application of this provision shall not

eliminate the right of Developer to designate at least one member as provided in section 3.4.

3.7 Quorum of Members. The presence in person or by proxy of 35 percent of the Owners entitled to vote shall constitute a quorum of members. The written vote of an Owner properly furnished at or before a meeting at which the Owner is not present in person or by proxy shall be counted in determining the presence of a quorum with respect to the question on which the vote is cast.

#### Section 4. ADMINISTRATION

4.1 Board of Directors. The business, property, and affairs of the Association shall be managed by a board of directors (the Board of Directors) to be elected in the manner described in these Bylaws. The directors designated in the Articles of Incorporation shall serve until their successors have been duly elected and qualified at the initial meeting of members. All actions of the first Board of Directors designated in the Articles of Incorporation or any successors to the directors selected by Developer before the initial meeting of members shall be binding on the Association as though the actions had been authorized by a Board of Directors elected by the members of the Association so long as the actions are within the scope of the powers and duties that a Board of Directors may exercise under the Condominium Documents. A service contract or management agreement entered into between the Association and Developer or affiliates of Developer shall be voidable without cause by the Board of Directors on the Transitional Control Date or within 90 days after the initial meeting has been held and on 30 days notice at any time for cause.

4.2 Powers and Duties. The Board shall have all powers and duties necessary to administer the affairs of the Association and may take all actions in support of the administration that are not prohibited by the Condominium Documents or specifically reserved to the members, including the following:

- a. care, upkeep, and maintenance of the Common Elements
- b. development of an annual budget and the determination, levy, and collection of assessments required for the operation and affairs of the Condominium
- c. employment and dismissal of contractors and personnel as necessary for the efficient management and operation of the Condominium Property
- d. adoption and amendment of rules and regulations governing the use of the Condominium Property not inconsistent with these Bylaws
- e. opening bank accounts, borrowing money, and issuing evidences of indebtedness in furtherance of the purposes of the Association and designating signatories required for those purposes

- f. obtaining insurance for the Common Elements, the premiums of which shall be an expense of administration
- g. granting licenses for the use of the Common Elements for purposes not inconsistent with the provisions of the Act or of the Condominium Documents
- h. authorizing the execution of contracts, deeds of conveyance, easements, and rights-of-way affecting any real or personal property of the Condominium on behalf of the Owners
- i. making repairs, additions, and improvements to or alterations of the Common Elements and repairs to and restoration of the Common Elements after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings
- j. asserting, defending, or settling claims on behalf of all Owners in connection with the Common Elements of the Project and, on written notice to all Owners, instituting actions on behalf of and against the Owners in the name of the Association
- k. further duties as may be imposed by resolution of the members of the Association or that may be required by the Condominium Documents or the Act

4.3 Books of Account. The Association shall keep books and records containing a detailed account of the expenditures and receipts of administration, which will specify the maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Association and its members. The accounts shall be open for inspection by the Owners and their mortgagees during reasonable hours. The Association shall also prepare and distribute a financial statement to each Owner at least once a year, the contents of which will be defined by the Association. The books and records shall be reviewed annually and audited at times required by the Board of Directors by qualified independent accountants (who need not be certified public accountants), and the cost of the review or audit shall be an expense of administration.

4.4 Maintenance, Repair, and Replacement. The responsibility for maintenance, repair, and replacement of Units and Common Elements (other than following casualty damage, which is described in section 6.3 of the Bylaws) is as follows:

- a. All maintenance, repair, and replacement of the structures and other improvements located within a Unit or Limited Common Elements that are the responsibility of the Owner of a Unit as set forth in the Master Deed shall be made by the Owner of the Unit. Each Owner shall be responsible for all damages to the Common Elements resulting from the repairs or from any failure of the Owner to perform maintenance and repairs to a Unit.

b. All maintenance, repair, and replacement of the General Common Elements, whether located inside or outside the Units, and of Limited Common Elements to the extent required by the Master Deed shall be made by the Association and shall be charged to all the Owners as a common expense unless necessitated by the negligence, misuse, or neglect of a particular Owner, in which case the expense shall be charged to the responsible Owner. The Association or its agent shall have access to each Unit from time to time during reasonable hours, on notice to the occupant, to maintain, repair, or replace any of the Common Elements located within or accessible only from a Unit that are the responsibility of the Association. The Association or its agents shall also have access to each Unit at all times without notice for making emergency repairs necessary to prevent damage to other Units or the Common Elements.

4.5 Reserve Fund. The Association shall maintain a reserve fund, to be used for major repairs and replacement of the Common Elements, as provided by MCL 559.205. The fund shall be established in the minimum amount required on or before the Transitional Control Date and shall, to the extent possible, be maintained at a level that is equal to or greater than 10 percent of the then current annual budget of the Association on a noncumulative basis. The minimum reserve standard required by this section may prove to be inadequate, and the Board should carefully analyze the Project from time to time to determine if a greater amount should be set aside or if additional reserve funds should be established for other purposes.

4.6 Construction Liens. A construction lien arising as a result of work performed on a Unit or on an appurtenant Limited Common Element shall attach only to the Unit on which the work was performed, and a lien for work authorized by Developer or the principal contractor shall attach only to Condominium Units owned by Developer at the time of recording the lien. A construction lien for work authorized by the Association shall attach to each Unit only to the proportionate extent that the Owner of the Unit is required to contribute to the expenses of administration. No construction lien shall arise or attach to a Condominium Unit for work performed on the General Common Elements not contracted for by the Association or Developer.

4.7 Managing Agent. The Board may employ a management company or managing agent at a compensation established by the Board to perform the duties and services as the Board shall authorize, including, but not limited to, the powers and duties described in section 4.2. Developer or any person or entity related to Developer may serve as managing agent, but any compensation paid to Developer shall be at competitive rates.

4.8 Officers. The Association Bylaws shall provide for the designation, number, terms of office, qualifications, manner of election, duties, removal, and replacement of officers of the Association and may contain any other provisions pertinent to officers of the Association not inconsistent with these Bylaws. Officers may be compensated, but only on the affirmative vote of 67 percent or more of all Owners.

4.9 Indemnification. All directors and officers of the Association shall be entitled to

indemnification against costs and expenses incurred as a result of actions (other than willful or wanton misconduct or gross negligence) taken or failed to be taken on behalf of the Association on 10 days notice to all Owners in the manner and to the extent provided by the Association Bylaws. If no judicial determination on indemnification has been made, an opinion of independent counsel on the propriety of indemnification shall be obtained if a majority of Owners vote to procure such an opinion.

## Section 5. ASSESSMENTS

5.1 Administrative Expenses. The Association shall be assessed as the entity in possession of any tangible personal property of the Condominium owned or possessed in common, and personal property taxes levied on such property shall be treated as expenses of administration. All costs incurred by the Association in satisfaction of any liability arising within, caused by, or connected with the Common Elements or the administration of the Project shall be expenses of administration, and all sums received as proceeds of or pursuant to any policy of insurance covering the interests of the Owners against liabilities or losses arising within, caused by, or connected with the Common Elements or the administration of the Common Elements shall be receipts of administration.

5.2 Determination of Assessments. Assessments will be determined in accordance with the following provisions:

a. Initial Budget. The Board of Directors of the Association shall establish an initial budget in advance for each fiscal year that will project all expenses for the coming year that may be required for the proper operation, management, and maintenance of the Condominium Project, including a reasonable allowance for contingencies and reserves. The annual assessment to be levied against each Unit in the Project shall then be determined on the basis of the budget. Copies of the budget shall be delivered to each Owner, although the failure to deliver a copy to each Owner will not affect or in any way diminish the liability of an Owner for any existing or future assessment.

b. Budget Adjustments. If the Board of Directors determines at any time, in its sole discretion, that the initial assessments levied are insufficient (i) to pay the costs of operation and maintenance of the Common Elements, (ii) to provide for the replacement of existing Common Elements, (iii) to provide for additions to the Common Elements not exceeding \$5,000 annually, or (iv) to respond to an emergency or unforeseen development; the Board is authorized to increase the initial assessment or to levy any additional assessments it deems necessary for such purposes. The discretionary authority of the Board of Directors to levy additional assessments will rest solely with the Board of Directors for the benefit of the Association and its members and may not be attached by or subject to specific performance by any creditors of the Association.

c. Special Assessments. The Board of Directors may make special assessments

in excess of those permitted by subsections (a) and (b) from time to time following the approval of the Owners as provided in this subsection to meet other needs or requirements of the Association, including but not limited to (i) assessments for additions to the Common Elements costing more than \$5,000 in any year, (ii) assessments to purchase a Unit on foreclosure of the lien described in section 5.5, or (3) assessments for any other appropriate purpose not specifically described. Special assessments referred to in this subsection (but not those assessments referred to in subsections (a) and (b), which will be levied in the sole discretion of the Board of Directors) will not be levied without the prior approval of 67 percent or more (in number and in value) of all Owners. The authority to levy assessments pursuant to this subsection is solely for the benefit of the Association and its members and may not be attached by or subject to specific performance by any creditors of the Association.

5.3 Apportionment of Assessments. All assessments levied against the Unit Owners to cover expenses of administration shall be apportioned among and paid by the Owners in accordance with the Percentage of Value allocated to each Unit in the Master Deed and any other assessment provisions in the Master Deed, without increase or decrease for the existence of any rights to the use of Limited Common Elements appurtenant to a Unit. Unless the Board elects some other periodic payment schedule, annual assessments will be payable by Owners in one installment, commencing with the acceptance of a deed to or a land contract vendee's interest in a Unit or with the acquisition of title to a Unit by any other means. The payment of an assessment will be in default if the assessment, or any part, is not received by the Association in full on or before the due date for the payment established by rule or regulation of the Association. However, the Board of Directors, including the first Board of Directors appointed by Developer, may relieve a Unit Owner who has not constructed any improvement within a Unit from payment, for a limited period of time, of all or some portion of the assessment for the Unit's respective allocable share of the Association budget. The purpose of this provision is to provide fair and reasonable relief from Association assessments for Owners until those Owners begin to use the Common Elements on a regular basis.

5.4 Expenses of Administration. The expenses of administration shall consist, among other things, of the amounts the Board deems proper to operate and maintain the Condominium property under the powers and duties delegated to it and may include, without limitation, amounts to be set aside for working capital of the Condominium, for a general operating reserve, for a reserve for replacement, and for meeting any deficit in the common expense for any prior year. Any reserves established by the Board before the initial meeting of members shall be subject to approval by the members at the initial meeting. The Board shall advise each Owner in writing of the amount of common charges payable by the Owner and shall furnish copies of each budget containing common charges to all Owners.

5.5 Collection of Assessments. Each Owner shall be obligated for the payment of all assessments levied on the Owner's Unit while that person is the Owner of the Unit, and

no Owner may become exempt from liability for the Owner's contribution toward the expenses of administration by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of a Unit.

a. Legal Remedies. In the event of default by any Owner in paying the assessed common charges, the Board may declare all unpaid installments of the annual assessment for the pertinent fiscal year to be immediately due and payable. In addition, the Board may impose reasonable fines or charge interest at the legal rate on assessments from and after the due date. Unpaid assessments, together with interest on the unpaid assessments, collection and late charges, advances made by the Association for taxes or other liens to protect its lien, attorney fees, and fines in accordance with the Condominium Documents, shall constitute a lien on the Unit prior to all other liens except tax liens in favor of any state or federal taxing authority and sums unpaid on a mortgage of record recorded before the recording of any notice of lien by the Association; and the Association may enforce the collection of all sums due by suit at law for a money judgment or by foreclosure of the liens securing payment as provided by MCL 559.208. In a foreclosure proceeding, whether by advertisement or by judicial action, the Owner or anyone claiming under the Owner shall be liable for assessments charged against the Unit that become due before the redemption period expires, together with interest, advances made by the Association for taxes or other liens to protect its lien, costs, and reasonable attorney fees incurred in their collection.

b. Sale of Unit. On the sale or conveyance of a Unit, all unpaid assessments against the Unit shall be paid out of the sale price by the buyer in preference over any other assessment or charge except as otherwise provided by the Condominium Documents or by the Act. A buyer or grantee may request a written statement from the Association for the amount of unpaid assessments levied against the Unit being sold or conveyed, and the buyer or grantee shall not be liable for, nor shall the Unit sold or conveyed be subject to, a lien for any unpaid assessments in excess of the amount stated in a written response from the Association. However, unless the buyer or grantee requests a written statement from the Association at least five days before the sale as provided in the Act, the buyer or grantee shall be liable for any unpaid assessments against the Unit together with interest, late charges, fines, costs, and attorney fees.

c. Self-Help. The Association may enter the Common Elements, Limited or General, to remove and abate any condition constituting a violation or may discontinue the furnishing of services to an Owner in default under any of the provisions of the Condominium Documents on seven days written notice to the Owner of the Association's intent to do so. An Owner in default shall not be entitled to use any of the General Common Elements of the Project and shall not be entitled to vote at any meeting of the Association so long as the default continues, but this provision shall not operate to deprive any Owner of ingress and egress to and from the Owner's Unit.

d. Application of Payments. Money received by the Association in payment of assessments in default shall be applied as follows: first, to costs of collection and enforcement of payment, including reasonable attorney fees; second, to any interest charges and fines for late payment on the assessments; and third, to installments of assessments in default in order of their due dates.

5.6 Financial Responsibility of Developer. The responsibility of Developer for assessments is as follows:

a. Preturnover Expenses. Before the Transitional Control Date, it will be Developer's responsibility to keep the books balanced and to avoid any continuing deficit in operating expenses, but the Developer shall not be responsible for the payment of general or special assessments. At the time of the initial meeting, Developer will be liable for the funding of any continuing deficit of the Association that was incurred before the Transitional Control Date.

b. Postturnover Expenses. After the Transitional Control Date and continuing for any remaining Development and Sales Period, Developer shall not be responsible for the payment of either general or special assessments levied by the Association on Units owned by Developer until construction of a building on a Unit is commenced.

c. Exempted Transactions. Under no circumstances will Developer be responsible for the payment of any portion of any assessment that is levied for deferred maintenance, reserves for replacement, capital improvements, or additions or to finance litigation or other claims against Developer.

## Section 6. TAXES, INSURANCE, AND REPAIR

6.1 Real Property Taxes. Real property taxes and assessments shall be levied against the individual Units and not against the Property of the Project or any phase of the Project, except for the calendar year in which the Project or phase is established. Taxes and assessments that become a lien against the Property in the year in which the Project was established shall be expenses of administration and shall be assessed against the Units located on the land with respect to which the tax or assessment was levied in proportion to the Percentage of Value assigned to each Unit. Real property taxes and assessments levied in any year in which a vacation of the Project occurs shall be assessed only against the individual Units. For tax and special assessment purposes, no Unit shall be combined with any other Unit or Units, and no assessment of any fraction of a Unit or combination of any Unit with other whole or partial Units shall be made, nor shall any division or split of the assessment or taxes of a single Unit be made, whether the Unit is owned by an individual or multiple Owners. Taxes for real property improvements made to or within a specific Unit shall be assessed against that Unit only, and each Unit shall be treated as a separate, single parcel of real property for purposes of property taxes and special assessments.

6.2 Insurance Coverage. The Association shall be appointed as attorney-in-fact for each Owner to act on insurance matters and shall be required to obtain and maintain, to the extent applicable, casualty insurance with extended coverage, vandalism, and malicious mischief endorsements; liability insurance (including director's and officer's liability coverage if deemed advisable); and worker's compensation insurance pertinent to the ownership, use, and maintenance of the Common Elements of the Project. All insurance shall be purchased by the Board of Directors for the benefit of the Association, the Owners, the mortgagees, and Developer, as their interests may appear. The insurance, other than title insurance, shall be carried and administered according to the following provisions:

a. Owner Responsibilities. Each Owner will be responsible for obtaining casualty insurance coverage at the Owner's expense with respect to the building and all other improvements constructed or located within the perimeters of the Owner's Unit and for the Limited Common Elements appurtenant to the Owner's Unit. It shall also be each Owner's responsibility to obtain insurance coverage for the Owner's personal property within the Owner's Unit or elsewhere on the Condominium, for personal liability for occurrences within the Owner's Unit or on the Limited Common Elements appurtenant to the Owner's Unit, and for alternative operating or storage expenses in the event of fire or other casualty causing temporary loss of the Owner's improvements. All insurance carried by the Association or any Owner shall contain provisions permitting the waiver of the right of subrogation for any claims against any Owner or the Association for insured losses.

b. Common Element Insurance. The General Common Elements of the Project shall be insured by the Association against casualties covered by a standard extended coverage endorsement, to the extent deemed applicable and appropriate, in an amount to be determined annually by the Board of Directors. The Association shall not be responsible for maintaining insurance with respect to the Limited Common Elements, the Units themselves, or any improvements located within the Units.

c. Fidelity Insurance. The Association may obtain, if desired, fidelity coverage to protect against dishonest acts by its officers, directors, employees, and all others who are responsible for handling funds of the Association.

d. Power of Attorney. The Board of Directors is irrevocably appointed as the agent for each Owner, each mortgagee, other named insureds and their beneficiaries, and any other holder of a lien or another interest in the Condominium or the Property to adjust and settle all claims arising under insurance policies purchased by the Board and to execute and deliver releases on the payment of claims.

e. Indemnification. Each individual Owner shall indemnify and hold harmless every other Owner, Developer, and the Association for all damages, costs, and

judgments, including actual attorney fees, that any indemnified party may suffer as a result of defending claims arising out of an occurrence on or within an individual Owner's Unit or appurtenant Limited Common Elements. This provision shall not be construed to give an insurer any subrogation right or other right or claim against an individual Owner, Developer, or the Association, which rights are waived.

f. Premium Expenses. Unless otherwise provided, all premiums for insurance purchased by the Association pursuant to these Bylaws shall be expenses of administration of the Association.

6.3 Reconstruction and Repair. If any part of the Condominium Property is damaged or destroyed by fire or other casualty, the decision whether or not it will be reconstructed or repaired will be made in the following manner:

a. General Common Elements. If the damaged property is a General Common Element, the damaged property shall be repaired or rebuilt unless 80 percent or more of the Owners and the institutional holders of mortgages on any Unit in the Project agree to the contrary. However, if the damaged property is common roadway and is the sole means of ingress and egress to one or more Units in the Project, it will be repaired or rebuilt unless the 80 percent or more of the Owners agreeing not to repair or rebuild includes the Owners of all such Units.

b. Limited Common Elements and Improvements. If the damaged property is a Limited Common Element or an improvement located within the boundaries of a Unit, the Owner of the affected Unit alone shall determine whether to rebuild or repair the damaged property, subject to the rights of any mortgagee or other person having an interest in the property, and the Owner shall be responsible for ~~the cost of any reconstruction or repair that the Owner elects to make.~~ The Owner shall in any event remove all debris and restore the Unit and its improvements to a clean and sightly condition satisfactory to the Association within a reasonable period of time following the occurrence of the damage.

c. Reconstruction Standards. Any reconstruction or repair shall be substantially in accordance with the Master Deed and the original plans and specifications for the improvements located within the Unit, unless prior written approval for changes is obtained from the Architectural Review Committee.

d. Procedure and Timing. Immediately after the occurrence of a casualty causing damage that is to be reconstructed or repaired by the Association, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that existing before the damage. If the proceeds of insurance are not sufficient to cover the estimated cost of reconstruction or repair required to be performed by the Association or if at any time during the reconstruction or repair the funds for the payment of the costs by the Association are insufficient, assessment shall be levied against all Owners in

sufficient amounts to provide funds to pay the estimated or actual costs of reconstruction or repair. This provision shall not be construed to require the replacement of mature trees and vegetation with equivalent trees or vegetation.

6.4 Eminent Domain. The following provisions will control on any taking by eminent domain:

a. Condominium Units. In the event of the taking of all or any portion of a Condominium Unit or any improvements located within the perimeters of a Unit, the award for the taking shall be paid to the Owner of the Unit and any mortgagee, according to their interests. If an Owner's entire Unit is taken by eminent domain, the Owner and any mortgagee shall, after acceptance of the condemnation award, be divested of all interest in the Project.

b. Common Elements. In the event of the taking of all or any portion of the General Common Elements, the condemnation proceeds relative to the taking shall be paid to the Association for use by or distribution to its members. The affirmative vote of 80 percent or more of the Owners in number and in value shall determine whether to rebuild, repair, or replace the portion taken or to take another action.

c. Amendment to the Master Deed. If the Project continues after the taking by eminent domain, the remaining portion of the Project shall be resurveyed and the Master Deed amended accordingly; and if any Unit has been taken, section 5 of the Master Deed shall also be amended to reflect the taking and to proportionately readjust the Percentages of Value of the remaining Owners based on the continuing total value of the Condominium of 100 percent. The amendment may be completed by an officer of the Association duly authorized by the Board of Directors without the necessity of execution or specific approval by any Owner.

d. Notice to Mortgagees. If any Unit in the Condominium, the Common Elements, or any portion of them is made the subject matter of an eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Association shall promptly notify each holder of a publicly recorded mortgage lien on any of the Units in the Condominium.

e. Inconsistent Provisions. To the extent not inconsistent with the provisions of this section, MCL 559.233 shall control on any taking by eminent domain.

## **Section 7. CONSTRUCTION REQUIREMENTS**

7.1 Design Standards. Design standards for Units in the Project are set forth in this section. Design standards promote quality, value, and stability for Unit Owners. The standards in this section are intended to promote consistency of architecture and property maintenance and to enhance and preserve real estate values.

7.2 Developer Approvals. During the Development and Sales Period, no buildings, fences, walls, drives, walks, or other improvements shall be commenced, erected, or maintained; no addition to or external change in the appearance of any structure shall be made (including color and design); and no hedges, trees, plantings, or landscaping modifications shall be made until plans or specifications acceptable to Developer, showing the nature, kind, shape, height, materials, color scheme, location, and approximate cost of the structure or improvement and the grading and landscaping plan of the area to be affected, have been submitted to and approved in writing by Developer. Developer shall have the right to refuse to approve any plans or specifications, including the grading and landscaping plan, that are not suitable or desirable in its opinion for aesthetic or other reasons. In passing on such specifications or grading or landscaping plans, Developer shall have the right to take into consideration the suitability of the proposed structure, improvement, or modification; the site on which it is proposed to be erected; and the degree of harmony with the Condominium as a whole.

**7.3 Review Committee.** Developer will establish an architectural review committee (the Review Committee). The mission of the Review Committee is to ensure that all plans submitted for review, and all subsequent exterior changes or modifications, meet the criteria established in the design standards. The design standards for the Project are intended to provide a low maintenance, architecturally pleasing storage facility.

7.4 Architectural Review. Following the Development and Sales Period, no structure, or other improvements shall be constructed within a Unit or elsewhere on the Property and no exterior modification shall be made to any existing structure, or improvement unless plans and specifications containing whatever detail the Review Committee reasonably requires has first been approved in writing by the Review Committee. The Review Committee shall have the right to refuse to approve any plans and specifications, color or material applications, grading or landscaping plans, or building location plans that are not suitable or desirable in its opinion for aesthetic or other reasons. In passing on the plans and specifications, the Review Committee shall have the right to take into consideration the suitability of the proposed structure, improvement, or modification, the site on which it is proposed to be constructed, the proposed location of any improvement within the Unit, the location of structures within adjoining Units and the degree of harmony with the Condominium as a whole.

7.5 Approval of Contractor. All structures shall be constructed only by builders licensed by the State of Michigan and approved in writing by Developer or, following the

Development and Sales Period, by the Review Committee. If building construction is intended to commence within three months after the date of plan approval, the name of the proposed builder must be submitted when the plans and specifications are submitted. If construction is to be delayed beyond three months, the name of the proposed builder must be submitted for approval at least 60 days before the commencement of construction. In its approval process, the Review Committee may take into consideration the qualifications of the proposed builder along with its reputation in the community before deciding whether or not that builder will be approved for participation in the Project. Construction of all other improvements must also be done by contractors approved in writing by the Review Committee.

**7.6 Specific Requirements.** All approvals required by this section shall comply with the following requirements:

**Building Restrictions:**

Units L1 thru L13; these land units are designated for privately owned pole barns, for use as storage and associated work shop area. No multi-unit buildings are allowed on these land units.

All units are to be sold for private ownership, not rented or leased.

No dwelling units, or residential buildings are allowed in this project.

Well and septic are allowed in the project for use by an owner who wishes to use their pole barn as a working shop, project area, or office for contracting work. Owners must receive the necessary permits from the county zoning department and health department for this.

Buildings must be pole barn type construction with painted steel roof, and painted steel siding and trim. Buildings must have a minimum of 12" overhang on all 4 sides. All buildings must be professionally built to quality standards by a contractor approved by the Review Committee.

Electrical Service must be run underground from the power company connection to the pole barn. There will be no power poles on the project, all power will be run underground from the road by the power company.

Lighting fixtures are limited to approved downward facing fixtures. All lighting fixtures must be approved by the Review Committee. No pole lighting is allowed in the project. This is designed to minimize any light pollution to neighboring property owners.

**Permitted Uses:**

Storage of boats and other items associated with lake home property.

Shop area for contractors and storage of tools, equipment, and supplies related to contracting work, provided that all tools, and supplies are stored inside, with limited storage of larger equipment outside.

No Retail businesses are allowed.

No rental businesses are allowed.

### **Limited Outside Storage:**

No outside storage of building materials, except during the construction period of the storage building on-site, and limited to 6 month time frame, from the start of construction.

No outside storage of vehicles is permitted.

Parking is permitted within the designated parking area shown on the site plan approved by the county zoning department, and limited to currently licensed and insured vehicles. Additional temporary parking is allowed on the owners' private property for special events, such as parties, re-unions, weddings, in a manner as not to block the roadway or any of the private driveways.

Outside storage of boat trailers, utility trailers, equipment and construction trailers are permitted uses.

### **Construction Materials:**

- Must be pole barn type construction
- Must be painted steel roof panels, painted steel siding panels, and painted metal trim.
- Minimum 12" overhang on all 4 sides, using painted metal trim and soffit. Vinyl is not allowed for siding, roofing, trim, or soffit material.
- Siding, roof panels and trim must be installed with manufacturer approved screws with seals. Nails are not allowed.
- Minimize use of wood trim to create a storage building that's low maintenance and will hold its' original look and value for many decades.
- Seal strips are required for the ridge cap, and at eaves. Also a bottom seal and metal trim is required on the siding panels. This provides a complete seal for weather and keeps out potential pests.
- Gutters are not required, but are optional. If gutters are used they must run to an area of crushed limestone to buffer the rainwater runoff and control erosion.
- An alternative to gutters is a 3 foot wide strip of crushed limestone around the perimeter of the building. This is an acceptable method to provide a buffer for rainwater runoff and to control erosion.
- Concrete floor is required, a minimum of 4" thick, installed by a qualified experienced contractor.

7.7 Codes and Ordinances. In addition to the construction requirements in this Section, all buildings and other structures must comply with applicable building, mechanical, electrical, and plumbing codes of Cheboygan County in effect when the building or structure is erected.

7.8 Time for Construction. At the time of submitting the name of a proposed builder for approval, a date for commencement of construction (which shall not be more than 6 months after the date of approval) must be agreed on and approved by the Review Committee. Once construction has started, work on the building must be diligently pursued and completed within a maximum of 3 months from the date of commencement. The Committee may extend the time for commencement or completion when, in its opinion, conditions warrant an extension.

7.9 Reserved Developer Rights. The purpose of section 7 is to ensure the continued maintenance of the Condominium as an attractive and harmonious development, and its provisions shall be binding on both the Association and all Owners in the Project. Developer (or any builder to whom Developer has assigned such rights) shall have the right to maintain a model unit, sales office, advertising display signs, storage areas, and reasonable parking incident to its sales efforts and to access to, from, and over the Property as may be reasonable to enable development and sale of the entire Project.

7.10 Review Committee Appointment. Following the Development and Sale Periods, if rights of appointment have not previously been assigned to the Association, Developer's representatives shall resign from the Review Committee, and the Board of Directors of the Association shall appoint three new members to the Review Committee. In each succeeding year or at whatever other intervals the Board of Directors decides, the Board of Directors shall appoint or reappoint the three members to serve on the Review Committee.

7.11 Permitted Variance. The Review Committee may, on a showing of practical difficulty or other good cause, grant variances from the requirements of this section, but only to an extent and in a manner that does not violate the spirit and intent of the requirements.

7.12 Setback Lines. Follow county zoning ordinance setback requirements as shown in the condominium site plan.

7.13 Building Height. The height of any building shall not be more than 2 stories. If any portion of a level or floor within a building is below grade, all of that level or floor shall be considered a basement level.

7.14 Improvements Adjoining Roadway. No trees, plantings, fencing, or other improvements will be placed where they obstruct vehicular visibility at or near street intersections.

7.15 Soil from Excavation. All soil to be removed from any of the Units in the course of grading or excavating will, at Developer's option, become the property of Developer and be placed by the Owner or the Owner's contractor at the Owner's expense in a location within or adjoining the Project designated by Developer.

## Section 8. USE AND OCCUPANCY RESTRICTIONS

8.1 Use of Common Elements. The General Common Elements shall not be used for the storage of supplies or personal property (except for the short periods of time that are reasonably necessary to permit the placement of trash for collection the next day). No vehicles shall be parked on or along the roadways (except as necessary during construction). Owners shall not personally use or obstruct any guest parking areas that are located on the Common Elements of the Project without the prior consent of the Association. No Owner shall in any way restrict access to any utility line or other area that must be accessible to service the Common Elements or that affects an Association responsibility in any way. In general, no activity shall be carried on or condition maintained by any Owner either in the Owner's Unit or on the Common Elements that despoils the appearance of the Condominium.

8.2 Application of Restrictions. Unless arbitration is elected pursuant to these Bylaws, a dispute or question whether a violation of any specific regulation or restriction in this section has occurred shall be submitted to the Board of Directors of the Association, which shall conduct a hearing and render a decision in writing, which shall be binding on all owners and other parties with an interest in the Project.

8.3 Zoning Compliance. In addition to the restrictions in section 7, the use of any Unit or structure on the Property must satisfy the requirements of the zoning ordinances of the municipality where the Project is located in effect at the time of the contemplated use.

8.4 Rules of Conduct. Additional rules and regulations consistent with the Act, the Master Deed, and these Bylaws concerning the use of Units and Common Elements may be promulgated and amended by the Board. Copies of the rules and regulations must be furnished by the Board to each Owner at least 10 days before their effective date and may be revoked at any time by the affirmative vote of the Board or 60 percent or more of all Owners.

8.5 Enforcement by Developer. The Project shall at all times be maintained in a manner consistent with the highest standards of a private community used and occupied for the benefit of the Owners and all other persons interested in the Condominium. If at any time the Association fails or refuses to carry out its obligations to maintain, repair, replace, and landscape in a manner consistent with the maintenance of such standards, Developer, or any person to whom it assigns this right, may, at its option, elect to maintain, repair, or replace any Common Elements or to do any landscaping required by these Bylaws and to charge the cost to the Association as an expense of administration. Developer shall have the right to enforce these Bylaws throughout the

Development and Sales Period, and this right of enforcement shall include (without limitation) an action to restrain the Association or any Owner from any prohibited activity.

8.6 Owner Enforcement. An aggrieved Owner will also be entitled to compel enforcement of the Condominium Documents by an action for injunctive relief or damages against the Association, its officers, or another Owner in the Project.

8.7 Remedies on Breach. In addition to the remedies granted by section 5.5 for the collection of assessments, the Association shall have the right, in the event of a violation of the restrictions on use and occupancy imposed by this section 8, to enter the Unit and to remove or correct the cause of the violation. The entry will not constitute a trespass, and the Owner of the Unit will reimburse the Association for all costs of the removal or correction. Failure to enforce any of the restrictions in this section will not constitute a waiver of the right of the Association to enforce restrictions in the future.

8.8 Reserved Rights of Developer. The restrictions in this section shall not apply to the commercial activities of Developer during the Development and Sale Period. Developer shall also have the right to maintain a sales office, advertising display sign, storage areas, and reasonable parking incident to its sales efforts and to reasonable access to, from, and over the Property to enable development and sale of the entire Project.

8.9 Assignment and Succession. Developer may be assigned any of the rights granted to or reserved by it in the Condominium Documents or by law to any other entity or to the Association. Any assignment or transfer shall be made by an appropriate document in writing, signed by Developer and recorded in the register of deeds office for the county where the Project is located. On qualification, the assignee will have the same rights and powers as those granted to or reserved by Developer in the Condominium Documents.

## Section 9. MORTGAGES

9.1 Notice to the Association. Any Owner who mortgages a Unit shall notify the Association of the name and address of the mortgagee (in this section, the Mortgagee), and the Association will maintain this information. The information relating to Mortgagees will be made available to Developer or its successors as needed to obtain consent from or give notice to Mortgagees concerning actions requiring consent from or notice to Mortgagees under the Condominium Documents or the Act.

9.2 Insurance. The Association shall notify each of the Mortgagees of the name of each company insuring the Condominium against fire, perils covered by extended coverage, and vandalism and malicious mischief, with the amounts of the coverage.

9.3 Rights of Mortgagees. Except as otherwise required by applicable law or regulations, a Mortgagee of a Unit will be granted the following rights:

a. Inspection and Notice. On written request to the Association, a Mortgagee will be entitled (i) to inspect the books and records relating to the Project on reasonable notice, (ii) to receive a copy of the annual financial statement that is distributed to Owners; (iii) to notice of any default under the Condominium Documents by its mortgagor in the performance of the mortgagor's obligations that is not cured within 30 days; and (iv) to notice of all meetings of the Association and its right to designate a representative to attend the meetings.

b. Exemption from Restrictions. A Mortgagee that comes into possession of a Unit pursuant to the remedies provided in the mortgage or by deed (or assignment) in lieu of foreclosure shall be exempt from any option or right of first refusal on the sale of the mortgaged Unit in the Condominium Documents.

9.4 Additional Notification. When notice is to be given to a Mortgagee, the Board of Directors shall also give such notice to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmer's Home Administration, the Government National Mortgage Association, and any other public or private secondary mortgage market entity participating in purchasing or guarantying mortgages of Units in the Condominium if the Board of Directors has notice of their participation.

#### Section 10. UNITS MAY NOT BE LEASED OR RENTED

#### Section 11. TRANSFER OF UNITS

11.1 Unrestricted Transfers. An individual Owner may, without restriction under these Bylaws, sell, or otherwise transfer the Owner's Unit. Seller or seller's agent must provide buyer with a copy of the Condominium ByLaws. **Seller must provide to the Board of Directors a copy of the form indicating the new owner has read and agrees to abide by the Condominium ByLaws, signed by the new owner.**

11.2 Notice to Association. **Seller must provide Association with Buyer's information, name, address, email, and phone information at point of sale.**

#### Section 12. ARBITRATION

12.1 Submission to Arbitration. Any dispute, claim, or grievance arising out of or relating to the interpretation or application of the Master Deed, Bylaws, or other Condominium Documents and any disputes, claims, or grievances arising among or between Owners or between Owners and the Association may, on the election and written consent of the parties to the dispute, claim, or grievance and written notice to the Association, be submitted to arbitration; and the parties shall accept the arbitrator's decision and award as final and binding. The Arbitration Rules for the Real Estate Industry of the American Arbitration Association, as amended and in effect from time to time, shall apply to all such arbitrations.

12.2 Disputes Involving Developer. A contract to settle by arbitration may also be executed by Developer and any claimant for any claim against Developer that might be the subject of a civil action, provided as follows:

a. Buyer's Option. At the exclusive option of a Buyer or an Owner in the Project, Developer shall execute a contract to settle by arbitration any claim that might be the subject of a civil action against Developer that involves an amount less than \$2,500 and arises out of or relates to a purchase agreement, a Unit, or the Project.

b. The Association's Option. At the exclusive option of the Association of Owners, Developer shall execute a contract to settle by arbitration any claim that might be the subject of a civil action against Developer that arises out of or relates to the Common Elements of the Project if the amount of the claim is \$10,000 or less.

12.3 Preservation of Rights. Election by any Owner or by the Association to submit any dispute, claim, or grievance to arbitration shall preclude that party from litigating the dispute, claim, or grievance in the courts. Except as provided in this section, however, all interested parties shall be entitled to petition the courts to resolve any dispute, claim, or grievance in the absence of an election to arbitrate.

Section 13. Owners of land units may buy and hold land units until ready to build.

#### Section 14. OTHER PROVISIONS

14.1 Definitions. All terms used in these Bylaws will have the same meaning assigned by the Master Deed to which the Bylaws are attached or as defined in the Act.

14.2 Severability. If any of the terms, provisions, or covenants of these Bylaws or of any Condominium Document are held to be partially or wholly invalid or unenforceable for any reason, that holding shall not affect, alter, modify, or impair any of the other terms, provisions, or covenants of the documents or the remaining portions of any terms, provisions, or covenants held to be partially invalid or unenforceable.

14.3 Notices. Notices provided for in the Act, Master Deed, or Bylaws shall be in writing and shall be addressed to the Association at its registered office in the State of Michigan and to any Owner at the address in the deed of conveyance or at another address subsequently provided. The Association may designate a different address for notices to it by giving written notice of the change of address to all Owners. Any Owner may designate a different address for notices by giving written notice to the Association. Notices addressed as above shall be deemed delivered when mailed by U.S. mail with postage prepaid or when delivered in person.

14.4 Amendment. These Bylaws may be amended, altered, changed, added to, or repealed only in the manner prescribed by section 9 of the Master Deed.

14.5 Conflicting Provisions. In the event of a conflict between the Act (or other laws of

the State of Michigan) and any Condominium Document, the Act (or other laws of the State of Michigan) shall govern. In the event of a conflict between the provisions of any one or more of the Condominium Documents themselves, the following order of priority shall be applied, and the provisions of the document having the highest priority shall govern:

1. the Master Deed, including the Condominium Subdivision Plan but excluding these Bylaws
2. these Condominium Bylaws
3. the Articles of Incorporation of the Association
4. the Disclosure Statement

## Deborah Tomlinson

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**From:** Brent Shank <mgr@chcrc.com>  
**Sent:** Tuesday, August 28, 2018 11:17 AM  
**To:** Deborah Tomlinson  
**Subject:** Re: Site Plan Review Application For David Frame - 09/05/18 Planning Commission Meeting  
**Attachments:** mgr.vcf

Hello,

I have reviewed the proposed pole barn development for Mr. Frame. The driveway will be considered commercial by the Road Commission permit requirements. Commercial driveways require concrete curb and gutter and a hard surface (asphalt or concrete). A driveway permit will also be required for the proposed work. The sign that is proposed will also have to be located outside of the road right of way.

Thank you,

Brent Shank, P.E.  
Engineer/Manager  
Cheboygan County Road Commission  
[mgr@chcrc.com](mailto:mgr@chcrc.com)  
(231) 238-7775

On 8/28/2018 10:20 AM, Deborah Tomlinson wrote:

The following is a link to a site plan review application submitted by David Frame: <http://is0.gaslightmedia.com/cheboygancounty/ ORIGINAL /fs35-1534873121-34736.pdf>. This application will be reviewed at the 09/05/18 Planning Commission meeting. Please review the application/site plan and email me if you have any questions or comments for the Planning Commission.

Thank you!!!

Debbie

**Debbie Tomlinson**  
***Cheboygan County***  
***Planning & Zoning Department***  
PO Box 70, 870 South Main Street  
Cheboygan, MI 49721  
(231)627-8489 phone  
(231)627-3646 fax  
[debbiet@cheboygancounty.net](mailto:debbiet@cheboygancounty.net)

## Michael C. Turisk

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**From:** David Frame <david@plankflooring.com>  
**Sent:** Thursday, September 06, 2018 11:56 AM  
**To:** Michael C. Turisk  
**Subject:** RE: drainage plan, and zoning questions

Michael,

First, I want to thank you for your help in doing a great job presenting my application to the commission, and in your effort helping me to get the application reviewed prior to the meeting.

My plan is to proceed with the land clearing first, leaving the 50' buffer, and other section of Birch trees as well, to buffer the site from the road.

Then get a topo and drainage plan done as soon as I can get this done.  
And submit the drainage plan to your office.

The other still open questions I have.

Is there a copy of the zoning ordinance for Ag-Forest zone on the county website.?

Also, relating to that; does the planning commission have the right to impose restrictions on outside storage or use of the property that are outside of what the zoning ordinance calls for? It seemed to me that there was one or 2 commissioners that were trying to get me to agree to limit the property owners rights beyond what is in apparently in place for the rest of the county. There was also an older gentleman who was on the commission that brought up the question of what is the rest of the 1 acre lot to be used for if we severely limit what the land can be used for. I tried to clarify his position, but I think it got rolled over.

I am trying to create a storage facility that is built and maintained to a high standard, that people in this area would be proud to be part of, and would benefit from the fact that the facility is close to the lake property that is in dire need of additional off-site storage. However I don't feel that is right for me to give away property rights on behalf of the future property owners and the association, beyond what is required in the zoning ordinance.

Please advise,  
David

**David Frame**  
President,  
**Frame Hardwoods, Inc.**  
Office; 734-433-1023 ext 102  
Fax; 734-433-1026

---

**From:** Michael C. Turisk [<mailto:mturisk@cheboygancounty.net>]  
**Sent:** Thursday, September 06, 2018 9:32 AM  
**To:** David Frame  
**Subject:** RE: drainage  
**Importance:** High

David, please keep me apprised as you move forward with hiring a consultant and completing/submitting the drainage report. We'll schedule your item as soon as we can upon receiving the report.

Sincerely,

**Michael Turisk**

Director, Cheboygan County Planning and Zoning  
870 South Main St.  
Cheboygan, MI 49721

Phone: 231.627.8489

Fax: 231.627.3646

Email: [mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)

**Deborah Tomlinson**

---

**From:** Kyle Keller <kkeller@dhd4.org>  
**Sent:** Wednesday, January 23, 2019 3:52 PM  
**To:** Deborah Tomlinson  
**Subject:** RE: 02/06/19 PC Meeting - David Frame SPR Application

This project does not require a full site condo work-up by the Health Dept since it does not provided for any residential services such as on-site water and sewage disposal systems. That being said they are not allowed to provide for residential dwellings and/or on-site water/sewage disposal uses on any of the listed parcels. If you have any questions give me a call. Thanks.

Kyle Keller RS  
Environmental Sanitarian  
DHD4-Cheboygan County  
PH# 231-627-8850  
[kkeller@dhd4.org](mailto:kkeller@dhd4.org)  
[www.dhd4.org](http://www.dhd4.org)

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---

**From:** Deborah Tomlinson <[debbiet@cheboygancounty.net](mailto:debbiet@cheboygancounty.net)>  
**Sent:** Wednesday, January 23, 2019 7:48 AM  
**To:** 'Andrew Archambo' <[archamboele@charter.net](mailto:archamboele@charter.net)>; Kyle Keller <[kkeller@dhd4.org](mailto:kkeller@dhd4.org)>; Brent Shank ([mgr@chcrc.com](mailto:mgr@chcrc.com)) <[mgr@chcrc.com](mailto:mgr@chcrc.com)>; Jay Gailitis ([gailitisj@michigan.gov](mailto:gailitisj@michigan.gov)) <[gailitisj@michigan.gov](mailto:gailitisj@michigan.gov)>; Gabe Phelps ([phelpsg@michigan.gov](mailto:phelpsg@michigan.gov)) <[phelpsg@michigan.gov](mailto:phelpsg@michigan.gov)>  
**Subject:** 02/06/19 PC Meeting - David Frame SPR Application

The following is a link to a site plan review application for David Frame: <http://www.cheboygancounty.net/planning--zoning-31/#sect-1093>. Please review this application and email any comments to me by 01/30/19.

Thank you!!

Debbie

**Debbie Tomlinson**  
**Cheboygan County**  
**Planning & Zoning Department**  
PO Box 70, 870 South Main Street  
Cheboygan, MI 49721  
(231)627-8489 phone  
(231)627-3646 fax  
[debbiet@cheboygancounty.net](mailto:debbiet@cheboygancounty.net)

**Deborah Tomlinson**

---

**From:** Gailitis, Jason (MDOT) <GailitisJ@michigan.gov>  
**Sent:** Friday, January 25, 2019 2:06 PM  
**To:** Deborah Tomlinson; 'Andrew Archambo'; Kyle Keller; Brent Shank (mgr@chcrc.com); Phelps, Gabe (MDOT)  
**Subject:** RE: 02/06/19 PC Meeting - David Frame SPR Application

No issues from MDOT---thx

---

**From:** Deborah Tomlinson <[debbiet@cheboygancounty.net](mailto:debbiet@cheboygancounty.net)>  
**Sent:** Wednesday, January 23, 2019 7:48 AM  
**To:** 'Andrew Archambo' <[archamboele@charter.net](mailto:archamboele@charter.net)>; Kyle Keller <[kkeller@dhd4.org](mailto:kkeller@dhd4.org)>; Brent Shank ([mgr@chcrc.com](mailto:mgr@chcrc.com)) <[mgr@chcrc.com](mailto:mgr@chcrc.com)>; Gailitis, Jason (MDOT) <[GailitisJ@michigan.gov](mailto:GailitisJ@michigan.gov)>; Phelps, Gabe (MDOT) <[PhelpsG@michigan.gov](mailto:PhelpsG@michigan.gov)>  
**Subject:** 02/06/19 PC Meeting - David Frame SPR Application

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Thank you!!

Debbie

**Debbie Tomlinson**  
***Cheboygan County***  
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[debbiet@cheboygancounty.net](mailto:debbiet@cheboygancounty.net)

104-032-200-002-04  
BOUCARD, PAUL F, TRUSTEE  
1618 CENTER  
CHEBOYGAN, MI 49721

104-029-200-007-12  
FRAME LAND HOLDINGS, LLC  
740 N INDUSTRIAL DR  
CHELSEA, MI 48118

104-029-401-001-00  
FISH, BRENDA  
214 CASS ST  
CHEBOYGAN, MI 49721

104-029-200-007-02  
LAFRINERE, MICHAEL ET UX  
7285 N M-33 HWY  
CHEBOYGAN, MI 49721

104-029-200-007-04  
PRESTON, ROBERT & JUDITH, TRUSTEES  
1680 HOLLYWOOD  
GROSSE POINTE WOODS, MI 48236

104-032-200-002-05  
RUNSTROM, RICHARD & DANIELLE H/W  
1914 ORCHARD BEACH RD  
CHEBOYGAN, MI 49721-9287

104-032-200-004-00  
DEETER, DOUGLAS & AMY, TRUSTEES  
8949 GARNER LN  
FREELAND, MI 48623

104-032-200-002-20  
ARNETT, ALICE J TRUSTEE  
6773 N M-33 HWY  
CHEBOYGAN, MI 49721

104-029-200-007-11  
SIMMONS, DAVID  
2929 CEDAR BEACH LN  
CHEBOYGAN, MI 49721

104-029-200-007-05  
LAFRINERE, MICHAEL & JOAN H/W  
7285 M-33  
CHEBOYGAN, MI 49721

104-029-200-007-06  
SPITZLI, DAVID, TRUSTEE  
PO BOX M  
PETOSKEY, MI 49770

104-032-200-003-00  
GAHN, JAMES R III & CHRISTA H/W  
1792 ORCHARD BEACH RD  
CHEBOYGAN, 49721

104-029-200-007-13  
SIMMONS, DAVID  
2929 CEDAR BEACH LN  
CHEBOYGAN, MI 49721

104-029-200-007-02  
OCCUPANT  
7285 N M-33 HWY  
CHEBOYGAN, MI 49721

104-029-200-007-04  
OCCUPANT  
1775 ORCHARD BEACH RD  
CHEBOYGAN, MI 49721

104-032-200-002-05  
OCCUPANT  
1914 ORCHARD BEACH RD  
CHEBOYGAN, MI 49721

104-032-200-004-00  
OCCUPANT  
1834 ORCHARD BEACH RD  
CHEBOYGAN, MI 49721

104-032-200-002-20  
OCCUPANT  
6773 N M-33 HWY  
CHEBOYGAN, MI 49721

104-029-200-007-11  
OCCUPANT  
1685 ORCHARD BEACH RD  
CHEBOYGAN, MI 49721

104-029-401-001-00  
OCCUPANT  
7497 N M-33 HWY  
CHEBOYGAN, MI 49721

104-029-200-007-06  
OCCUPANT  
7127 N M-33 HWY  
CHEBOYGAN, MI 49721

104-032-200-003-00  
OCCUPANT  
1792 ORCHARD BEACH RD  
CHEBOYGAN, MI 49721



# CHEBOYGAN COUNTY PLANNING AND ZONING DEPARTMENT

CHEBOYGAN COUNTY BUILDING ■ 870 S. MAIN STREET, PO BOX 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231) 627-8489 ■ FAX: (231) 627-3646  
[www.cheboygancounty.net/planning/](http://www.cheboygancounty.net/planning/)

## STAFF REPORT

<p><b>Item:</b> Site Plan Review for a site condominium to construct private storage buildings in an Agriculture and Forestry Management (M-AF) zoning district pursuant to Section 20.3.d. of the Zoning Ordinance.</p>	<p><b>Prepared by:</b> Michael Turisk</p>
<p><b>Date:</b> January 29, 2019</p>	<p><b>Expected Meeting Date:</b> February 6, 2019</p>

### GENERAL INFORMATION

**Applicant:** David Frame

**Property Owner:** Frame Land Holdings, LLC

**Property Location:** 1685 Orchard Beach Rd., Benton Township

**Current Zoning:** Agriculture and Forestry Management (M-AF)

**Contact:** David Frame

**Phone:** 734.216.1126

### BACKGROUND INFORMATION

This request regards a Site Plan Review for a site condominium to facilitate multiple private storage buildings for an approximately 23-acre vacant property zoned Agriculture and Forestry Management (M-AF). The subject property is addressed as 1685 Orchard Beach Rd., and located just west of the intersection of Orchard Beach Rd. and M-33 in Benton Township. The subject property was split in August 2018 from the larger parcel shown in the graphic on p. 2. Recall that the Planning Commission tabled this application to a time uncertain at the September 5, 2018 regular meeting in order to allow opportunity for the applicant to prepare and submit a drainage plan given the concerns regarding the potential for erosion and off-site flooding generated by the scope of land clearing and the project at build-out.

The proposed site condominium contains 13 private land units, each to include a single private storage building of approximately 30-ft. x 50-ft. and with dedicated parking.

In addition, one (1) roughly four-acre land unit would include four, 40-ft. x 148-ft., six-unit storage buildings with dedicated parking are proposed. This particular land unit would be jointly owned. Note that the scope of the project has not changed since the Planning Commission originally considered the application in September 2018.

Private storage buildings are permitted uses in the M-AF zoning districts, per section 9.2.14. Private storage represents the only land use proposed for the subject property. Article 2 (Definitions) of the Zoning Ordinance defines a private storage building as follows:

*A building or structure that is used for private non-commercial storage of materials that are owned by the property owner and used only by the property owner and does not have permanent facilities for living, sleeping, cooking, and/or sanitation including but not limited to a toilet facility.*

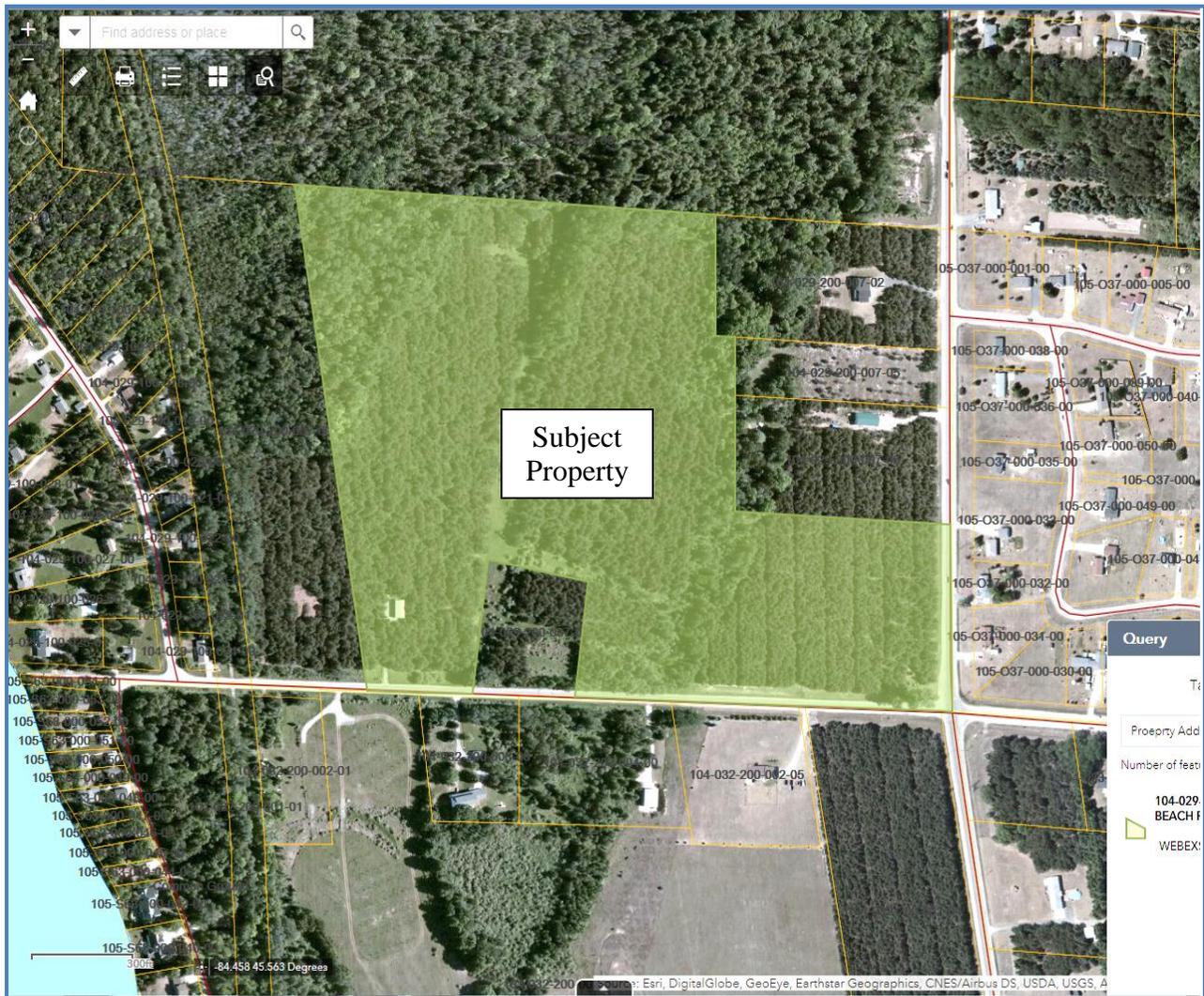


Fig. 1., Location of property near to the northwest corner of M-33 and Orchard Beach Rd., Benton Twp.

Although Section 17.23.1 of the Zoning Ordinance provides standards for private storage buildings, those standards are applicable only to the Residential (D-RS), Rural Character/Country Living (D-RC) and Lake and Stream (P-LS) zoning districts. However, although zoned M-AF, private storage must follow all other applicable standards such as minimum lot size and setbacks for the respective zoning district in which private storage is proposed.

The site condominium as submitted indicates that each lot would comply with this standard and suggests, too, that compliance with the minimum required setbacks for the M-AF zoning districts would be achieved. No common areas are proposed, and a secured, gated entry would limit access to owners.

The site condominium's Master Deed and Bylaws are attached, and as of this writing are under review by legal counsel. Zoning and building permits would be required at the time of anticipated construction.

**Surrounding Land Uses:**

Largely vacant to the north of the subject property. Residential zoning and uses east, across M-33, to the south across Orchard Beach Rd. and west (particularly adjacent to Mullett Lake).

**Environmentally Sensitive Areas (steep slopes, wetlands, woodlands, stream corridor, floodplain):**

No known environmentally sensitive areas are on the subject property.

**Historic Buildings/Features:**

There are no known historic features on the subject property.

**Traffic Implications:**

Traffic impacts at build-out are anticipated to be negligible.

**Parking:**

There no parking requirements for private storage buildings noted in the Zoning Ordinance, so the Planning Commission will need to make an adequate parking determination, per section 17.4.1. The site plan does indicate dedicated 30-ft. x 30-ft. parking for each single-unit and 30-ft. x 24-ft. parking for the multi-unit private storage buildings. There is also a 30-ft. x 200-ft. parking area shown on the plan intended to serve the multi-unit buildings. Parking would also serve as loading/unloading areas.

**Access and street design: (secondary access, pedestrian access, sidewalks, residential buffer, ROW width, access to adjacent properties):**

The project would be served by a 36-ft. wide private access easement north from Orchard Beach Rd. This access would terminate at a cul-de-sac that would facilitate reasonable on-site turning movements for emergency service vehicles, namely fire apparatus.

**Signs:**

Per Section 17.19.2F., signs approved in conjunction with a valid site plan do not require a zoning permit. The proposed project includes a seven-foot (in height), freestanding sign with 20 sq.-ft. of face area. Although freestanding signs are permitted in the M-AF zoning districts and as proposed the sign would comply with the maximum height standard, freestanding signs are limited to 18 sq.-ft. of face area. (The applicant, however, has verbally communicated that the proposed sign face would be reduced to meet this maximum standard). Signage would be required to be sited outside of the Orchard Beach Rd. right-of-way.

**Fence/Hedge/Buffer:**

The application indicates that a 50-ft. row of existing trees would remain as a buffer and provide separation from the Orchard Beach Rd. frontage. Evergreens, particularly pines, would be planted between buildings for separation and aesthetic. A 50-ft. wide row of existing evergreen trees along the Orchard Beach Rd. frontage would remain for the purpose of screening and separation.

**Lighting:**

The submitted application indicates that each unit would include security lighting with downward facing fixtures to minimize light trespass.

**Stormwater management:**

The original application requested a waiver of the requirement to provide topography. However, as noted, a drainage plan is attached per the direction of the Planning Commission on September 5, 2018 that shows contours at two-foot intervals. The drainage plan suggests a general westward drainage pattern. The drainage plan shows several improvements and natural drainage enhancements, including a culvert at the Orchard Beach Rd. right-of-way (installed in 2018), and a naturally occurring swale at roughly this location. Two on-site swales and riprap would provide additional drainage mitigation and infiltration capacity.

The site has an extensive monoculture of Scots Pine, much of which would be cleared, chipped and spread throughout to provide additional measure of erosion and sheet flow mitigation, particularly during construction phases.

**Review or permits from other government entities:**

The County Road Commission will require the driveway to be improved with asphalt or concrete. Concrete curb and gutter would also be required. Building permits would be required by the Department of Building Safety.

**Recommendations (proposed conditions):**

1. Contractor's yards, contractor's equipment storage and materials handling operations and other commercial and/or industrial storage activities shall be prohibited.
2. Prior to the first zoning permit issuance, review and approval of the applicable Master Deed and Bylaws by legal counsel to ensure that provisions of the site condominium, findings of fact and all conditions of approval are included.
3. Prior to construction, approval of all applicable permits, including from the Planning and Zoning Department, Department of Building Safety and the County Road Commission.

**CHEBOYGAN COUNTY PLANNING COMMISSION**  
**SITE PLAN REVIEW**

Wednesday, February 6, 2019  
7:00 PM

**Applicant**

David Frame  
1503 Orchard Beach Rd.  
Cheboygan, MI 49721

**Owner**

Frame Land Holdings  
740 W. Industrial Way  
Chelsea, MI 48118

**Parcel**

Benton Township  
104-029-200-007-12

**GENERAL FINDINGS**

1. The applicant is seeking site plan review for a proposed site condominium pursuant to section 20.3.d. for the construction of private storage buildings.
2. Fourteen (14) land units are proposed for the site condominium.
3. The property is located in a Agriculture and Forestry Management (M-AF) zoning district.
4. Private storage buildings are permitted use in the M-AF zoning districts, per Section 9.2.14.

**SPECIFIC FINDINGS OF FACT UNDER SECTION 20.10 OF THE ZONING ORDINANCE**

The Planning Commission makes the following findings of fact as required by section 20.10 of the Zoning Ordinance for each of the following standards listed in that section:

- a. The site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
  1. The site plan and application propose minimal change to the natural contours of the subject site. (see Exhibits 3, 4, 8, 12, 13 and 21)
  2. The normal and orderly development or improvement of surrounding property would not be impeded. (see Exhibits 3, 4, 12 and 13)
  3. Standard has been met.
- b. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas.
  1. Changes relative to soil disturbance and removal, topographic modifications and vegetative thinning would occur; however, mitigation measures have been proposed by the applicant. (see Exhibits 3, 8, 12, 13 and 21)
  - 2.
  3. Standard has been met.
- c. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
  1. The applicant has proposed methods of stormwater management. (see Exhibits 5 and 17)
  2. Application states that drainage will be retained on site. (see Exhibits 3, 10, 12, 13 and 21)
  - 3.
  4. Standard has been met.

- d. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
  - 1. Not applicable. No dwelling units are proposed.
  
- e. All buildings or groups of buildings should be so arranged as to permit emergency vehicle access by some practical means
  - 1. Emergency vehicle access is provided via a thirty-six (36) feet wide private easement with cul-de-sac to facilitate internal movements and that extends to the Orchard Beach Rd. frontage. (see Exhibits 4, 8 and 21)
  - 2.
  - 3. Standard has been met.
  
- f. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
  - 1. Each unit is provided access via a thirty-six (36) feet wide private easement that extends to the Orchard Beach Rd. frontage and dedicated driveways/parking areas. (see Exhibits 4, 8, 12, 13 and 21)
  - 2.
  - 3. Standard has been met.
  
- g. For subdivision plats and subdivision condominiums, there shall be a pedestrian circulation system as approved by the Planning Commission.
  - 1. The use of the proposed site condominium is for private storage buildings only. No dwelling units are proposed. A pedestrian circulation system is not proposed. (see Exhibits 4, 8 and 21)
  - 2.
  
- h. Exterior lighting shall be arranged as follows: a. it is deflected away from adjacent properties, b. It does not impede the vision of traffic along adjacent streets and c. It does not unnecessarily illuminate night skies.
  - 1. The application and site plan indicates that security lighting will consist of downward-facing wall fixtures on order to mitigate light trespass. (see Exhibits 3, 8 and 21)
  - 2.
  - 3. Standard has been met.
  
- i. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Master Plan.
  - 1. Access is provided via a thirty-six (36) foot wide easement which extends from/to Orchard Beach Rd. (see Exhibits 4, 8 and 21)
  - 2.
  - 3. Standard has been met.
  
- j. Site plans shall conform to all applicable requirements of state and federal statutes and the Cheboygan County Master Plan, and approval may be conditioned on the applicant receiving necessary state and federal permits.
  - 1. The site plan conforms to Cheboygan County Master Plan and shall meet state and federal requirements. (see Exhibits 4, 12 and 13)
  - 2.
  - 3. Standard has been met

**DECISION**

**TIME PERIOD FOR JUDICIAL REVIEW**

State law provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Planning Commission to the Circuit Court. Pursuant to MCR 7.101 any appeal must be filed within twenty-one (21) days after this Decision and Order is adopted by the Planning Commission.

**DATE DECISION AND ORDER ADOPTED**

Wednesday, February 6, 2019

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Patty Croft, Chairperson

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Charles Freese, Secretary



# CHEBOYGAN COUNTY PLANNING AND ZONING DEPARTMENT

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CHEBOYGAN COUNTY BUILDING ■ 870 S. MAIN STREET, PO BOX 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231) 627-8489 ■ FAX: (231) 627-3646  
[www.cheboygancounty.net/planning/](http://www.cheboygancounty.net/planning/)

**Date:** January 29, 2019

**To:** Cheboygan County Planning Commission

**From:** Michael Turisk, Planning Director

**Re:** Amendment #151 to Zoning Ordinance No. 200 RE: Indoor Storage Facilities and Special Land Use Permit Procedures and Standards

Planning Commissioners,

On December 19, 2018, we briefly discussed the attached proposed Zoning Ordinance Amendment #151 that regards Indoor Storage Facilities and Special Land Use Permit Procedures and Standards. Also on that date, the public hearing regarding this amendment was scheduled for February 6, 2019.

Recall that, currently, the Zoning Ordinance restricts Indoor Storage Facilities to County primary roads and State trunklines, per Section 17.27.3. The proposed amendment, however, would simply strike this language from the Zoning Ordinance, thus conceivably allowing additional opportunity to establish this commercial land use.

Furthermore, Section 18.7. indicates that “...*minor residential streets shall not be used to serve as access to uses having larger area-wide patronage...*” This proposed amendment was largely prompted by a recent conditionally approved Special Use Permit application for a riverfront restaurant/bar in Indian River.

Attached are the applicable meeting minutes from the March 28, 2018 and September 26, 2018 Zoning Board of Appeals meetings and the October 3, 2018 Planning Commission meeting as they are considered relevant to the proposed ordinance amendments to be discussed at our public hearing on February 6.

CHEBOYGAN COUNTY ZONING ORDINANCE  
AMENDMENT #151

AN ORDINANCE TO AMEND CHEBOYGAN COUNTY ZONING ORDINANCE NO. 200  
RELATIVE TO INDOOR STORAGE FACILITIES AND  
SPECIAL LAND USE PERMIT PROCEDURES AND STANDARDS

**Section 1. Amendment of Section 17.27.**

Section 17.27.3. of the Cheboygan County Zoning Ordinance No. 200 is hereby repealed in its entirety and reserved for future use.

**Section 2. Amendment of Section 18.7.**

Section 18.7. of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to read in its entirety as follows:

Section 18.7. Standards for Special Land Use Approval (**Rev. \_\_/\_\_/19, Amendment #151**)

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

- a. The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
- b. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the County or the natural environment as a whole.
- c. The proposed special land use will not involve uses, activities, processes, materials, or equipment, or hours of operation that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public or private highway or seen from any adjoining land owned by another person.
- d. The proposed special land use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
- e. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity nor increase hazards from fire or other dangers to the subject property or adjacent properties.
- f. The proposed special land use shall not increase traffic hazards or cause congestion on the public or private highways and streets of the area in excess of current capacity. Adequate access to the site shall be furnished either by existing roads and highways or proposed roads and highways. ~~Minor residential streets shall not be used to serve as access to uses having larger area wide patronage.~~ Signs, buildings, plantings, or other elements of the proposed project shall not interfere with driver visibility or safe vehicle operation. Entrance drives to the use and to off-street parking areas shall be no less than 25 feet from a street intersection (measured from the road right-of-way) or from the boundary of a different zoning district.

- g. The proposed special land use will be adequately served by water and sewer facilities, and refuse collection and disposal services.
- h. The proposed special land use will comply with all specific standards required under this Ordinance applicable to it.

**Section 3. Severability.**

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

**Section 4. Effective Date.**

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the County.

CHEBOYGAN COUNTY

By:  
John B. Wallace  
Its: Chairperson

By:  
Karen L. Brewster  
Its: Clerk

**Notes**

**Zoning Ordinance No. 200 Draft Amendment  
Relative to Indoor Storage Facilities Uses**

**Under ARTICLE 17 – SUPPLEMENT REGULATIONS AND STANDARDS**

**SECTION 17.27 INDOOR STORAGE FACILITIES**

(Rev. \_\_/\_\_/19, Amendment #151)

In addition to meeting the general standards for special use permit approval under Section 18.7 of this Ordinance, an Indoor Storage Facility use within the Agricultural and Forestry Management District shall comply with all of the following applicable supplemental regulations and standards:

- 17.27.1. A solid evergreen hedge, wall or fence a minimum of 6 feet in height shall be placed a minimum of 3 feet from a rear or side lot line which screens all Indoor Storage Facilities from adjoining lots which are under different ownership.
- 17.27.2. A minimum distance of 30 feet shall be required between Indoor Storage Facility structures where a wall with doors faces another Indoor Storage Facility structure.

~~17.27.3. Indoor Storage Facilities shall be located on a County Primary Road or State Trunkline.~~

**Zoning Ordinance No. 200 Draft Amendment  
Relative to Special Land Use Procedures and Standards****Under ARTICLE 18 – SPECIAL LAND USE PERMIT PROCEDURES AND STANDARDS****SECTION 18.7. STANDARDS FOR SPECIAL LAND USE APPROVAL (Rev. \_\_/\_\_/19, Amendment #151)**

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

- a. The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
- b. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the County or the natural environment as a whole.
- c. The proposed special land use will not involve uses, activities, processes, materials, or equipment, or hours of operation that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public or private highway or seen from any adjoining land owned by another person.
- d. The proposed special land use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
- e. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity nor increase hazards from fire or other dangers to the subject property or adjacent properties.
- f. The proposed special land use shall not increase traffic hazards or cause congestion on the public or private highways and streets of the area in excess of current capacity. Adequate access to the site shall be furnished either by existing roads and highways or proposed roads and highways. ~~Minor residential streets shall not be used to serve as access to uses having larger area wide patronage.~~ Signs, buildings, plantings, or other elements of the proposed project shall not interfere with driver visibility or safe vehicle operation. Entrance drives to the use and to off-street parking areas shall be no less than 25 feet from a street intersection (measured from the road right-of-way) or from the boundary of a different zoning district.
- g. The proposed special land use will be adequately served by water and sewer facilities, and refuse collection and disposal services.
- h. The proposed special land use will comply with all specific standards required under this Ordinance applicable to it.

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING**  
**WEDNESDAY, MARCH 28, 2018 AT 7:00PM**  
**ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING**

**Members Present:** Charles Freese, Ralph Hemmer, John Moore, John Thompson, Nini Sherwood  
**Members Absent:** None  
**Others Present:** Jeff Lawson, John F. Brown, Terry Knaffle, Tom Chastain, Carl Muscott, Janice Heilman, Cal Gouine, Marcia Rocheleau, Bruce Socha, Mary Rocheleau, Joel Martinechek, Audrey Martinchek, Micalleen Susyan

The meeting was called to order by Chairperson Freese at 7:00pm.

**PLEDGE OF ALLEGIANCE**

Chairperson Freese led the Pledge of Allegiance.

**APPROVAL OF AGENDA**

The agenda was presented. **Motion** by Mr. Hemmer seconded by Mr. Moore to accept the agenda as presented. Motion carried unanimously.

**APPROVAL OF MINUTES**

Minutes from the Wednesday, January 24, 2018 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Moore seconded by Ms. Sherwood to approve the minutes as presented. Motion carried unanimously.

**PUBLIC HEARING & ACTION ON REQUESTS**

**Terry Knaffle** – Requests a variance from section 17.27.3 which states that Indoor Storage Facilities shall be located on a county primary road or state trunkline. The property is located at 12106 Inverness Trail, Beaugrand Township, Section 35, parcels 041-035-300-008-02 and 041-035-300-008-06 and is zoned Agriculture and Forestry Management (M-AF). Indoor Storage Facilities is a use which requires a special use permit (section 9.3.24) in the Agriculture and Forestry Management Zoning District (M-AF).

Mr. Lawson stated that this is a variance application for Mr. Knaffle who would like to construct three additional indoor storage facilities on property that is not located on a county primary road or a state trunkline. Mr. Lawson stated that the property is located at 12106 Inverness Trail in Beaugrand Township. Mr. Lawson stated that the property is zoned Agriculture Forestry Management and indoor storage facilities are permitted in the district by special use permit. Mr. Lawson stated that the applicant is seeking a variance from Section 17.27.3 that requires indoor storage facilities to be constructed on a county primary road or a state trunkline. Mr. Lawson stated that the surrounding zoning is Agriculture and Forestry Management and the surrounding land use is primarily residential. Mr. Lawson stated that there are no additional environmental sensitivity areas. Mr. Lawson stated that public comments were received and all commissioners should have received copies.

Mr. Knaffle stated that he received a call that this property was for sale and he decided to buy it as his units are full. Mr. Knaffle stated that he has noticed garbage trucks, dump trucks, fire department trucks using Inverness Trail Road. Mr. Knaffle stated that storage units are not a place that people go to visit on a daily basis. Mr. Knaffle stated a renter will store their goods and they might not visit the site for another 6-8 months. Mr. Knaffle stated the customers pays him monthly or yearly. Mr. Knaffle stated that they may store a car, a boat, 4 wheeler or household goods. Mr. Knaffle stated that there are people that are moving to Cheboygan and there are no storage units available. Mr. Knaffle stated that he looked at the locations of the storage units around the county and all of them have houses that are across the road, alongside the road or behind the buildings.

Mr. Freese asked how much of Mr. Knaffle’s clientele are local. Mr. Knaffle stated that he had one customer who owned a house 3-4 houses down the road and needed a storage unit for 3-4 years. Mr. Knaffle stated that other neighbors have rented storage units from him. Mr. Knaffle stated he has people from Mackinaw City rent units from him. Mr. Knaffle stated that the traffic for storage units is infrequent. Mr. Knaffle stated that once the goods are stored, they have no reason to come back unless they are picking up goods or moving to a new location.

Mr. Freese asked for public comment.

Mr. Muscott stated that he is pro-business and anti-government. Mr. Muscott stated that it appears that Mr. Knaffle’s

property started as conforming and was treated as non-conforming through an amendment to Zoning Ordinance #200. Mr. Muscott stated that he agrees with Mr. Knaffle's argument. Mr. Muscott stated that the creation of a primary road in the county is an arbitrary decision by the Road Commission and not based on use. Mr. Muscott stated that he supports Mr. Knaffle's variance request and he would like to see an amendment to the ordinance to remove the requirement which states that Indoor Storage Facilities be located on a county primary road or state trunkline.

Mr. Socha stated that he is a resident of Woiderski Road and he is currently staying at a residence on Inverness Trail. Mr. Socha stated that he agrees with some of Mr. Knaffle's statements. Mr. Socha stated that there is a need for storage and he has contacted a few people who are excited about expanding their facilities on a major trunkline or a county primary road. Mr. Socha stated he is concerned that Mr. Knaffle's proposed storage facility will impact the other 16 storage facilities that may have future plans of additional storage. Mr. Socha stated that he believes that Mr. Knaffle does not meet four of the five standards for granting the variance. Mr. Socha stated that he is concerned that sooner or later business property switches hands. Mr. Socha stated that Mr. Knaffle does very well at keeping his place clean and neat, but that should be expected. Mr. Socha stated that the original parcel of land that Mr. Knaffle owns started out being a small mom and pop ceramic and wreath shop owned by people that had zoning approval through Beaugrand Township. Mr. Socha stated that now it has become a medium sized storage building with 136 units. Mr. Socha stated that Mr. Knaffle has accomplished his goal of maximizing his business but it has added an inequality to the neighborhood. Mr. Socha stated that this recent purchase, which has increased Mr. Knaffle's land mass 275% resulted in the proposed storage units no longer fitting in this old neighborhood. Mr. Socha stated they have tolerated the site of the storage buildings, lights in the windows, theft, drinking, traffic, noisy vehicles, water problems and excessive litter in the ditches of Inverness Trail and Woiderski Road. Mr. Socha stated that adding more units will likely amplify these issues and most likely added security (additional lighting and fencing) will be necessary. Mr. Socha stated that it will also displace storage units that are on major trunk lines. Mr. Socha stated that it may be true that storage units are hard to find in the Cheboygan area and when business is good everyone wants some of it. Mr. Socha stated that adding a storage building to an area that wasn't intended will eventually become a problem for those operating storage buildings on the county or major trunkline and for the residents of Inverness Trail and Woiderski Road. Mr. Socha stated that any expansion should be done in the area zoned for it and let them make the investments so the business can remain in the area designated. Mr. Socha stated that the property that Mr. Knaffle purchased is in close proximity to many residences and this proposed expansion will affect all of these residences. Mr. Socha stated that Mr. Knaffle should not be granted a variance because he does not show justification. Mr. Socha stated that increasing the property from 2 acres to the newly purchased property of 3.5 acres last fall and combining the parcels and asking for a variance for the whole parcel looks to be self-created. Mr. Socha stated that Mr. Knaffle is currently grandfathered and is under the older zoning. Mr. Socha stated that no one is stopping Mr. Knaffle from using his property for his permitted purpose and he operates under a grandfather clause under the old zoning. Mr. Socha stated that Mr. Knaffle has maxed his property and does not need to expand as there will be an adverse impact on surrounding properties and property values. Mr. Socha stated that this variance will not do justice to the residents and landowners and the beneficiary is Mr. Knaffle. Mr. Socha stated that doubling the size of the storage facility will have an adverse impact on surrounding property values and the use and enjoyment of the property in the neighborhood. Mr. Socha stated that a variance is not necessary and right now Mr. Knaffle can operate as he always has and enjoy the fruits of his labor. Mr. Socha stated that as for the residents of Woiderski Road and Inverness Trail, that is all that they can tolerate. Mr. Socha stated that Mr. Knaffle is asking for a variance to greatly increase his business as he states in his answers B C D and E.

Mr. Freese asked Mr. Socha to explain the type of existing water problems. Mr. Socha stated that water flows from west to east in this area and there is a culvert that was put in about 50 years ago. Mr. Socha stated that the culvert crossed from the west side of Inverness Trail to the east side across from Mr. Knaffle's storage. Mr. Socha stated that the culvert relieved the water problem as it was backing up on the west side of Inverness trail. Mr. Socha stated that since then it's been filled in and it has created flooding. Mr. Socha explained that the water issue has been a long ongoing issue. Mr. Socha stated that if Mr. Knaffle fills his property, it will be dammed up water and will make the impact on the west side of the road even greater. Mr. Freese stated that his maps show flow from west to east crossing Inverness Trail north of Mr. Knaffle's property and that this drainage problem is caused by the road bed elevation of Inverness Trail Road at that point and would not be influenced by anything occurring on Mr. Knaffle's parcel. Discussion was held. Mr. Socha stated that the county has tried to dig the ditch on the west side of Inverness Trail to get the water to flow south which there was some success. Mr. Socha stated it has since filled in and the water continues to move east.

Mr. Freese asked Mr. Socha to comment on the problems with the police. Mr. Socha stated that he has noticed the police at the storage facility several times. Mr. Freese asked if the police are called as a result of noise or parties. Mr. Socha stated that no one really complained and they just tolerated. Mr. Freese asked if Mr. Socha's comments are because the police have been in the area. Mr. Socha stated yes. Mr. Socha stated that there has been drinking at this storage facility. Mr. Socha stated that there has been an increase in the garbage due to the storage facility.

Ms. Mary Rocheleau stated she lives on Inverness Trail across from the storage facility. Ms. Rocheleau stated that she likes Mr. Knaffle and he runs a good business. Ms. Mary Rocheleau stated that Mr. Knaffle also plows snow for her in the winter. Ms. Rocheleau stated that she is opposed to the expansion of the storage facility as she does not want more traffic going in and out at night. Ms. Mary Rocheleau stated that there are vehicles that should not be at the storage facility and when they leave the car lights on, they shine directly into her living room window. Ms. Mary Rocheleau stated the proposed storage buildings are too much for the residential neighborhood. Ms. Rocheleau believes there will be more traffic. Ms. Mary Rocheleau stated that this is not the place for this large of a storage facility.

Ms. Heilman stated that she lives on the south of Mr. Knaffle's storage units. Ms. Heilman stated that Mr. Knaffle purchased the property from her originally. Ms. Heilman stated Mr. Knaffle provides a contract to his clients that requires there to be no one in or out after dusk. Ms. Heilman stated that there are lights going in and out of the storage facility quite a bit and she has called Mr. Knaffle numerous times. Ms. Heilman stated that Mr. Knaffle gives approval to some clients to be there after dark. Ms. Heilman stated that the water is terrible and that Mr. Knaffle is supposed to maintain the fence. Ms. Heilman stated that her fence is falling apart. Ms. Heilman stated that her son found meth lab products in the woods before Mr. Knaffle put up the fence. Ms. Heilman stated that between the storage units there are lights that are coming and going all the time. Ms. Heilman explained that she believes that there are drug deals that are going on in between these units. Ms. Heilman stated that there are cars coming in all hours of the night and she told Mr. Knaffle about it and he doesn't care. Ms. Heilman stated that she told Mr. Knaffle to put a fence up to keep the people out after dark. Ms. Heilman stated that she can call and complain and by the time Mr. Knaffle gets there the people have left. Ms. Heilman asked if she should be calling Mr. Knaffle to complain or if she should be calling 911 to complain.

Ms. Marcia Rocheleau stated that in Mr. Knaffle's defense, water was an existing issue before he put in his storage facility. Ms. Marcia Rocheleau stated that this is the first time as a township supervisor that I have heard any of these concerns.

Mr. Socha noted that Mr. Knaffle can continue to operate his existing storage facility as he has in the past without getting a variance. Mr. Freese stated that is correct. Mr. Socha stated that the only reason Mr. Knaffle wanted to request a variance is to expand and more than double the size of his storage facility. Mr. Socha stated that he does not see a hardship and he only sees a personal gain. Mr. Socha questioned if Mr. Knaffle can live with what is existing for the storage facility and not expand any further. Mr. Socha stated he does not feel that Mr. Knaffle needs to increase the business. Mr. Socha suggested using the additional parcel as a greenbelt.

Mr. Knaffle stated that he is surprised by the comments regarding the fence. Mr. Knaffle stated that he knows that the fence is in poor condition but he has never been approached about repairing the fence. Mr. Knaffle stated that he paid for the fence. Mr. Knaffle stated that he plans to replace the fence this year. Mr. Knaffle stated that regarding garbage on Inverness Trail, there is the same problem on Levering Road. Mr. Knaffle stated that it doesn't matter where you go, there will be garbage. Mr. Knaffle stated that his business hours are different than daylight hours. Mr. Knaffle stated that he is trying to be courteous to the neighbors by saying that the hours of operation are daylight hours only. Mr. Knaffle provided a copy of his contract showing the note regarding access to all units is during daylight hours only. Mr. Knaffle stated that regarding traffic, there are days that there are only one or two cars at the storage facility.

Mr. Freese asked if there have been any complaints from the police. Mr. Knaffle stated that if there was a problem that the police would call him first. Mr. Knaffle explained that the police park in different locations in the county. Mr. Knaffle stated that he believes his storage facility was one of the locations for the police to park. Mr. Knaffle stated that another issue is that he gave the previous owners of this new property verbal approval for access through the storage units. Mr. Knaffle stated that was the only way they could access the property. Mr. Knaffle stated that the property owner had a fire pit and the light that the neighbors are referring to was probably coming from the previous owners.

Mr. Socha asked if the proposed expansion could be located on Mr. Knaffle's property on Levering Road, which is a class A county road. Mr. Knaffle stated that he owns 2 acres on Levering Road. Mr. Freese stated that is not material to this case that is being reviewed by the Zoning Board of Appeals.

Mr. Socha stated that Mr. Knaffle does not live by the storage facility and the information about the lights is not true.

Public comment closed.

Board held discussion. Mr. Moore stated that Mr. Knaffle can stay with what is existing. Mr. Moore stated that perhaps there is an error in the amendment, which lists only state trunklines and primary roads. Mr. Moore stated that there are many primary roads in the county that are dirt roads and the use of those roads is all residential and forestry/agriculture which is the same as these roads. Mr. Moore questioned the genesis of that amendment and stated that this is certainly a better road than a number of primary roads in the county. Mr. Moore stated that having storage nearby residences is

good and in the past he has rented a unit from a storage facility that was a mile from his house.

Mr. Freese stated that obviously one of the advantages of having facilities of that type is convenience. Mr. Freese stated that private storage is authorized in this district for each and every occupant. Mr. Freese stated indoor storage facilities are a commercial operation and are only allowed on a state trunkline or primary road and anywhere else is prohibited. Mr. Freese stated that any one of the private residences can put up a storage building in this district. Mr. Freese stated that any other business can put up an accessory storage building, but this particular usage is defined as indoor storage for a fee and Amendment #116 has forced it to be on a state trunkline or a county primary road. Mr. Freese stated that the regulation is designed to accommodate particular businesses and usages in the Agriculture and Forestry Management Zoning District and it recognizes the need for indoor storage. Mr. Freese stated the limitation to state trunklines or county primary roads could be to ensure better access or to try and force businesses of this type to locate in particular areas.

The Zoning Board of Appeals reviewed Findings of Fact and the Specific Findings of Fact under Section 23.5.3. The Zoning Board of Appeals agreed that 23.5.3.1, 23.5.3.3, 23.5.3.4 and 23.5.3.5 had been met but 23.5.3.2 had not been met. **Motion** by Mr. Moore, seconded by Ms. Sherwood, to deny the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.3. Motion carried unanimously.

**Thomas Chastain** - Requests a 30ft. front setback variance to construct a garage (14ft. x 20ft.) in a Lake and Stream Protection (P-LS) Zoning District. The property is located at 1351 Michigami Drive, Beaugrand Township, Section 23, parcel #041-023-100-013-00 and #041-B02-100-047-01. A 40ft. front setback and is required in the Lake and Stream Protection (P-LS) Zoning District

Mr. Lawson stated that Mr. Chastain is requesting a variance to allow a 30 ft. front setback variance to construct a garage in the Lake and Stream Protection Zoning District. Mr. Lawson stated that the property is located 1351 Michigami Drive in Beaugrand Township. Mr. Lawson stated that the subject parcel is a triangle shaped nonconforming lot of record which contains approximately .2 acres. Mr. Lawson stated that the lot is dissected by a creek with 91.6ft. on Michigami Drive. Mr. Lawson stated that a dimensional variance was previously granted by the ZBA to remove a mobile home which was in disrepair and to construct a 768 square foot single family home. Mr. Lawson stated that the applicant is seeking to construct a 280sf garage on the lot. Mr. Lawson stated that the applicant is requesting a variance to allow a garage within 10ft. of the front lot line where a 40ft. front setback is required from the creek. Mr. Lawson stated that aerial photos were provided showing the surrounding zoning is Lake and Stream Protection. Mr. Lawson stated noted that there were no public comments submitted regarding this request.

Mr. Chastain stated that this is a unique problem as Dynamite Creek flows through the right hand side and around the back of a property. Mr. Chastain stated that he came before the Zoning Board of Appeals in 2015 for a variance to construct a home. Mr. Chastain stated that the project has been completed and he has a gentleman who is interested in purchasing this parcel and one of the conditions was he'd like to put up a 14ft. x 20ft. garage. Mr. Chastain stated that he does believe that he qualifies for a hardship.

Mr. Freese asked for public comments. Ms. Susanger stated that she is the vice president of the Beaugrand Estates property homeowners association and she has a home across the road from Mr. Chastain's home and she believes it would be advantageous for the garage to be built as it would look nice as well as increase property values. Public comment closed.

The Zoning Board of Appeals added the following to the General Findings:

6. A garage is considered an accessory use, permitted by right, for a private dwelling of this type.
7. The Department of Building Safety requires that 10ft. between the septic field and any permanent structure.

The Zoning Board of Appeals reviewed and approved the Findings of Fact and the Specific Findings of Fact under Section 23.5.4.

Mr. Freese stated that a lesser variance would be needed if the garage maintains the minimum setback of 10ft. from the road right of way and 10ft. from the septic field. Mr. Freese stated that this should be included in the approval, but also it should not be any more than the variance requested. Mr. Moore stated that more room may be necessary so as not to drive over the drain field. Mr. Moore stated that as the garage is moved closer to the road, it limits the access to a second vehicle. Mr. Moore stated the applicant's proposed location allows parking between the garage and the road. Mr. Moore stated this would allow an emergency vehicle to park on the parcel instead of on the road. Mr. Moore stated that this is a narrow road. Mr. Moore stated his concerns regarding giving adequate space from the edge of a traveled road to a building regardless of the location of the right of way. Mr. Moore stated that he agrees that it would be simple enough to move the building a little more toward the road, but believes that there needs to be adequate space for safety purposes.

Board held discussion. Mr. Moore asked Mr. Chastain if he would accept a lesser variance. Mr. Chastain stated yes and noted that the road does widen and it is

on a curve. Mr. Chastain stated that additional parking would not be a problem. Mr. Freese stated that there is enough room for parking. Discussion was held regarding the location of the right of way. Mr. Lawson stated that this is a platted subdivision and the circle marker on the drawing should indicate the right way unless there were provisions in the deed or in the subdivision documents stating that it overlapped. Mr. Freese asked Mr. Chastain if he has any objections to a lesser variance. Mr. Chastain stated no. Mr. Freese stated that Mr. Chastain agrees in a location that meets the offset from the drain field of 10ft. and locate the garage as close to the road as possible and still meet the side setback requirement. Mr. Freese stated that whatever dimension the variance calls for at that point, it's going to be less than what is advertised. Mr. Freese stated that by moving the garage closer to the road the distance to Dynamite Creek is increased thereby decreasing the front setback variance requested.

The Zoning Board of Appeals reviewed and approved the Findings of Fact and the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Ms. Sherwood, to approve the variance request with the condition that the garage be in a location that meets the offset from the drain field of 10ft. and locate the garage as close to the road as possible and still meet the side setback requirement which results in a variance that will be less than the front setback variance requested, based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

**UNFINISHED BUSINESS**

No comments.

**NEW BUSINESS**

No comments.

**ZBA COMMENTS**

Mr. Moore stated that he would be more comfortable with the front setback being called a waterfront setback. Mr. Moore stated that he would be more comfortable with the back setback being called a road setback. Discussion was held.

Mr. Freese stated that regarding the indoor storage problem created by the change to the regulation, this is not the first time we've had a problem of this type. Mr. Freese stated that it has been circumvented by several means in the past. Mr. Freese stated that a previous indoor storage facility (Inverness Dairy) did not meet the road requirements and the applicant applied for a conditional rezoning to Commercial which eliminated the road requirement and also eliminated the requirement that is inherent in the use of indoor storage facilities in the Agriculture and Forestry Management Zoning District. Mr. Freese stated that this storage facility is basically an open indoor storage facility, but it is in a Commercial Development Zoning District now. Mr. Freese stated that there is a large parcel on a county road just north of Wing Road but also borders Straits Highway. Mr. Freese stated that the problem of the location on a state highway was solved by changing the address from Wing Road to Straits Highway. Mr. Freese stated that the change in the regulation has caused problems for two cases in the last year that resulted from the change in the regulation requiring location on specific highways and the cases had to be resolved in another manner. Mr. Freese stated that this raises the question whether the amendment to the regulation is really necessary. Mr. Freese stated that he plans on bringing this issue up to the Planning Commission to see if the reason for the change in the regulation was to ensure that a storage facility of this type was on an all weather hard surface road. Mr. Freese noted that if this is the reasoning, then it is too restrictive as there are hard surfaced all-weather roads that are not county primary roads or state trunk lines. Mr. Freese stated that if the objective is really to force this type of activity into certain areas in a district then it should be stated that way. Mr. Freese stated he will discuss this issue with the Planning Commission at the next meeting. Mr. Freese stated that Mr. Knaffle also has the right to come back in and request a conditional rezoning to Commercial Development and the restrictions would not apply.

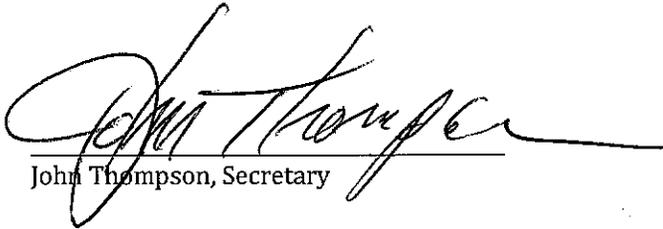
**PUBLIC COMMENTS**

Ms. Rocheleau asked which standards were not met in regards to Mr. Knaffle's request. Mr. Moore reviewed which standards were not met. Ms. Rocheleau stated that the other suggestion is spot zoning. Mr. Lawson stated that it is not considered spot zoning because the conditions are specific to the request and not all rights or uses from that zoning district are permitted. Discussion was held. Mr. Muscott asked if a conditional rezoning would be reviewed by the Board of Commissioners. Mr. Muscott asked if public comments would be received by the Board of Commissioners for a conditional rezoning request. Mr. Freese stated that the conditional rezoning application would be reviewed by the Planning Commission and the Planning Commission's recommendation is reviewed by the Board of Commissioners and either accepted or deleted. Mr. Freese stated that the neighbors will be able to make comments to the Planning Commission and the Board of Commissioners. Discussion was held.

Mr. Muscott stated that the first week in April the Emmet County Planning Commission will be reviewing 2 PUD applications. Mr. Muscott stated that legal counsel suggests that the Board of Commissioners should not be involved in the PUD review. Mr. Muscott stated that Emmet County Board of Commissioners are involved in the PUD approval process. Mr. Muscott explained the types of PUD application that will be reviewed by the Emmet County Planning Commission. Discussion was held.

**ADIURN**

**Motion** by Mr. Moore to adjourn. Motion carried. Meeting adjourned at 8:31pm.



John Thompson, Secretary

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING**  
**WEDNESDAY, SEPTEMBER 26, 2018 AT 7:00PM**  
**ROOM 135 - COMMISSIONER'S ROOM - CHEBOYGAN COUNTY BUILDING**

**Members Present:** Charles Freese, Ralph Hemmer, John Moore, John Thompson, Nini Sherwood

**Members Absent:** None

**Others Present:** Michael Turisk, Jeff Fitzgerald, Evan Perry, Cal Gouine, Russell Crawford, Cheryl Crawford, Karen Johnson, C. Maziasz, Carl Muscott, David McDade

The meeting was called to order by Chairperson Freese at 7:00pm.

**PLEDGE OF ALLEGIANCE**

Chairperson Freese led the Pledge of Allegiance.

**APPROVAL OF AGENDA**

The agenda was presented. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to accept the agenda as presented. Motion carried unanimously.

**APPROVAL OF MINUTES**

Minutes from the August 22, 2018 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Moore, seconded by Mr. Thompson, to approve the minutes as presented. Motion carried unanimously.

**PUBLIC HEARING & ACTION ON REQUESTS**

**Zoning Board of Appeals Interpretation** - A request for an interpretation by the Zoning Board of Appeals to determine if Gratiot St. in Tuscarora Township is a minor residential street for the purpose of serving a future proposed Special Use for a restaurant/bar. Per Section 18.7.f. of the Zoning Ordinance, minor residential streets shall not be used to serve as access to uses having larger area-wide patronage.

Mr. Turisk presented information provided in the staff report.

Mr. Freese presented the discussion topic:

The term "Minor Residential Street" is not defined in the Zoning Regulation No 200 and therefore must be determined by the words used and the context in which they are used. "Minor" when used in conjunction with the county road terminology could only be associated with the lowest county road class "County local" as opposed to what might be considered "major" i.e. "County Primary" or "State Trunk Line" designations.

This term "Residential" cannot obviously be applied to a road and must therefore be intended to apply to the uses permitted on parcels abutting the road to be defined. A literal interpretation would then be: A county local road abutted by parcels with residential usage. Since "Residential Dwelling" is a use authorized in all zoning districts in the county, the broad literal translation would not be consistent with that intended, since the definition could be applied to most county local roads over a portion or all of the length and would not provide the restrictions intended. A minor local definition would use the term residential in relation to the zoning district created for residential uses i.e. D-RS. The definition resulting from this analysis must be considered in the context in which it is applied. The term minor residential street is used only once in the regulation and that being Section 18.7.f. which governs the conditions which must be met in order to grant a special use permit. The sentence in which it is used reads " Minor Residential Streets shall not be used to serve or access to uses having larger area-wide patronage" The restrictions in this sentence cannot be applied to the "Street" by a zoning regulation since any limitations on a county road can only be placed by the County Road Commission or the Michigan State Police. The zoning regulation could be utilized to restrict the uses authorized for parcels which abut the road in question in the district thru which the road runs. The sentence is extremely restrictive since it would prohibit any use which would draw traffic from outside the immediate area. If this restrictive interpretation is accepted it would effectively exclude almost all uses requiring a special use permit drawing patronage from a wide geographical area, e.g.

- 4.3.2 Nurseries and Day care centers
- 4.3.6 Parks, playgrounds, golf courses and other recreational facilities
- 4.3.9 Public non-commercial recreational camps
- 4.3.11 Marinas
- 4.3.12 Assembly, educational or social event facilities
- 4.3.13 Planned projects subject to provisions on Section 17.20

Since the restrictive language can only be applied to uses requiring a SUP under section 18.7, it could not be applied to users permitted by right in the same district which would also draw traffic from a larger geographical area, e.g.

4.2.6 Home Occupations

4.2.7 Office or studio of a physician dentist or other professional person residing on the premises

4.2.10 State licensed residential facilities (6 or less)

The language "shall not be used to serve as access to uses having larger area-wide patronage" would preclude any road from being designated a "Minor Residential Street" if it serves as the only access to another road which has no other exit and which abuts parcels which are zoned for use which necessitate larger area-wide patronage.

The term "Minor Residential Streets" is obviously intended to restrict traffic in areas of predominately residential dwellings. However residential dwellings along a road do not create a de facto residential zoning district. A large proportion of the general public believes this to be the case. If this result is desirable, the area could be rezoned D-RS. Uses permitted by right or with an approved special use permit should not be unnecessarily curtailed or prohibited because of the proximity of private dwellings. The first two sentences of Section 18.7.f read: "The proposed special land use shall not increase traffic hazards or cause congestion on the public or private highways and streets of the area in excess of current capacity. Adequate access to the site shall be furnished either by existing roads and highways or proposed roads and highways."

These conditions allow the prevention of the uses proposed by an SUP from exceeding the capacity or creating a traffic hazard on the road upon which they are to be located. The goal as outlined in the Cheboygan County Master Plan to promote growth and development by the zoning ordinance, the infrastructure necessary to support and the uses and locations permitted by zoning should be developed to the greatest extent possible with the resources of the county. This infrastructure includes roads, sewers and other utilities. Infrastructure should not govern zoning, but rather should support the growth and development permitted by zoning. Any necessary curtailments to uses permitted by zoning because they outstrip the capacity of the infrastructure are permitted and governed by the provisions of section 18.7.f.

Mr. Freese asked for public comments. There were no public comments. Public comment closed.

Mr. Freese presented the following General Findings:

1. County Road Have three classifications:
  - a. State trunk lines
  - b. County primary roads
  - c. County local roads
2. Gratiot Street is classed as a county local road which begins at its north end at its intersection with South Straits Highway and runs south approximately 2470ft. south, gradually diverging from South Straits Highway, at which point it makes a 90 degree turn to the west and becomes Hemlock Street.
3. Hemlock Street runs for 420ft. west, where it crosses South Straits Highway.
4. Apple Blossom Street begins at its intersection with Gratiot Street and runs east for 290ft. where it then turns north until it terminates at the Indian River Marina.
5. The Commercial Zoning district extends 660ft. on either side of South Straits Highway in this area.
6. The entire length of Gratiot Street and the parcels abutting it to the east and west lie within the Commercial Zoning district except parcel #162-019-100-032-00 which is addressed as 3249 Gratiot Street and extends to the Indian River. The western portion of this parcel lies in the Commercial Zoning district and the eastern portion lies in the Lake and Stream Protection Zoning District.
7. The north end of Gratiot Street is developed commercially with commercial indoor storage units on the west side and an electrical power distribution facility on the east side.
8. South of the commercial uses at the north end, the remaining parcels on Gratiot Street are used for residential dwellings or are undeveloped.
9. Parcels abutting Apple Blossom Street are used for residential dwellings with the exception of the Indian River Marina at its north terminus which is a commercial use.
10. Gratiot Street is the only route to Apple Blossom Street and therefore the Indian River Marina which is not accessible by any other road access.
11. A bar and restaurant are uses authorized by a special use permit in both the Commercial Development and the Lake and Stream Protection Zoning Districts.
12. The term "minor residential street" is not defined in Zoning Ordinance No. 200.
13. The Cheboygan County Road Commission and the State Police are the only entities that can place restrictions on county roads through the weight restrictions, seasonal limitation load limits, frost laws, parking and signage or other uses within the right of way.

**Motion** by Mr. Freese, seconded by Mr. Moore, to accept the final definition of the term "minor residential street" to read "A county local road in the D-RS zoning district which does not serve as a thru street from and/or to other zoning districts and is not the only access to intersecting roads which have no other outlet and are abutted by parcels with permitted uses which require access to wider-area patronage. A road can only be designated as such if parcels abutting it are restricted to uses which only generate local traffic." Motion carried unanimously.

**Motion** by Mr. Thompson, seconded by Mr. Moore, that Gratiot Street is determined not to be a minor residential street. Motion carried unanimously.

**Motion** by Mr. Freese, seconded by Mr. Moore, to recommend to the Planning Commission that Because of the extreme limitations required by this term, it is recommended that the subject be referred to the Planning Commission with a recommendation that Section 18.7.f be amended by deleting the sentence containing the term "Minor Residential Streets". The designation of a road by this term would necessitate the area bordering such road to be restricted to a residential zoning district with virtually only those uses permitted by right, in effect, a new zoning classification. Motion carried unanimously.

**Shorestone Custom Builders/Mansfield** – The applicant requests approval of an approximately 103-ft. front setback variance to construct a new porch on a waterfront property in a Natural Rivers (P-NR) zoning district. Per Section 17.1 of the Zoning Ordinance, a minimum of 200-ft. of front setback is required for waterfront lots in the P-NR zoning districts. The subject property is located at 4707 Big Sky Trail in Koehler Township, Parcel No. 172-P23-000-024-01 (Plat of Pigeon River Woods; Lot 24), Section 27.

Mr. Turisk presented information provided in the staff report.

Mr. Freese asked for public comments. There were no public comments. Public comment closed.

The Zoning Board of Appeals revised the following General Findings:

2. The Zoning Ordinance requires a minimum 200 ft. front setback for new construction in the P-NR zoning district for mainstream lots.
3. The applicant is seeking a 97ft. front setback variance from the Pigeon River to construct a new, attached porch measuring 6ft. 8in. x 8ft. 8in.

The Zoning Board of Appeals added the following to the General Findings:

5. The proposed variance is in the rear setback area. Construction Code requires an entrance porch of at least 3ft. x 3ft. and ADA requires a 5ft. x 5ft. porch for a main entrance.
6. Past precedent has established that the DNR has not had any objections to new construction which does not extend further into the front setback than that of the existing legal non-conforming structure.

The Zoning Board of Appeals reviewed and approved the Findings of Fact and the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to approve the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

#### **UNFINISHED BUSINESS**

No comments.

#### **NEW BUSINESS**

No comments.

#### **ZBA COMMENTS**

No comments.

#### **PUBLIC COMMENTS**

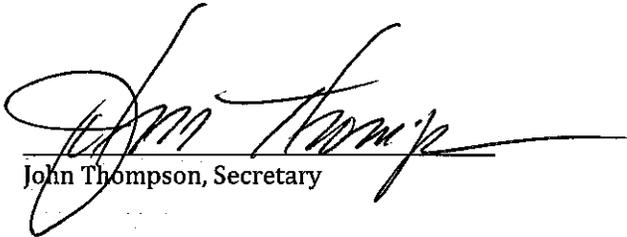
Mr. Muscott stated his concerns regarding Cheboygan County's regulation being more punitive than the State of Michigan's regulation regarding Natural Rivers. Mr. Freese stated that Cheboygan County's regulation can be more restrictive, but not less restrictive. Discussion was held.

Mr. Muscott stated that the owner of The River Deck originally spoke with Scott McNeil in February of 2018 and submitted a special use permit application in July of 2018. Mr. Muscott stated his concern regarding the delay in processing the special use permit application. Mr. Freese explained that there has been a delay due to the ZBA interpretation of the minor residential street. Discussion was held.

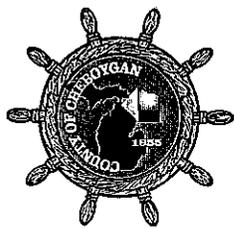
Mr. Freese explained that the variance request for Mansfield could not be approved administratively using the State regulation for a minor variance. Mr. Freese stated that according to the State a minor variance is 25% of the setback. Mr. Freese noted that 97ft. would be over 40%. Mr. Freese stated the Planning Commission should look at the State's regulation to allow the Zoning Administrator to review these types of applications. Discussion was held.

**ADJOURN**

**Motion** by Mr. Hemmer to adjourn. Motion carried. Meeting adjourned at 7:48 pm.



John Thompson, Secretary



# CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST., ROOM 103 ▪ PO BOX 70 ▪ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ▪ TDD: (800)649-3777

## CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, OCTOBER 3, 2018 AT 7:00 PM ROOM 135 – COMMISSIONER’S ROOM – CHEBOYGAN COUNTY BUILDING

**PRESENT:** Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Jazdyk, Churchill, Lyon  
**ABSENT:** None  
**STAFF:** Michael Turisk  
**GUESTS:** Eric Boyd, Carl Muscott, Cal Gouine, John F. Brown, Marcia Rocheleau, Karen Johnson, Louis Vassilakos, Russell Crawford, Cheryl Crawford, Gary C. Painter, Rae Bontekoe, John Moore, Sharon Churchill, Steven Vohs, Chuck Maziasz, Mary Athearn, Gary Radcliffe, Rose Radcliffe, Bruce Athearn

The meeting was called to order by Chairperson Croft at 7:00pm.

### PLEDGE OF ALLEGIANCE

Chairperson Croft led the Pledge of Allegiance.

### APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Borowicz seconded by Mr. Churchill, to approve the agenda as presented. Motion carried unanimously.

### APPROVAL OF MINUTES

**Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to rescind the September 5, 2018 minutes. Motion carried unanimously.

The September 5, 2018 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to approve the meeting minutes as revised. Motion carried unanimously.

The September 19, 2018 Planning Commission minutes were presented. **Motion** by Mr. Borowicz, seconded by Mr. Kavanaugh, to approve the meeting minutes as presented. Motion carried unanimously.

### PUBLIC HEARING AND ACTION ON REQUESTS

**Rae Bontekoe** – The applicant is seeking a one year extension of an approved Special Use for an Events Venue for a property zoned Agriculture and Forestry Management (M-AF). Per Section 18.12., an approved special use permit shall expire one year following approval by the Planning Commission, unless substantial construction has begun pursuant to the permit prior to the expiration, or the property owner applies to the Planning Commission for an extension prior to the expiration of the Special Use permit. The subject property is located at 8739 Brudy Rd., Ellis Township, Section 18, Parcel 210-018-400-002-01.

Mr. Turisk reviewed the background information contained in the staff report.

Ms. Bontekoe stated that she had not been able to obtain a contractor to perform the work required to date, and that the project remains as previously approved.

Ms. Croft asked for public comments. There were no public comments. Public comment closed.

**Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to find that due to unforeseen difficulties beyond the control of the property owner have prevented completion of the project and that standards and requirements for its completion have not changed any that a one year extension of the special use permit be granted. Motion carried unanimously.

**Steven Vohs** – A request for site plan review approval for an accessory storage structure for an existing retail business in a Commercial Development (D-CM) zoning district, per Section 6.2.19. The property is located at 3927 S. Straits Hwy., Tuscarora Twp., section 24, Parcel #161-024-400-573-00.

Mr. Turisk reviewed the background information contained in the staff report.

Mr. Freese stated that of the three waivers requested:

1. The area is basically flat and that therefore topography could be waived.
2. Utilities are shown on the drawing and therefore a waiver is not required.
3. Elevation drawings are required.

Mr. Vohs provided, as an exhibit, a drawing to show building elevations.

**Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to waive the topography requirement. Motion carried unanimously.

Ms. Croft asked for public comments. There were no public comments. Public comment closed.

The Planning Commission reviewed and approved the General Finding and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to approve the site plan review based on the General Findings and the Specific Findings of Fact Under Section 20.10 subject to Department of Building Safety. Motion carried unanimously.

**David McDade** - The applicant requests approval of a Special Use application for a bar/restaurant for a property largely within a Lake and Stream Protection (P-LS) zoning district with a portion zoned Commercial Development (D-CM), per Sections 10.3.14. and 6.2.3., respectively. The subject property is located at 3249 Gratiot St., adjacent to the Indian River in Tuscarora Township, Section 19, Parcel 162-019-100-032-00.

Mr. Turisk reviewed the background information contained in the staff report.

Mr. Kavanaugh requested information concerning whether Gratiot was a minor residential street which was addressed by the Zoning Board of Appeals, a copy of their findings which had been provided to the Planning Commission. Mr. Freese stated that in the regulation. He stated that the Zoning Board of Appeals had come up with a definition of "minor residential street" to be utilized in the future and that when applied to Gratiot Street it was determined that Gratiot Street was not a minor residential street. He further stated that this was all contained in the September 26, 2018 minutes of the Zoning Board of Appeals. A pertinent portion of which had been provided to the Planning Commission. Mr. Freese further explained the consequences of the designation of a road as a "minor residential street" and recommended that the sentence containing this term be deleted from section 18.7.f.

Mr. Freese stated that he felt that additional screening was required along the north property line from the end of the line of screening along the west side of the parking area eastward at least halfway to the river in order to provide the screening required of the parking area and the loading area. Mr. Freese stated that an additional parking space was required to meet the standards based on the seating capacity and the number of staff proposed. Mr. McDade stated that the number of staff should have been given as 4 rather than 8 since there will be 4 per shift and that this would reduce the number of parking spaces required.

Mr. Bartlett questioned what the outside entertainment would entail. Mr. McDade stated that the entertainment would not be loud, as would be the case with full amplification bands, but would be small scale and quieter such as Mike Ridley and would only occur during daylight hours from 10:00am to 10:00pm during the summer season when there is activity on the river.

Mr. Bartlett asked whether the outdoor recreational activities would be artificially lighted. Mr. McDade stated that they would only be for daylight use.

Mr. Freese questioned whether the hours of operation are 10:00am to 10:00pm or 10:00am to 11:00pm. Mr. McDade indicated that their hours would be daylight hours from 10:00am to 10:00pm. Mr. Freese asked whether they were officially indicating the hours would be from 10:00am to 10:00pm. Mr. McDade stated yes, that was their business plan.

Mr. Freese asked what their proposed entertainment days of operation would be. Mr. McDade stated that outside entertainment would end by 8:00pm on Fridays, Saturdays, and Sundays during the months that they are open with additional days on holiday weekends.

Mr. Kavanaugh asked what types of games would be available. Mr. McDade stated that soft games without any safety hazard such as horseshoes would be utilized.

Ms. Lyon asked what the surface of the parking lot would be. Mr. McDade stated it would be gravel in order to limit water runoff.

Mr. Jazdyk asked whether take-out food service would be provided. Mr. McDade stated that that was what was planned.

Ms. Croft asked for public comments. Mr. Muscott stated that he didn't want to see hours of operation unreasonably limited. He stated that this was proposed to be a family oriented business and strict hours of operation could prove detrimental. Mr. Muscott stated that one of the proposed restrictions was that no customer parking was to be allowed on Gratiot Street and that only the Cheboygan County Road Commission could limit on street parking.

Mary and Bruce Athearn stated that they own the property bordering the applicant's property on the north side and that the fill that was placed on the east side had caused runoff on to their property. They in turn had to add fill on their parcel along the river to alleviate the problem which had resulted in the runoff causing problems for the property on the south side of the applicant's property. Mr. Athearn stated that he was not happy to be looking out his front door to a view of a restaurant/bar all summer long and questioned whether he would have to endure people trespassing on his property to retrieve volley balls from the recreational facilities proposed to be located next to his property. Mrs. Athearn complained about the noise potential and about the lack of screening.

Mr. Radcliff questioned whether the boat slips on the parcel would have to be vacated when the restaurant closed or whether they could be used for partying after hours. Mr. Radcliff also stated that he felt customers would park along Gratiot creating a safety hazard at that turn of the road.

Public comment closed.

Board held discussion. Mr. Freese questioned the use of the boat slips and whether they would be rented or allowed to be used for parking overnight. Mr. McDade stated that the slips would only be allowed for customers to dock during business hours and that they would be cleared by closed of business.

Mr. Freese asked whether Mr. McDade would be amenable to placing a double row of pines along the north property line to screen the Athearn's property. Mr. McDade stated he would be amenable to that.

Mr. Kavanaugh asked whether the recreational area could be moved to the south side of the parcel. Mr. McDade stated that this was agreeable.

Mr. McDade stated that he was agreeable and that, when they were regrading for construction, that they would try to alleviate the drainage to the north.

Ms. Croft asked for any changes to the General Findings. Mr. Kavanaugh stated that the materials from the Zoning Board of Appeals concerning the minor residential street and the emails from Mr. Turisk to the Road Commission should be added to the General Findings. Mr. Freese added that this should be the actual minutes of the September 26, 2018 Zoning Board of Appeals meeting. Mr. Kavanaugh amended his addition to the General Findings to read the actual minutes of the Zoning Board of Appeals meeting.

**Motion** by Mr. Freese, seconded by Mr. Churchill, to approve the special use permit subject to the amended General Findings and the Findings of Fact under Section 18.7 subject to the following conditions:

1. The applicant shall install screening to obscure the loading zone from public streets per the requirements of Section 17.4.8.i. Screening shall be repaired and maintained as needed. Additional screening in the form of a double row of Austrian Pines shall be planted along an east/west line along the north property boundary to screen the home north from the parking lot and the restaurant in accordance with Section 17.18.
2. All outdoor lighting fixtures shall be fully shielded to minimize light trespass.
3. Submittal of building permit and soil and sedimentation pollution control permit applications prior to construction.
4. Compliance with all applicable District Health Department requirements.
5. Off street parking on the parcel along Gratiot Street shall be prohibited.
6. Accessible parking spaces to meet the provisions of the Americans with Disabilities Act of 1990 (ADA) standards shall be provided.
7. Any future expansions shall require submittal and approval of a Special Use amendment application per the standards set forth in Section 18.11.

8. Hours of operation shall be limited to 10:00am to 10:00pm during the period May 1<sup>st</sup> through October 31<sup>st</sup>.
9. A revised site plan shall be submitted showing screening required by condition 1 (above).
10. Construction shall be in compliance with Department of Building Safety requirements.
11. Outdoor entertainment shall be limited to the hours of 10:00am to 8:00pm on Fridays, Saturdays and Sundays with the exception that they may be extended for additional days to cover holidays on extended holiday weekends.
12. Recreational activity areas shall be relocated to the south side of the restaurant building and their location shown on the revised site plan.
13. All DNR and DEQ requirements shall be met.
14. Boat slips shall be limited to use by patrons of the restaurant and shall be vacated by 10:00pm with a rope placed across the mouth of the slips to prevent their use after hours.
15. Discussion to be held between applicant and homeowners to the north at the time site is graded.

Motion carried unanimously.

#### **UNFINISHED BUSINESS**

##### **Continued discussion regarding the County's Capital Improvement Plan.**

Mr. Turisk introduced material on the Capital Improvement Plan. Mr. Vassilakos, Chairman of the Airport Authority, and Mr. Painter presented handout material on airport projects. Mr. Painter stated the terminal building is in dire need of renovation. He explained the the funding of the projects that being 90% Federal, 5% State and 5% local. The source and use of funds was explained. It was explained that Federal funding establishes Federal ownership of the facility and if the airport ceased to operate, the City and the County would have to repay the Federal funds which had been provided. Airport operations were explained. Mr. Jazdyk questioned if the airport provides value commensurate with the cost. Discussion held on the value of services provided. It was also pointed out that the Straits Regional Ride is based out of the airport facility.

Mr. Lawson provided information on County projects covered on the Capital Improvement Plan. He provided information on the relocation of the fuel dispensing facility at the Marina. Mr. Jazdyk asked why gas is being sold at the Marina. Mr. Lawson explained that the Marina is part of the Harbor of Refuge System on the Great Lakes and that the gas sales is a large part of the revenue for the operation of the facility. Mr. Lawson provided information on the operation of the Marina. Mr. Jazdyk asked why the Marina is providing services which might be better provided by private firms.

Mr. Freese gave a status on the Solar Ordinance.

#### **NEW BUSINESS**

Mr. Kavanaugh stated the planning training was very worthwhile.

Mr. Freese made comments concerning the Zoning Board of Appeals findings on "minor residential streets" and said this sentence should be deleted from the regulation.

Discussion was held on several minor amendments that should be completed which has previously been agreed upon by the Planning Commission.

#### **STAFF REPORT**

Mr. Turisk went over information on amendments in progress and the priorities on them.

#### **PLANNING COMMISSION COMMENTS**

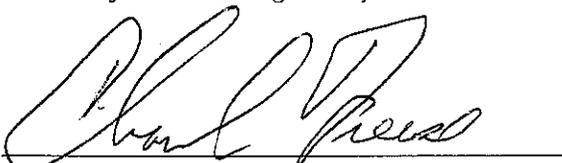
No comments.

#### **PUBLIC COMMENTS**

Mr. Muscott stated that he feels the priority should be continued to be concentrated on the solar ordinance.

#### **ADJOURN**

**Motion** by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 9:11pm.



Charles Freese  
Planning Commission Secretary



# CHEBOYGAN COUNTY PLANNING AND ZONING DEPARTMENT

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## MEMORANDUM

**Date:** January 31, 2019

**To:** Cheboygan County Planning Commission

**From:** Michael Turisk, Planning Director

**Re: Zoning Ordinance Amendment #150 (Solar Energy Systems)**

Commissioners,

As you are aware, on January 16, 2019 the Planning Commission held a public hearing regarding Amendment #150 (Solar Energy Systems). At that time, we took public comment and discussed several elements of the Amendment as drafted deemed in need of further consideration or refinement, including various screening, setback and financial assurances requirements. On February 6 we will continue this discussion under Unfinished Business in anticipation of Board action in the near future.

Copies of the latest iteration of Amendment #150 includes edits driven in part by the public hearing on January 16 and are attached hereto as Exhibits A and B. Staff has included a “clean” version (Exhibit A) as well as one with “track changes” (Exhibit B). Note that unlike the previous copies you received, this latest Amendment does *not* include language that regards administrative search warrants.

Feel free to contact me should you have questions prior to Wednesday’s meeting.

CHEBOYGAN COUNTY  
ZONING ORDINANCE AMENDMENT #150

AN ORDINANCE TO AMEND THE CHEBOYGAN COUNTY ZONING ORDINANCE NO. 200  
RELATIVE TO SOLAR ENERGY SYSTEMS

**THE COUNTY OF CHEBOYGAN, STATE OF MICHIGAN ORDAINS:**

**Section 1. Amendment of Section 2.2.**

Section 2.2. of the Cheboygan County Ordinance 200 is hereby amended to add the following definitions in their appropriate alphabetical locations which shall read in their entirety as follows:

**ELECTRICAL ENERGY STORAGE SYSTEM**

A system for storage of electrical energy (usually battery) for release and use in connection with a SES-PV System.

**GENERATION STATION STEP-UP TRANSFORMER FACILITY**

A security fenced compound including transformers, switching gear and all associated equipment necessary to accept low voltage, alternating current (AC) converted by inverters located within a Level 3 Solar Energy System and increase the voltage for high voltage transmission.

**INVERTER**

A device that converts direct current (DC) captured by solar panels into alternating current (AC).

**LEVEL 3 SES-PV FACILITY PERIMETER**

The boundary of the leased parcel(s) or any portion thereof upon which any solar panels, fencing, screening, equipment, support buildings, electrical storage system or service drives are located. The facility may be one contiguous unit or several non-contiguous parcels connected by an easement(s).

**SOLAR ENERGY SYSTEM - PHOTOVOLTAIC (SES-PV)**

All components and subsystems necessary to convert incident solar radiation into electric energy for immediate use on-site or for wholesale or retail sales off-site. Electrical energy storage systems may be integrated with these systems. Solar Energy Systems (SES-PV) are classified as follows:

- A. Level 1 SES-PV System – Any building mounted SES-PV System used to produce electrical energy primarily for on-site use in accordance with Section 17.30.6.A.
- B. Level 2 SES-PV System – Any ground mounted SES-PV System used to produce electrical energy for use primarily on-site in accordance with Section 17.30.6.B. Level 2 SES-PV Systems shall be subcategorized as follows:
  - i. Type I, Level 2 SES-PV System – Level 2 SES-PV Systems that include solar panel arrays larger than 1,333 square-feet, but smaller than 33,323 square-feet (0.765 acres).
  - ii. Type II, Level 2 SES-PV System – Level 2 SES-PV Systems that include solar panel arrays and their supporting equipment larger than 33,323 square-feet (0.765 acres).
- C. Level 3 SES-PV System – Any ground mounted SES-PV System used to produce electrical energy for wholesale distribution and use off-site in accordance with Section 17.30.6.C.

**SOLAR FARM**

A Level 3 SES-PV System, including the land upon which it is located, and related facilities such as road and fencing, generating electricity for wholesale distribution through the electric grid operated by a utility.

**SOLAR INTEGRATED SYSTEM**

Any solar energy system directly or indirectly connected to the commercial energy grid for the wholesale or retail sale of electric energy or on site self-consumption.

**Section 2. Amendment of Sections 4.2, 6.2, 7.2, 8.2, 9.2, 10.2, 12.2, 13.2, 13A.2, 13B.2, 13C.2, 13D.2, 13E.2 and 14.2**

Sections 4.2, 6.2, 7.2, 8.2, 9.2, 10.2, 12.2, 13.2, 13A.2, 13B.2, 13C.2, 13D.2, 13E.2 and 14.2 of the Cheboygan County Zoning Ordinance No. 200 are hereby amended to add new subsections 4.2.4, 6.2.34, 7.2.2, 8.2.2, 9.2.10, 10.2.5, 12.2.6, 13.2.11, 13A.2.13, 13B.2.8, 13C.2.12, 13D.2.5, 13E.2.4 and 14.2.13, which shall read in their entirety as follows:

- 4.2.4 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 6.2.34 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 7.2.2 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 8.2.2 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 9.2.10 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 10.2.5 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 12.2.6 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 13.2.11 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 13A.2.13 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 13B.2.8 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 13C.2.12 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 13D.2.5 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 13E.2.4 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 14.2.13 Level 1 SES-PV Systems in accordance with Section 17.30.6.A

**Section 3. Amendment of Sections 4.2, 6.2, 7.2., 8.2, 9.2, 10.2, 12.2, 13.2, 13A.2, 13B.2, 13C.2, 13D.2, 13E.2 and 14.2**

Sections 4.2, 6.2, 7.2, 8.2, 9.2, 10.2, 12.2, 13.2, 13A.2, 13B.2, 13C.2, 13D.2, 13E.2 and 14.2 of the Cheboygan County Zoning Ordinance No. 200 are hereby amended to add new subsections 4.2.5, 6.2.35, 7.2.3, 8.2.3, 9.2.17, 10.2.6, 12.2.7, 13.2.16, 13A.2.20, 13B.2.14, 13C.2.17, 13D.2.16, 13E.2.5 and 14.2.14 which shall read in their entirety as follows:

- 4.2.5 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 6.2.35 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 7.2.3 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 8.2.3 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 9.2.17 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 10.2.6 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 12.2.7 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13.2.16 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13A.2.20 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13B.2.14 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13C.2.17 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13D.2.16 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13E.2.5 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 14.2.14 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B

**Section 4. Amendment of Sections 4.3, 6.3, 7.3., 8.3, 9.3, 10.3, 12.3, 13.3, 13A.3, 13B.3, 13C.3, 13D.3, 13E.3 and 14.3**

Sections 4.3, 6.3, 7.3, 8.3, 9.3, 10.3, 12.3, 13.3, 13A.3, 13B.3, 13C.3, 13D.3, 13E.3 and 14.3 of the Cheboygan County Zoning Ordinance No. 200 are hereby amended to add new subsections 4.3.10, 6.3.18, 7.3.19, 8.3.18, 9.3.26, 10.3.3, 12.3.5, 13.3.11, 13A.3.9, 13B.3.6, 13C.3.10, 13D.3.8, 13E.3.9 and 14.3.14 which shall read in their entirety as follows:

- 4.3.10 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 6.3.18 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 7.3.19 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 8.3.18 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 9.3.26 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 10.3.3 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 12.3.5 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13.3.11 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13A.3.9 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13B.3.6 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13C.3.10 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13D.3.8 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13E.3.9 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 14.3.14 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B

**Section 5. Amendment of Sections 6.3, 7.3, 8.3, 9.3 and 10.3**

Sections 6.3, 7.3, 8.3, 9.3 and 10.3 of the Cheboygan County Zoning Ordinance No. 200 are hereby amended to add new subsections 6.3.19, 7.3.20, 8.3.19, 9.3.27 and 10.3.16 which shall read in their entirety as follows:

- 6.3.19 Level 3 SES-PV Systems in accordance with Section 17.30.6.C
- 7.3.20 Level 3 SES-PV Systems in accordance with Section 17.30.6.C
- 8.3.19 Level 3 SES-PV Systems in accordance with Section 17.30.6.C
- 9.3.27 Level 3 SES-PV Systems in accordance with Section 17.30.6.C
- 10.3.16 Level 3 SES-PV Systems in accordance with Section 17.30.6.C

**Section 6. Amendment of Article 11.**

Article 11 of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to add a new Section 11.7, which new section shall read in its entirety as follows:

**SECTION 11.7 SOLAR ENERGY SYSTEMS**

Solar Energy Systems shall be allowed in the Natural Rivers Protection District (P-NR) as provided in this Section.

- 11.7.1 A Level 1 SES-PV System shall be a permitted use in accordance with Section 17.30.6.A.
- 11.7.2 A Type I, Level 2 SES-PV System shall be a permitted use in accordance with Section 17.30.6.B.
- 11.7.3 A Type II, Level 2 SES-PV System shall be a use requiring a special use permit in accordance with Section 17.30.6.B.

**Section 7. Amendment of Article 17**

Article 17 of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to add Section 17.30., which shall read in its entirety as follows:

**SECTION 17.30 SOLAR ENERGY SYSTEMS – PHOTOVOLTAIC (SES-PV)**

**17.30.1 PURPOSE**

The purpose of this Section is to promote the development of renewable solar energy resources in Cheboygan County, and promote economic development, protect the health, safety and welfare and prevent adverse impacts on the agricultural, water, recreational, scenic and wildlife resources of the county while furthering the State of Michigan’s renewable energy goals. This Section will address Solar Energy Systems – Photovoltaic (SES-PV) for a range of applications, from strictly on-site utilization to wholesale distribution off-site, and will provide guidance on the planning, design, construction, operation and subsequent decommissioning of solar facilities at the end of their economic lives.

**17.30.2 GENERAL PROVISIONS APPLICABLE TO ALL SOLAR ENERGY SYSTEMS**

Code Compliance:

Any SES-PV Systems shall meet or exceed any applicable standards and regulations of the International Fire Code as amended, the National Electric Safety Code as amended and any other applicable regulations of the state and federal government with the authority to regulate solar energy systems in effect at the time of SES-PV System approval.

**17.30.3 APPLICATION REQUIREMENTS**

In addition to the application requirements of Article 18 and Article 20 of this Ordinance, an application for site plan review and/or special use permit for SES-PV Systems shall be required to furnish all of the following information unless expressly indicated otherwise.

- 1. Level 1 SES-PV Systems shall require the following:
  - A site plan review for any electrical storage system associated with the Level 1 SES-PV to include the type, size and location of all components in addition to the requirements of Section 20.10.
- 2. Type I, Level 2 SES-PV Systems shall require the following:
  - A. Site plan review per the requirements of Section 20.10. for any Type I, Level 2 SES-PV System that includes panels in the solar collection array less than 1,333 square-feet.
  - B. Site plan review for Type I, Level 2 SES-PV Systems that include panels in the solar collection array larger than 1,333 square-feet shall include the following information in addition to the requirements of Section 20.10.:
    - i. Information on the height, length and angle of panels in the solar collection array.
    - ii. The size, height, length, and location of solar arrays, parcel boundaries, setback lines and location of all buildings on site.
    - iii. The type, size, location and engineering specifications for any energy storage system proposed to be part of the Type I, Level 2 SES-PV System.
- 3. Type II, Level 2 SES-PV Systems shall require the following:
  - Special use permit per the requirements of Section 18.7. The application shall also include the following information:
    - i. All land/timber clearing proposed.
    - ii. The percentage of private farm land to be used.
    - iii. Access or service roads to be developed.
- 4. Level 3 SES-PV Systems shall require a special use permit in accordance with Section 18.7. and a site plan review in accordance with Section 20.10.

The following information shall be required in addition to that required in Section 18.7. and Section 20.10.:

- A. Project Description:  
Identify the Level 3 SES-PV Facility perimeter of the project development area, maximum rated power output, safety and noise characteristics of the individual components of the system, including inverters and transformers system including the transmission line/grid connection. Identify the project construction timeframe, project life, potential development phases and potential future expansions.
- B. Visual Impacts:  
Graphically demonstrate the visual impact of the project using digital and/or photographic renditions with consideration given to required setbacks and proposed landscaping.
- C. Waste:  
Identify any solid or hazardous waste generated by the project and provide a disposal plan for such waste.

- D. Lighting:  
Provide a plan showing all lighting within the facility. All lighting shall be in compliance with the standards of Sections 3.7.1 and 20.10h.
- E. Transportation Plan:  
Provide a proposed access plan to be utilized during construction and operational phases. The plan must show proposed project service road ingress and egress locations to adjacent roadways. Due to infrequent access following construction, it is not required to provide for paved curbs and gutters on access drives unless required by the State Department of Transportation or County Road Commission.
- F. Public Safety:  
Identify emergency and normal shutdown procedures, potential hazards to adjacent properties, public roadways and to the general public that may be created.
- G. Engineering and Installation:  
A preliminary design layout shall be provided to include standard drawings of the structural components of the solar farm and any electrical storage system in support of the Level 3 SES-PV System, including base and footings along with engineering data and calculations to demonstrate compliance with the applicable approval standards of this Ordinance. Drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.
- H. Drainage and Soil Erosion:  
i. The application shall show compliance with stormwater runoff and soil erosion control requirements and shall demonstrate how solar panels shall be positioned to prevent erosion.  
ii. The application shall also demonstrate how vegetative cover will be maintained under and around the solar panels.
- I. Impervious Surface/Stormwater:  
If more than 8,000 square-feet of impervious surface will be located on the site, the application shall require a drainage plan prepared by a registered civil engineer showing how stormwater runoff from hardstand areas will be managed and demonstrating that runoff from the site will not exceed the natural runoff rate or otherwise cause undue flooding. Material Safety Data Sheets (MSDA) shall be supplied for all hazardous materials to be used on site. Any necessary permits from outside agencies for off-site discharge or disposal shall be provided. Solar panels are not considered impervious.
- J. Safety Access:  
A security access plan shall be provided with the application for Level 3 SES-PV Systems. Lockboxes and keys shall be provided for any locked entrances for emergency personnel access to any locked fenced portions of the facility.
- K. County Review:  
Because of the ever-changing technical capabilities of photovoltaic solar panels and of new technology in general, the County Planning Commission will have the authority to review and consider alternatives in both the dimensional and physical requirements contained in this Section as part of the special land use review process.
- L. Telecommunications Infrastructure:  
Identify any electromagnetic fields which are generated that will interfere with electronic communication devices located outside the perimeter of the facility.
- M. Final Decommissioning and Reclamation Plan:  
A decommissioning and reclamation plan shall be developed and furnished to the Planning Commission describing actions to be taken at the end of the Level 3 SES-PV System's useful life or in the event of abandonment and termination of the project. The information shall include a description of how the following conditions shall be met:

- i. Removal of all non-utility owned equipment, including conduit buried at less than three (3) feet, structures, fencing, roads and foundations.
- ii. Restoration of the property to its original condition prior to construction of the Level 3 SES-PV System, subject to reasonable wear and tear. The owner of the leased parcel, however, may request the restored ground surface not to be revegetated, and may request that graveled areas, developed access roads, fences, vegetative screening and berms remain.
- iii. A timeframe for completion of decommissioning with specific timeframes specified for:
  - a) All above ground buildings, equipment and structures.
  - b) All below ground foundations and electrical cables.
  - c) Restoration of all ground surfaces not specifically exempt.
  - d) Furnishing a description and copy of any memorandum of lease or any other agreement(s) with the landowner(s) regarding decommissioning.
  - e) Providing a list of names, addresses and telephone numbers of persons or parties responsible for designating the contractor(s) responsible for decommissioning.
  - f) Providing a plan and schedule for updating the decommissioning plan every 5 (five) years.
  - g) Justification for the requested decommissioning time period requested must be sufficient to allow the Planning Commission to approve or revise the proposed decommissioning timeframe based on the material submitted.

#### **17.30.4 APPLICATION REVIEWED BY ZONING ADMINISTRATOR**

- A. The Zoning Administrator shall review the application and information submitted under Section 17.30.3 of this Ordinance within 15 business days to determine if all required information is provided. If the Zoning Administrator determines that the application is deficient, written notification shall be sent to the applicant identifying all deficiencies. Applications for Level 3 SES-PV Systems shall not proceed until all required information has been submitted.
- B. Once all the required information is submitted, the Zoning Administrator shall forward the application to the Planning Commission for review under the procedures of Section 17.30.3 and 18.5.

#### **17.30.5 PUBLIC HEARING COMMENTS**

Following receipt of a complete application for a Level 3 SES-PV System, the Planning Commission shall hold at least one (1) public hearing. Notice of the public hearing shall be provided per the requirements of Section 18.5. of this Ordinance.

#### **17.30.6 STANDARDS AND CONDITIONS**

##### **17.30.6.A Level 1 Solar Energy Systems - Photovoltaic (SES-PV):**

Level 1 SES-PV Systems can be placed on any building, and shall comply with all of the following:

- i. Permitted Districts: Level 1 SES-PV systems shall be permitted uses in all zoning districts.
- ii. Size: A Level 1 PV-SES PV System should be sized small enough that it does not exceed the customer's electrical needs on an annual basis, and can either be connected or not connected to the electrical grid operated by a commercial public utility provider.
- iii. Setbacks: Level 1 SES-PV Systems shall meet the setback requirements of the zoning district in which the building(s) on which they are mounted is located.
- iv. Height Restrictions: Except for buildings with a flat roof, the placement of a Level 1 SES-PV System shall not exceed the height limitations of the building on which the system is placed. A Level 1 SES-PV System installed on a building(s) with a flat roof shall not be higher than ten (10) feet above the flat roof.
- v. Placement on residential structures: solar collection panels of any type shall be placed in accordance with Michigan Residential Code (2015 MRC, dated February 8, 2016 as amended).

See Diagrams in Enclosure 1

### **17.30.6.B Level 2 Solar Energy Systems - Photovoltaic (SES-PV):**

Any ground-mounted solar energy photovoltaic system accessory to the primary or secondary use of any principal or accessory building(s) on a parcel or combination of contiguous parcels under the same ownership or control and producing electric power primarily for the use of the owner or tenant shall comply with all of the following requirements:

- A. Type I, Level 2 SES-PV Systems shall be permitted uses in all zoning districts.
- B. Type II, Level 2 SES-PV Systems (Systems that include solar panel arrays and their supporting equipment larger than 33,323 square-feet [0.765 acres]) shall be permitted in all zoning districts subject to special use permit approval.
- C. Location and Placement:  
Level 2 SES-PV Systems may be located on any lot or lot of record to service each building on that lot or lot of record. However, Level 2 SES-PV Systems shall not be placed between the front lot line and the principal structure on the lot or lot of record.
- D. Size:  
Level 2 SES-PV Systems should be sized small enough so that they do not exceed the customer's electrical needs on an annual basis, and can be connected or unconnected to the electrical grid operated by a commercial public utility provider.
- E. Setbacks:  
All Level 2 SES-PV Systems shall comply with all setback requirements of the zoning district in which located.
- F. Height Restriction:  
All Level 2 SES-PV Systems shall not exceed 16-feet in height when oriented at maximum tilt and as measured from the grade at the base of the system structures.
- G. Maximum Lot Coverage:
  - i. Level 2 SES-PV Systems on parcels of less than two (2) acres shall be limited to 50% of the area within the setback boundaries of the parcel after subtracting the areas covered by any building(s) on the parcel.
  - ii. Level 2 SES-PV Systems on parcels of two (2) acres or more with more than 1,333 square-feet of solar collection surface shall require a site plan review application in accordance with Section 20.10. If the solar array covers more than 33,323 square-feet (0.765 acres ), setbacks shall be as follows:
    - a) 100 feet from any dwelling not owned by the owner of the proposed Level 2 SES-PV System. This setback may be waived upon written request of the owner of the dwelling.
    - b) 50 feet from any adjacent parcel boundary not abutting a public or private road.
    - c) 50 feet from any public or private road right of way.
    - d) 500 feet from any major body of water as listed in Section 10.1.2.
    - e) 40 feet from any perennial stream, other than those listed in Section 10.1.2, shown as part of the Lake and Stream Protection (P-LS) zoning district.

### **17.30.6.C. Level 3 Solar Energy Systems - Photovoltaic (SES-PV):**

Level 3 SES-PV Systems shall be allowed in the Commercial Development (D-CM), Light Industrial Development (D-LI), General Industrial Development (D-GI), Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS) zoning districts. All Level 3 SES-PV Systems and associated electrical storage facilities shall comply with the following requirements:

- A. Setbacks:
  - i. All Level 3 SES-PV Systems along with their supporting structures, inverters and supporting buildings and equipment (excluding fencing, vegetative screening, berms, roads, underground

cables and generator system step-up transformer facilities) shall comply with the following setbacks:

- a) 100 feet from any dwelling. This setback may be waived or reduced if requested by the owner of the dwelling to be screened.
  - b) 50 feet from any Level 3 SES-PV Facility perimeter not abutting a private or public road unless requested to be waived by the property owner of the parcel to be screened.
  - c) 50 feet from any public or private road right of way..
  - d) 500 feet from any major body of water as listed in section 10.1.2.
  - e) 40 feet from any perennial stream, other than those listed in Section 10.1.2, shown as part of the P-LS zoning district. However, underground cables may be allowed if permitted by the Michigan Department of Environmental Quality (MDEQ) and the Army Corps of Engineers.
- ii. The generator system step-up transformer facility and any electrical storage facility shall meet the following setbacks:
- a) 500 feet from any dwelling.
  - b) 250 feet from any public or private road abutting the Level 3 SES-PV Facility perimeter of or bisecting the project.
  - c) 500 feet from the ordinary high water mark of any body of water listed in Section 10.1.2.

B. Vegetative Screening, Landscaping and Fencing:

- i. Level 3 SES-PV facilities abutting a public or private road or property line of an adjacent parcel shall comply with the following requirements:
  - a) Screening shall be required along any public or private road right(s)-of-way and opposite any dwelling on the same or adjacent parcels unless the owner of the dwelling to be screened requests in writing otherwise.
  - b) Evergreen coniferous trees or a combination of trees or berms shall be the minimum acceptable methods of screening wherever screening is required.
  - c) Minimum height at time of planting requirements for trees utilized for screening are as follows:
    1. Trees planted opposite a dwelling shall be a minimum of eight (8) feet tall at the time of planting. The tree height may be reduced by one (1) foot for each one (1) foot in the height of the berm on which it is planted, i.e., the total of the berm and tree height must be a minimum of eight (8) feet in height. If the road bed is elevated above the surrounding land surface at the location requiring screening, tree tops shall be at least eight (8) feet above the road surface.
    2. Tree height at the time of planting shall not be allowed to be reduced below four (4) feet in height regardless of berm height (see Figure 2).
    3. Trees planted for screening along road rights-of-way not opposite a dwelling shall require a minimum height at the time of planting of five (5) feet.
- ii. All tree plantings utilized for screening shall have setbacks of seven (7) feet from any property line, public or private road right(s)-of-way, utility or driveway easement(s) or the Level 3 SES-PV Facility perimeter. The seven (7) foot setback shall be measured at the time of planting from the center of the trunks of the trees used for screening.
- iii. Buried electrical cables within easements used to connect noncontiguous parcels with the Level 3 SES-PV facility, although an integral part of the facility, shall not require screening regardless of proximity to any dwelling.
- iv. All tree plantings or combination of trees or berms utilized for screening opposite a dwelling shall extend 100 feet in either direction from a point on the Level 3 SES-PV facility perimeter directly opposite the midpoint of the opposing dwelling.
- v. In the event a property line lies within the road right(s)-of-way, setbacks shall be measured from the edge of the road right(s)-of-way.

- vi. At road or driveway intersections, vegetative screening or combination of trees or berms or fences shall be established or maintained in a manner that does not obstruct the view of vehicular traffic in any direction. All right-of-way intersections shall be provided and maintained with a clear unobstructed vision corner extending not less than 20 feet from all right-of-way line intersections along said right-of-way line in the form of a triangle.
- vii. Natural vegetative screening is encouraged to be incorporated and maintained into the evergreen coniferous tree screening requirements per Sections 17.30.6.C.B and 17.30.6.C.D. However, natural vegetative screening shall be considered an addition to, and not a replacement for, the evergreen coniferous tree screening requirements.
- viii. All trees planted for screening shall be maintained in good condition for the life of the project. All dead, dying or diseased trees shall be replaced within one (1) year with trees in compliance with the standards set forth in this Section.
- ix. Fencing shall be no closer than one (1) foot from any property line, public road right(s)-of-way, utility or driveway easement(s) or the established Level 3 SES-PV Facility perimeter. Fencing is considered a security measure and cannot be considered as adequate screening for a Level 3 SES-PV System.

C. Noise:

No Level 3 SES-PV facility shall generate noise that, when measured at the Level 3 SES-PV Facility's perimeter, shall exceed 60 decibels (dBA). This standard does not apply during construction, routine equipment maintenance, repair or replacement, or at the time of decommissioning and reclamation.

D. Electrical Interconnection:

All electrical interconnections or distribution lines shall comply with all applicable codes and standards. Only existing above-ground transmission lines as well as above-ground transmission lines from the project generation station step-up transformer facility to the point of interconnection with transmission lines are permitted above ground. All other electrical interconnections shall be buried unless other requirements are determined at the time of building permit review

E. Height Restriction:

Level 3 SES-PV solar collection panels with their support structures shall not exceed 20 feet in height when oriented at maximum tilt. All other structures except those within the generation station step-up transformer facility and associated transmission towers shall be limited to thirty-five (35) feet. Equipment within the generation station step-up transformer facility shall be exempt from height restrictions.

F. Performance Guarantee:

In conjunction with the approval of a Level 3 SES-PV System the Planning Commission shall require the owner of the Level 3 SES-PV System to furnish the County with a performance guarantee in the form of a cash deposit, certified check, irrevocable letter of credit or surety bond acceptable to the County in an amount equal to the estimated costs associated with removal of the Level 3 SES-PV facility, including all solar panels, supporting structures, inverters, transformers and all associated equipment in accordance with the decommissioning and restoration plan in Section 17.30.3.3.m. This performance guarantee shall be furnished prior to the construction of the Level 3 SES-PV System and may be combined with any performance guarantee required to be given to the owner of the site.

G. Final Reclamation:

Any Level 3 SES-PV System not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of any Level 3 SES-PV System that is abandoned as provided herein shall be removed from the property upon receipt of notice from the Zoning Administrator of such abandonment, or the end of operation under the terms and conditions of this subsection. The timeframe for final reclamation shall be determined and approved by the Planning Commission and made a condition of approval of the special use permit.

Except as provided herein, the Level 3 SES-PV System shall be removed from the property by the owner of the Level 3 SES-PV System, including all structures, equipment, components, and subsystems, except underground cables buried at a depth greater than three (3) feet. Berms and trees, service roads and fencing, however, if requested by the owner of the property on which the Level 3 SES-PV System is located, shall be permitted to remain. Furthermore, the property owner may request that the property on which the Level 3 SES-PV System functioned remain unvegetated.

If the property owner on which the Level 3 SES-PV System is located obtains zoning approval for a Level 2 SES-PV System on the same property that incorporates a portion of a Level 3 SES-PV System, then that portion of the Level 3 SES-PV System incorporated into the approved Level 2 SES-PV System may remain as part of the approved Level 2 SES-PV System and the associated trees and berms allowed to remain. The owner of the Level 3 SES-PV System shall remediate the property to its condition immediately prior to the construction of the Level 3 SES-PV System, subject to reasonable wear and tear.

Failure to remove the Level 3 SES-PV System during the timeframe approved by the Planning Commission at a public hearing and made as a condition of approval of the special use permit shall be grounds for the County to remove the Level 3 SES-PV System as provided herein at the expense of the owner of the Level 3 SES-PV System.

**Section 8. Severability**

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

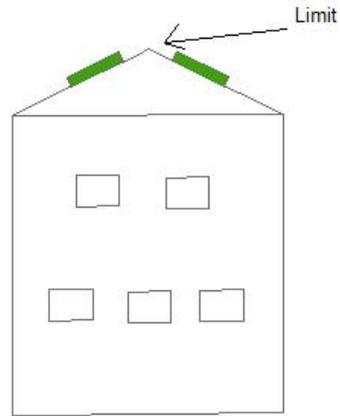
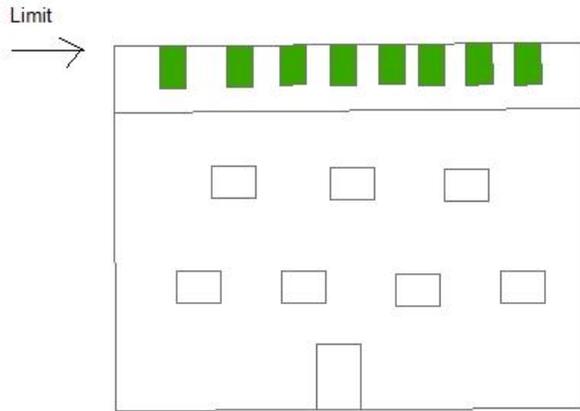
**Section 9. Effective Date**

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the County.

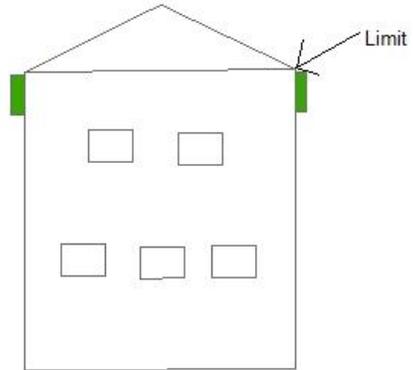
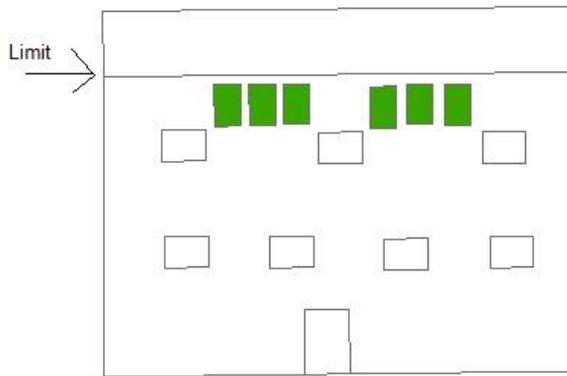
CHEBOYGAN COUNTY

By: \_\_\_\_\_  
John B. Wallace  
Its: Chairperson

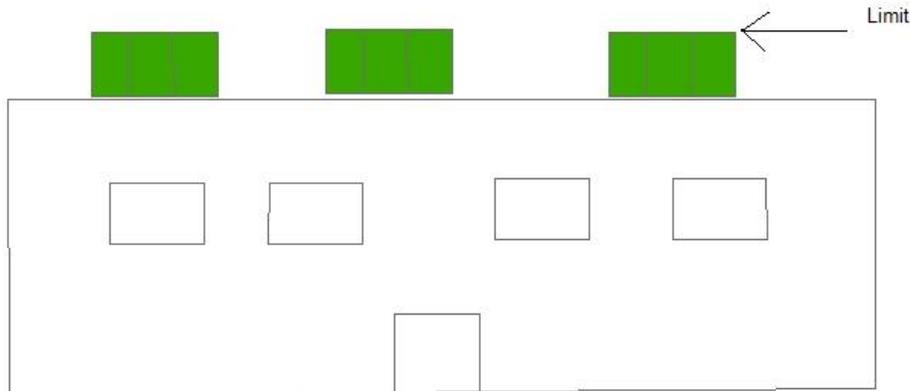
By: \_\_\_\_\_  
Karen L. Brewster  
Its: Clerk



**Roof mount not to exceed height of roof peak.**

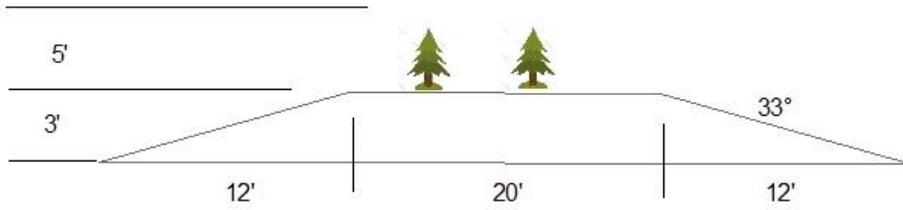


**Wall mount not to exceed wall height.**

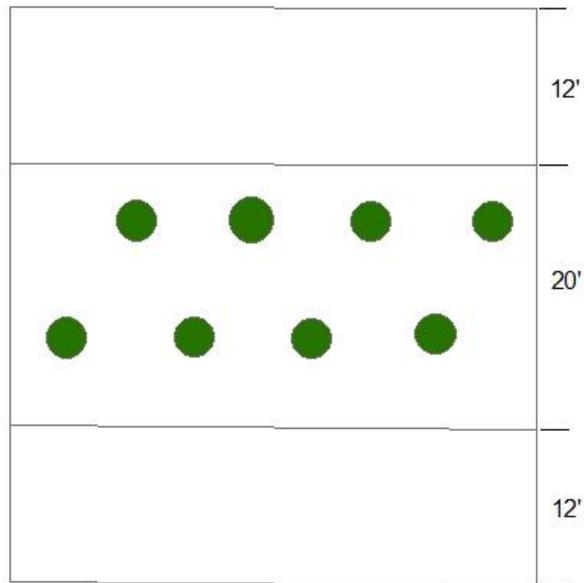


**Flat Roof Mount not to exceed 10 feet above the roof or 35' above ground level, whichever is less.**

**Enclosure 1**



Cross Section View



Top View

Enclosure 2

Data To Be Considered

This is not part of Amendment #150 to Cheboygan County Zoning Ordinance #200

1. 1 acre = 43,560 square-feet or approximately 208.71 feet x 208.71 feet.
2. 43,560 square-feet/acre x 15 watts/square-foot = 653,400 watts/acre.
3. 1 megawatt = 1,000 kilowatts.
4. A solar farm of 300 - 400 acres would produce approximately 196 - 261 MV.
5. 20 kW is a manufacturing standard for non-commercial systems. This equates to 1,333 square-feet of solar collection surface (36.3 feet x 36.3 feet).
6. 40kW requires 51.6 feet x 51.6 feet (2,663 square-feet) of solar panel surface.
7. 500KW requires 33,323 square-feet or 0.765 acres of solar panel surface.
8. 15 Watts/square-foot = expected output currently for PV.
9. Maximum solar efficiency output is 1000 watts per square-meter at the equator at high noon.
10. It is anticipated that electric car batteries will be repurposed into systems for electrical storage in the future.
11. Current car batteries have a storage capacity of 60-160kV and it is anticipated they will have a capacity of 200kV in the near future.
12. Michigan's Net Metering Program ended June 1, 2018, replaced with an avoided-cost tariff or "inflow/outflow" model. ([https://www.michigan.gov/documents/mpsc/U-18383\\_4-18-18\\_620947\\_7.pdf](https://www.michigan.gov/documents/mpsc/U-18383_4-18-18_620947_7.pdf))
13. Bodies of water listed in Section 10.1.2.:

Black River (Lower)  
Cheboygan River  
Indian River  
Sturgeon River  
Black Lake  
Burt Lake  
Devereaux Lake  
Douglas Lake  
Echo Lake  
Munro Lake

Mullett Lake  
Kleber Pond  
Lake Huron  
Lake Rondo  
Lancaster Lake  
Lance Lake  
Long Lake  
Paradise Lake  
Reswell Lake  
Roberts Lake

Silver Lake (Koehler  
Township)  
Silver Lake (Wilmot  
Township)  
Tower Pond  
Twin Lakes  
Vincent Lake  
Wildwood Lake  
Woldan Pond

CHEBOYGAN COUNTY  
ZONING ORDINANCE AMENDMENT #150

AN ORDINANCE TO AMEND THE CHEBOYGAN COUNTY ZONING ORDINANCE NO. 200  
RELATIVE TO SOLAR ENERGY SYSTEMS

**THE COUNTY OF CHEBOYGAN, STATE OF MICHIGAN ORDAINS:**

**Section 1. Amendment of Section 2.2.**

Section 2.2. of the Cheboygan County Ordinance 200 is hereby amended to add the following definitions in their appropriate alphabetical locations which shall read in their entirety as follows:

**ELECTRICAL ENERGY STORAGE SYSTEM**

A system for storage of electrical energy (usually battery) for release and use ~~at times of little or no solar energy generation when utilized~~ in connection with a SES-PV System.

**GENERATION STATION STEP-UP TRANSFORMER FACILITY**

A security fenced compound including transformers, switching gear and all associated equipment necessary to accept low voltage, alternating current (AC) converted by inverters located within a Level 3 Solar Energy System and increase the voltage ~~for 138KV, 230KV or 345KV for~~ high voltage transmission.

**INVERTER**

A device that converts direct current (DC) captured by solar panels into alternating current (AC).

**LEVEL 3 SES-PV FACILITY PERIMETER**

The boundary of the leased parcel(s) or any portion thereof upon which any solar panels, fencing, screening, equipment, support buildings, electrical storage system or service drives are located. The facility may be one contiguous unit or several non-contiguous parcels connected by an easement(s).

**SOLAR ENERGY SYSTEM - PHOTOVOLTAIC (SES-PV)**

All components and subsystems necessary to convert incident solar radiation into electric energy for immediate use on-site or for wholesale or retail sales off-site. Electrical energy storage systems may be integrated with these systems. Solar Energy Systems (SES-PV) are classified as follows:

- A. Level 1 SES-PV System – Any building mounted SES-PV System used to produce electrical energy primarily for on-site use in accordance with Section 17.30.6.A.
- B. Level 2 SES-PV System – Any ground mounted SES-PV System used to produce electrical energy for use primarily on-site in accordance with Section 17.30.6.B. Level 2 SES-PV Systems shall be subcategorized as follows:
  - i. Type I, Level 2 SES-PV System – Level 2 SES-PV Systems that include solar panel arrays larger than 1,333 square-feet, but smaller than 33,323 square-feet (0.765 acres).
  - ii. Type II, Level 2 SES-PV System – Level 2 SES-PV Systems that include solar panel arrays and their supporting equipment larger than 33,323 square-feet (0.765 acres).
- C. Level 3 SES-PV System – Any ground mounted SES-PV System used to produce electrical energy for wholesale distribution and use off-site in accordance with Section 17.30.6.C.

**SOLAR FARM**

A Level 3 SES-PV System, including the land upon which it is located, ~~generating electricity for wholesale distribution off-site through a generation station step-up transformer facility to high-voltage transmission lines. A facility of this type is large-scale, typically measuring hundreds of acres and related facilities such as road and fencing, generating electricity for wholesale distribution through the electric grid operated by a utility.~~

**SOLAR INTEGRATED SYSTEM**

Any solar energy system directly or indirectly connected to the commercial energy grid for the wholesale or retail sale of electric energy or on site self-consumption.

**Section 2. Amendment of Sections 4.2, 6.2, 7.2, 8.2, 9.2, 10.2, 12.2, 13.2, 13A.2, 13B.2, 13C.2, 13D.2, 13E.2 and 14.2**

Sections 4.2, 6.2, 7.2, 8.2, 9.2, 10.2, 12.2, 13.2, 13A.2, 13B.2, 13C.2, 13D.2, 13E.2 and 14.2 of the Cheboygan County Zoning Ordinance No. 200 are hereby amended to add new subsections 4.2.4, 6.2.34, 7.2.2, 8.2.2, 9.2.10, 10.2.5, 12.2.6, 13.2.11, 13A.2.13, 13B.2.8, 13C.2.12, 13D.2.5, 13E.2.4 and 14.2.13, which shall read in their entirety as follows:

- 4.2.4 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 6.2.34 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 7.2.2 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 8.2.2 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 9.2.10 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 10.2.5 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 12.2.6 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 13.2.11 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 13A.2.13 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 13B.2.8 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 13C.2.12 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 13D.2.5 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 13E.2.4 Level 1 SES-PV Systems in accordance with Section 17.30.6.A
- 14.2.13 Level 1 SES-PV Systems in accordance with Section 17.30.6.A

**Section 3. Amendment of Sections 4.2, 6.2, 7.2., 8.2, 9.2, 10.2, 12.2, 13.2, 13A.2, 13B.2, 13C.2, 13D.2, 13E.2 and 14.2**

Sections 4.2, 6.2, 7.2, 8.2, 9.2, 10.2, 12.2, 13.2, 13A.2, 13B.2, 13C.2, 13D.2, 13E.2 and 14.2 of the Cheboygan County Zoning Ordinance No. 200 are hereby amended to add new subsections 4.2.5, 6.2.35, 7.2.3, 8.2.3, 9.2.17, 10.2.6, 12.2.7, 13.2.16, 13A.2.20, 13B.2.14, 13C.2.17, 13D.2.16, 13E.2.5 and 14.2.14 which shall read in their entirety as follows:

- 4.2.5 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 6.2.35 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 7.2.3 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 8.2.3 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 9.2.17 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 10.2.6 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 12.2.7 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13.2.16 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13A.2.20 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13B.2.14 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13C.2.17 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13D.2.16 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13E.2.5 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 14.2.14 Type I, Level 2 SES-PV Systems in accordance with Section 17.30.6.B

**Section 4. Amendment of Sections 4.3, 6.3, 7.3., 8.3, 9.3, 10.3, 12.3, 13.3, 13A.3, 13B.3, 13C.3, 13D.3, 13E.3 and 14.3**

Sections 4.3, 6.3, 7.3, 8.3, 9.3, 10.3, 12.3, 13.3, 13A.3, 13B.3, 13C.3, 13D.3, 13E.3 and 14.3 of the Cheboygan County Zoning Ordinance No. 200 are hereby amended to add new subsections 4.3.10, 6.3.18, 7.3.19, 8.3.18, 9.3.26, 10.3.3, 12.3.5, 13.3.11, 13A.3.9, 13B.3.6, 13C.3.10, 13D.3.8, 13E.3.9 and 14.3.14 which shall read in their entirety as follows:

- 4.3.10 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 6.3.18 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 7.3.19 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 8.3.18 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 9.3.26 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 10.3.3 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 12.3.5 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13.3.11 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13A.3.9 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13B.3.6 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13C.3.10 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13D.3.8 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 13E.3.9 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B
- 14.3.14 Type II, Level 2 SES-PV Systems in accordance with Section 17.30.6.B

**Section 5. Amendment of Sections 6.3, 7.3, 8.3, 9.3 and 10.3**

Sections 6.3, 7.3, 8.3, 9.3 and 10.3 of the Cheboygan County Zoning Ordinance No. 200 are hereby amended to add new subsections 6.3.19, 7.3.20, 8.3.19, 9.3.27 and 10.3.16 which shall read in their entirety as follows:

- 6.3.19 Level 3 SES-PV Systems in accordance with Section 17.30.6.C
- 7.3.20 Level 3 SES-PV Systems in accordance with Section 17.30.6.C
- 8.3.19 Level 3 SES-PV Systems in accordance with Section 17.30.6.C
- 9.3.27 Level 3 SES-PV Systems in accordance with Section 17.30.6.C
- 10.3.16 Level 3 SES-PV Systems in accordance with Section 17.30.6.C

**Section 6. Amendment of Article 11.**

Article 11 of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to add a new Section 11.7, which new section shall read in its entirety as follows:

**SECTION 11.7 SOLAR ENERGY SYSTEMS**

Solar Energy Systems shall be allowed in the Natural Rivers Protection District (P-NR) as provided in this Section.

- 11.7.1 A Level 1 SES-PV System shall be a permitted use in accordance with Section 17.30.6.A.
- 11.7.2 A Type I, Level 2 SES-PV System shall be a permitted use in accordance with Section 17.30.6.B.
- 11.7.3 A Type II, Level 2 SES-PV System shall be a use requiring a special use permit in accordance with Section 17.30.6.B.

**Section 7. Amendment of Article 17**

Article 17 of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to add Section 17.30., which shall read in its entirety as follows:

**SECTION 17.30 SOLAR ENERGY SYSTEMS – PHOTOVOLTAIC (SES-PV)**

**17.30.1 PURPOSE**

The purpose of this Section is to promote the development of renewable solar energy resources in Cheboygan County, and promote economic development, protect the health, safety and welfare and prevent adverse impacts on the agricultural, water, recreational, scenic and wildlife resources of the county while furthering the State of Michigan’s renewable energy goals. This Section will address Solar Energy Systems – Photovoltaic (SES-PV) for a range of applications, from strictly on-site utilization to wholesale distribution off-site, and will provide guidance on the planning, design, construction, operation and subsequent decommissioning of solar facilities at the end of their economic lives.

## 17.30.2 GENERAL PROVISIONS APPLICABLE TO ALL SOLAR ENERGY SYSTEMS

Code Compliance:

Any SES-PV Systems shall meet or exceed any applicable standards and regulations of the International Fire Code as amended, the National Electric Safety Code as amended and any other applicable regulations of the state and federal government with the authority to regulate solar energy systems in effect at the time of SES-PV System approval.

## 17.30.3 APPLICATION REQUIREMENTS

In addition to the application requirements of Article 18 and Article 20 of this Ordinance, an application for site plan review and/or special use permit for SES-PV Systems shall be required to furnish all of the following information unless expressly indicated otherwise.

1. Level 1 SES-PV Systems shall require the following:

A site plan review for any electrical storage system associated with the Level 1 SES-PV to include the type, size and location of all components in addition to the requirements of Section 20.10.

2. Type I, Level 2 SES-PV Systems shall require the following:

A. Site plan review per the requirements of Section 20.10. for any Type I, Level 2 SES-PV System that includes panels in the solar collection array less than 1,333 square-feet.

B. Site plan review for Type I, Level 2 SES-PV Systems that include panels in the solar collection array larger than 1,333 square-feet shall include the following information in addition to the requirements of Section 20.10.:

- i. Information on the height, length and angle of panels in the solar collection array.
- ii. The size, height, length, and location of solar arrays, parcel boundaries, setback lines and location of all buildings on site.
- iii. The type, size, location and engineering specifications for any energy storage system proposed to be part of the Type I, Level 2 SES-PV System.

~~4.3.~~ Type II, Level 2 SES-PV Systems shall require the following:

Special use permit per the requirements of Section 18.7. The application shall also include the following information:

- i. All land/timber clearing proposed.
- ii. The percentage of private farm land to be used.
- iii. Access or service roads to be developed.

4. Level 3 SES-PV Systems shall require a special use permit in accordance with Section 18.7. and a site plan review in accordance with Section 20.10.

The following information shall be required in addition to that required in Section 18.7. and Section 20.10.:

A. Project Description:

Identify the Level 3 SES-PV Facility perimeter of the project development area, size, maximum rated power output, performance, safety and noise characteristics of the individual components of the system, including inverters and transformers system including the transmission line/grid connection. Identify the project construction timeframe, project life, potential development phases and potential future expansions.

B. Visual Impacts:

Graphically demonstrate the visual impact of the project using digital and/or photographic renditions with consideration given to required setbacks and proposed landscaping.

C. Waste:

Identify any solid or hazardous waste generated by the project and provide a disposal plan for such waste.

- D. Lighting:  
Provide a plan showing all lighting within the facility. All lighting shall be in compliance with the standards of Sections 3.7.1 and 20.10h.
- E. Transportation Plan:  
Provide a proposed access plan to be utilized during construction and operational phases. The plan must show proposed project service road ingress and egress locations to adjacent roadways ~~and the layout of the facility service road system~~. Due to infrequent access following construction, it is not required to provide for paved curbs and gutters on access drives unless required by the State Department of Transportation or County Road Commission.
- F. Public Safety:  
Identify emergency and normal shutdown procedures, potential hazards to adjacent properties, public roadways and to the general public that may be created.
- G. Engineering and Installation:  
~~A preliminary design layout Detailed engineering drawings~~ shall be provided to include standard drawings of the structural components of the solar farm and any electrical storage system in support of the Level 3 SES-PV System, including base and footings along with engineering data and calculations to demonstrate compliance with the applicable approval standards of this Ordinance. ~~structural design provisions of building code at the time of building permit submittal~~. Drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.
- H. Drainage and Soil Erosion:  
  - i. ~~Show how panels shall be positioned to allow water runoff without channeling it in such a way as to cause erosion Show prior to building/zoning permit application approval The application shall show compliance with stormwater runoff and soil erosion control requirements and shall demonstrate how solar panels shall be positioned to prevent allow water runoff without channeling it in such a way as to cause erosion in.~~
  - i. ~~The application shall also demonstrate conformance with stormwater runoff and soil erosion control requirements.~~
  - ii. ~~S~~ how vegetative cover will be ~~provided and~~ maintained under and around the solar panels.
- ~~B~~.I. Impervious Surface/Stormwater:  
If more than 8,000 square-feet of impervious surface will be located on the site, the application shall ~~include~~ require a drainage plan prepared by a registered civil engineer showing how stormwater runoff from hardstand areas will be managed and demonstrating that runoff from the site will not exceed the natural runoff rate or otherwise cause undue flooding. Material Safety Data Sheets (MSDA) shall be supplied for all hazardous materials to be used on site. Any necessary permits from outside agencies for off-site discharge or disposal shall be provided. Solar panels are not considered impervious.
- ~~C~~.J. Safety ~~a~~ Access:  
~~AA~~ security access plan shall be provided with the application proposed and reviewed/approved for Level 3 SES-PV Systems. ~~Lockboxes and keys shall be provided for any locked entrances for emergency personnel access to any locked fenced portions of the facility.~~
- K. County Review:  
Because of the ever-changing technical capabilities of photovoltaic solar panels and of new technology in general, the County Planning Commission will have the authority to review and consider alternatives in both the dimensional and physical requirements contained in this Section as part of the special land use review process.
- ~~A~~.L. Telecommunications Infrastructure:  
Identify any electromagnetic fields which are generated that will interfere with electronic communication devices located outside the perimeter of the facility.

B.M. Final Decommissioning and Reclamation Plan:

A decommissioning and reclamation plan shall be developed and furnished to the Planning Commission describing actions to be taken at the end of the Level 3 SES-PV System's useful life or in the event of abandonment and termination of the project. The information shall include a description of how the following conditions shall be met:

- i. Removal of all non-utility owned equipment, including conduit buried at less than three (3) feet, structures, fencing, roads and foundations.
- ii. Restoration of the property to its original condition prior to construction of the Level 3 SES-PV System, subject to reasonable wear and tear. The owner of the leased parcel, however, may request the restored ground surface not to be revegetated, and may request that graveled areas, developed access roads, fences, vegetative screening and berms remain.
- iii. A timeframe for completion of decommissioning with specific timeframes specified for:
  - a) All above ground buildings, equipment and structures.
  - b) All below ground foundations and electrical cables.
  - c) Restoration of all ground surfaces not specifically exempt.
  - d) Furnishing a description and copy of any memorandum of lease or any other agreement(s) with the landowner(s) regarding decommissioning.
  - e) Providing a list of names, addresses and telephone numbers of persons or parties responsible for designating the contractor(s) responsible for decommissioning.
  - f) Providing a plan and schedule for updating the decommissioning plan every 5 (five) years.
  - g) Justification for the requested decommissioning time period requested must be sufficient to allow the Planning Commission to approve or revise the proposed decommissioning timeframe based on the material submitted.

**17.30.4 APPLICATION REVIEWED BY ZONING ADMINISTRATOR**

- A. ~~1.~~ The Zoning Administrator shall review the application and information submitted under Section 17.30.3 of this Ordinance within 15 work-business days to determine if all required information is provided. If the Zoning Administrator determines that the application is deficient, written notification shall be sent to the applicant identifying all deficiencies. Applications for Level 3 SES-PV Systems shall not proceed until all required information has been submitted.
- B. ~~2.~~ Once all the required information is submitted, the Zoning Administrator shall forward the application to the Planning Commission for review under the procedures of Section 17.30.3 and 18.5.

**17.30.5 PUBLIC HEARING COMMENTS**

Following receipt of a complete application for a Level 3 SES-PV System, the Planning Commission shall hold at least one (1) public hearing. Notice of the public hearing shall be provided per the requirements of Section 18.5. of this Ordinance.

**17.30.6 STANDARDS AND CONDITIONS**

**17.30.6.A Level 1 Solar Energy Systems - Photovoltaic (SES-PV):**

~~A Level 1 SES-PV Systems -can be placed on any building.~~

~~All Level 1 SES-PV Systems, and~~ shall comply with all of the following:

- i. Permitted Districts: Level 1 SES-PV systems shall be permitted uses in all zoning districts.
- ~~B.A. A Level 1 SES-PV System can be placed on any building.~~
- ~~iii.~~ii. Size: A Level 1 PV-SES PV System should be sized small enough that it does not exceed the customer's electrical needs on an annual basis, and can either be connected or not connected to the electrical grid operated by a commercial public utility provider.
- ~~iv.~~iii. Setbacks: Level 1 SES-PV Systems shall meet the setback requirements of the zoning district in which the building(s) on which they are mounted is located.

- v-iv. Height Restrictions: Except for buildings with a flat roof, the placement of a Level 1 SES-PV System shall not exceed the height limitations of the building on which the system is placed. A Level 1 SES-PV System installed on a building(s) with a flat roof shall not be higher than ten (10) feet above the flat roof.
- v-v. Placement on residential structures: solar collection panels of any type shall be placed in accordance with Michigan Residential Code (2015 MRC, dated February 8, 2016 as amended).

See Diagrams in Enclosure 1

### **17.30.6.B Level 2 Solar Energy Systems - Photovoltaic (SES-PV):**

Any ground-mounted solar energy photovoltaic system accessory to the primary or secondary use of any principal or accessory building(s) on a parcel or combination of contiguous parcels under the same ownership or control and producing electric power primarily for the use of the owner or tenant shall comply with all of the following requirements:

- A. Type I, Level 2 SES-PV Systems shall be permitted uses in all zoning districts.
- B. Type II, Level 2 SES-PV Systems (Systems that include solar panel arrays and their supporting equipment larger than 33,323 square-feet [0.765 acres]) shall be permitted in all zoning districts subject to special use permit approval.
- C. Location and Placement:  
Level 2 SES-PV Systems may be located on any lot or lot of record to service each building on that lot or lot of record. However, Level 2 SES-PV Systems shall not be placed between the front lot line and the principal structure on the lot or lot of record.
- D. Size:  
Level 2 SES-PV Systems should be sized small enough so that they do not exceed the customer's electrical needs on an annual basis, and can be connected or unconnected to the electrical grid operated by a commercial public utility provider.
- E. Setbacks:  
All Level 2 SES-PV Systems shall comply with all setback requirements of the zoning district in which located.
- F. Height Restriction:  
All Level 2 SES-PV Systems shall not exceed 16-feet in height when oriented at maximum tilt and as measured from the grade at the base of the system structures.
- G. Maximum Lot Coverage:
  - i. Level 2 SES-PV Systems on parcels of less than two (2) acres shall be limited to 50% of the area within the setback boundaries of the parcel after subtracting the areas covered by any building(s) on the parcel.
  - ii. Level 2 SES-PV Systems on parcels of two (2) acres or more with more than 1,333 square-feet of solar collection surface shall require a site plan review application in accordance with Section 20.10. If the solar array covers more than 33,323 square-feet (0.765 acres ), setbacks shall be as follows:
    - a) 100 feet from any dwelling not owned by the owner of the proposed Level 2 SES-PV System. This setback may be waived upon written request of the owner of the dwelling.
    - b) 50 feet from any adjacent parcel boundary not abutting a public or private road.
    - c) ~~80~~ 50 feet from any public or private road right of way.
    - d) 500 feet from any major body of water as listed in Section 10.1.2.
    - e) ~~40~~ 40 feet from any perennial stream, other than those listed in Section 10.1.2, shown as part of the Lake and Stream Protection (P-LS) zoning district.

### **17.30.6.C. Level 3 Solar Energy Systems - Photovoltaic (SES-PV):**

Level 3 SES-PV Systems shall be allowed in the Commercial Development (D-CM), Light Industrial Development (D-LI), General Industrial Development (D-GI), Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS) zoning districts. All Level 3 SES-PV Systems and associated electrical storage facilities shall comply with the following requirements:

A. Setbacks:

i. All Level 3 SES-PV Systems along with their supporting structures, inverters and supporting buildings and equipment (excluding fencing, vegetative screening, berms, roads, underground cables and generator system step-up transformer facilities) shall comply with the following setbacks:

- a) 100 feet from any dwelling. This setback may be waived or reduced if requested by the owner of the dwelling to be screened.
- b) 50 feet from any Level 3 SES-PV Facility perimeter not abutting a private or public road unless requested to be waived by the property owner of the parcel to be screened.
- c) 80-50 feet from any public or private road right of way. Underground cables, however, are exempt from this setback requirement if necessary for road crossings.
- d) 500 feet from any major body of water as listed in section 10.1.2.
- e) 40 feet from any perennial stream, other than those listed in Section 10.1.2, shown as part of the P-LS zoning district. However, underground cables may be allowed if permitted by the Michigan Department of Environmental Quality (MDEQ) and the Army Corps of Engineers.

ii. The generator system step-up transformer facility and any electrical storage facility shall meet the following setbacks:

- a) 500 feet from any dwelling.
- b) 250 feet from any public or private road abutting the Level 3 SES-PV Facility perimeter of or bisecting the project.
- e)c) 500 feet from the ordinary high water mark of any body of water listed in Section 10.1.2.

F.B. Vegetative Screening, Landscaping and Fencing Setbacks:

i. Level 3 SES-PV facilities abutting a public or private road or property line of an adjacent parcel shall comply with the following requirements:

- a) Screening shall be required along any public or private road right(s)-of-way and opposite any dwelling on the same or adjacent parcels unless the owner of the dwelling to be screened requests in writing otherwise.
- b) Evergreen coniferous trees or a combination of trees or berms shall be the minimum acceptable methods of screening wherever screening is required.
- c) Minimum height at time of planting requirements for trees utilized for screening are as follows:
  1. Trees planted opposite a dwelling shall be a minimum of eight (8) feet tall at the time of planting. The tree height may be reduced by one (1) foot for each one (1) foot in the height of the berm on which it is planted, i.e., the total of the berm and tree height must be a minimum of eight (8) feet in height. If the road bed is elevated above the surrounding land surface at the location requiring screening, tree tops shall be at least eight (8) feet above the road surface.
  2. Tree height at the time of planting shall not be allowed to be reduced below four (4) feet in height regardless of berm height (see Figure 2).
  3. Trees planted for screening along road rights-of-way not opposite a dwelling shall require a minimum height at the time of planting of five (5) feet.

~~i. Fencing shall be no closer than one (1) foot from any property line, public road right(s) of way, utility or driveway easement(s) or the established Level 3 SES-PV Facility perimeter.~~

- ~~ii. In the event a property line lies within the road right(s) of way, setbacks shall be measured from the edge of the road right(s) of way.~~
- iii. All tree plantings utilized for screening shall have setbacks of seven (7) feet from any property line, public or private road right(s)-of-way, utility or driveway easement(s) or the Level 3 SES-PV Facility perimeter. The seven (7) foot setback shall be measured at the time of planting from the center of the trunks of the trees used for screening.
- ~~ii.~~
- iv. Buried electrical cables within easements used to connect noncontiguous parcels with the Level 3 SES-PV facility, although an integral part of the facility, shall not require screening regardless of proximity to any dwelling.
- ~~iii.~~
- iv. All tree plantings and/or berms or combination of trees or berms utilized for screening opposite a dwelling shall extend 100 feet in either direction from a point on the Level 3 SES-PV facility perimeter directly opposite the midpoint of the opposing dwelling.
- v. In the event a property line lies within the road right(s)-of-way, setbacks shall be measured from the edge of the road right(s)-of-way.
- ~~v.~~
- vi. At road or driveway intersections, vegetative screening and/or berms or combination of trees or berms or fences shall be established or maintained in a manner that does not obstruct the view of vehicular traffic in any direction. All right-of-way intersections shall be provided and maintained with a clear unobstructed vision corner extending not less than 20 feet from all right-of-way line intersections along said right-of-way line in the form of a triangle.
- vii. Natural vegetative screening is encouraged to be incorporated and maintained into the evergreen coniferous tree screening requirements per Sections 17.30.6.C.B and 17.30.6.C.D. However, natural vegetative screening shall be considered an addition to, and not a replacement for, the evergreen coniferous tree screening requirements.
- viii. All trees planted for screening shall be maintained in good condition for the life of the project. All dead, dying or diseased trees shall be replaced within one (1) year with trees in compliance with the standards set forth in this Section.
- ix. Fencing shall be no closer than one (1) foot from any property line, public road right(s)-of-way, utility or driveway easement(s) or the established Level 3 SES-PV Facility perimeter. Fencing is considered a security measure and cannot be considered as adequate screening for a Level 3 SES-PV System.

~~The generator system step-up transformer facility and any electrical storage facility shall meet the following setbacks:~~

~~500 feet from any dwelling.~~

~~250 feet from any public or private road abutting the Level 3 SES-PV Facility perimeter or bisecting the project.~~

~~500 feet from the ordinary high water mark of any body of water listed in Section 10.1.2.~~

~~Natural vegetative screening encouraged to be maintained and incorporated into the evergreen coniferous tree screening requirements of section 17.30.6.C.B and 17.30.6.C.D, however natural vegetative screening shall be considered an addition to, and not a replacement for the evergreen coniferous tree screening requirements. Fencing shall be no closer than one (1) foot from any property line, public road right(s) of way, utility or driveway easement(s) or the established Level 3 SES-PV Facility perimeter.~~

C. Noise:

No Level 3 SES-PV facility shall generate noise that, when measured at the Level 3 SES-PV Facility's perimeter, shall exceed 60 decibels (dBA). This standard does not apply during construction, routine equipment maintenance, repair or replacement, or at the time of decommissioning and reclamation.

D. Landscaping:

~~Level 3 SES-PV facilities abutting a public or private road or property line of an adjacent parcel shall comply with the following requirements:~~

- ~~i. Evergreen coniferous trees and or berms or combination of trees or berms shall be the only minimum acceptable methods of screening wherever screening is required. Fencing is considered a security measure and cannot be considered as adequate screening for a Level 3 SES-PV System.~~
- ~~ii. Screening shall be required along any public or private road right(s) of way and opposite any dwelling on the same or adjacent parcels unless the owner of the dwelling to be screened requests in writing otherwise.~~
- ~~iii. Minimum height at time of planting requirements for trees utilized for screening are as follows:
 
  - ~~a. Trees planted opposite a dwelling shall be a minimum of eight (8) feet tall at the time of planting. The tree height may be reduced by one (1) foot for each one (1) foot in the height of the berm on which it is planted, i.e., the total of the berm and tree height must be a minimum of eight (8) feet in height. If the road bed is elevated above the surrounding land surface in the location requiring screening, the tree tops shall be at least eight (8) feet above the road surface. The tree height at the time of planting shall not be allowed to be reduced below four (4) feet in height regardless of berm height (see Figure 2).~~
  - ~~— Trees planted for screening along road rights of way not opposite a dwelling as in a) above, shall have a minimum height at the time of planting of five (5) feet, and shall~~
  - ~~b. All trees planted for screening shall be maintained in good condition for the life of the project. All dead, dying or diseased trees shall be replaced within one (1) year with trees in compliance with the standards set forth in this Section.~~~~

~~G.D.~~ Electrical Interconnection:

All electrical interconnections or distribution lines shall comply with all applicable codes and standards ~~for commercial large scale electrical utilities~~. Only existing above-ground transmission lines as well as above-ground transmission lines from the project generation station step-up transformer facility to the point of interconnection with ~~high voltage~~ transmission lines are permitted above ground. All other electrical interconnections shall be buried unless other requirements are determined at the time of building permit review.

~~D.E.~~ Height Restriction:

Level 3 SES-PV solar collection panels with their support structures shall not exceed 20 feet in height when oriented at maximum tilt. All other structures except those within the generation station step-up transformer facility and associated transmission towers shall be limited to thirty-five (35) feet. Equipment within the generation station step-up transformer facility shall be exempt from height restrictions.

~~E.F.~~ Performance Guarantee:

In conjunction with the approval of a Level 3 SES-PV System the Planning Commission shall require the owner of the Level 3 SES-PV System to furnish the County with a performance guarantee in the form of a cash deposit, certified check, irrevocable letter of credit or surety bond acceptable to the County in an amount equal to the estimated costs associated with removal of the Level 3 SES-PV facility, including all solar panels, supporting structures, inverters, transformers and all associated equipment in accordance with the decommissioning and restoration plan in Section 17.30.3.3.m. This performance guarantee shall be furnished prior to the construction of the Level 3 SES-PV System and may be combined with any performance guarantee required to be given to the owner of the site.

~~F.G.~~ Final Reclamation:

Any Level 3 SES-PV System not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of any Level 3 SES-PV System that is abandoned as provided herein shall be removed from the property upon receipt of notice from the Zoning Administrator of such abandonment, or the end of operation under the terms and conditions of this subsection. The timeframe for final reclamation shall be determined and approved by the Planning Commission and made a condition of approval of the special use permit.

Except as provided herein, the Level 3 SES-PV System shall be removed from the property by the owner of the Level 3 SES-PV System, including all structures, equipment, components, and subsystems, except underground cables buried at a depth greater than three (3) feet. Landscaping bBerms and trees, service roads and fencing, however, if requested by the owner of the property on which the Level 3 SES-PV System is located, shall be permitted to remain. Furthermore, the property owner may request that the property on which the Level 3 SES-PV System functioned remain unvegetated.

If the property owner on which the Level 3 SES-PV System is located obtains zoning approval for a Level 2 SES-PV System on the same property that incorporates a portion of a Level 3 SES-PV System, then that portion of the Level 3 SES-PV System incorporated into the approved Level 2 SES-PV System may remain as part of the approved Level 2 SES-PV System and the associated trees and berms allowed to remain. The owner of the Level 3 SES-PV System shall remediate the property to its condition immediately prior to the construction of the Level 3 SES-PV System, subject to reasonable wear and tear.

Failure to remove the Level 3 SES-PV System during the timeframe approved by the Planning Commission at a public hearing and made as a condition of approval of the special use permit shall be grounds for the County to remove the Level 3 SES-PV System as provided herein at the expense of the owner of the Level 3 SES-PV System.

**Section 8. Severability**

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

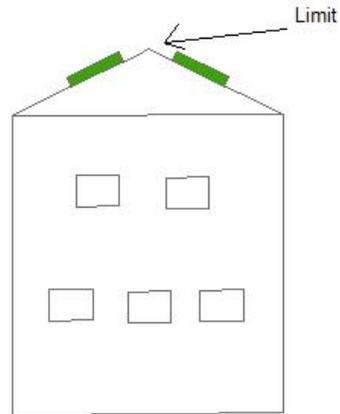
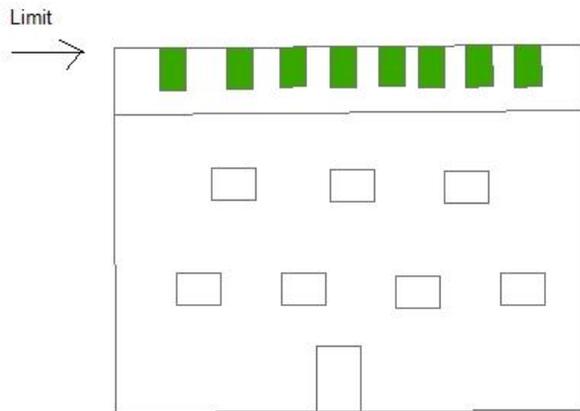
**Section 9. Effective Date**

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the County.

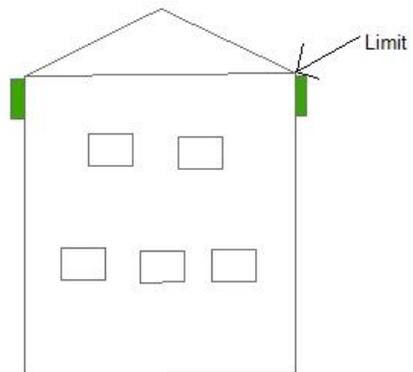
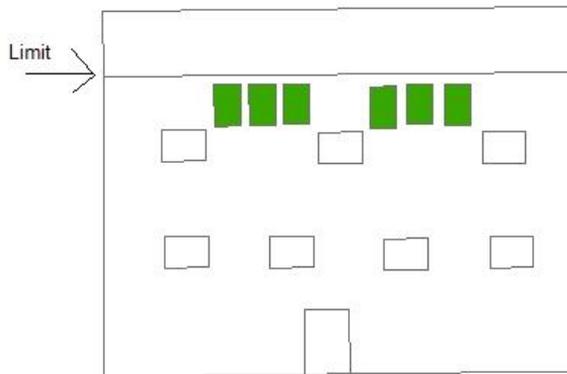
CHEBOYGAN COUNTY

By: \_\_\_\_\_  
John B. Wallace  
Its: Chairperson

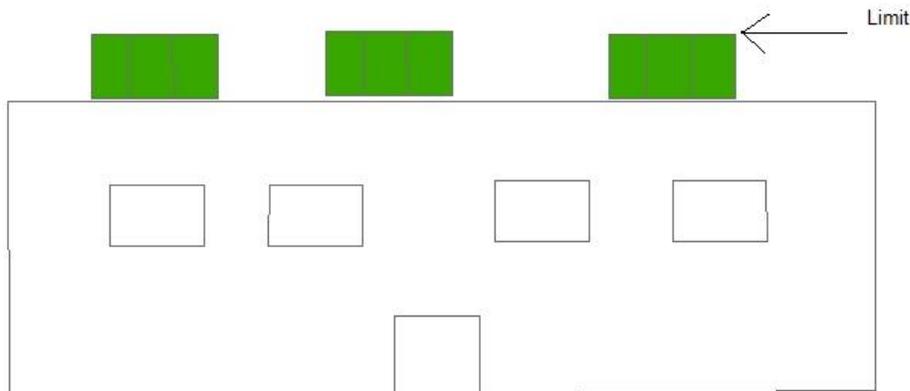
By: \_\_\_\_\_  
Karen L. Brewster  
Its: Clerk



**Roof mount not to exceed height of roof peak.**

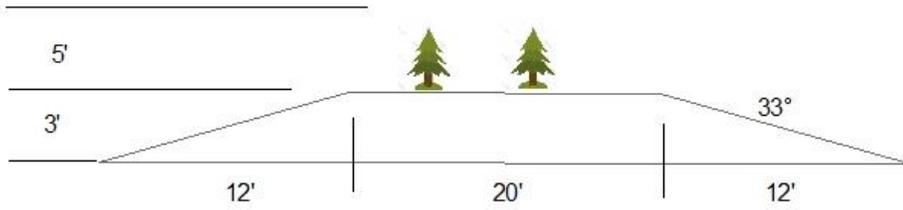


**Wall mount not to exceed wall height.**

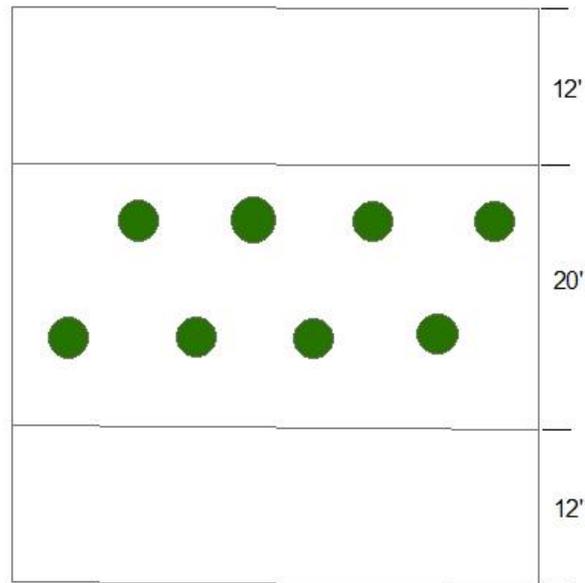


**Flat Roof Mount not to exceed 10 feet above the roof or 35' above ground level, whichever is less.**

**Enclosure 1**



Cross Section View



Top View

Enclosure 2

Data To Be Considered

This is not part of ~~the regulation~~ [Amendment #150 to Cheboygan County Zoning Ordinance #200](#)

- 40.1. \_\_\_\_\_ 1 acre = 43,560 square-feet or approximately 208.71 feet x 208.71 feet.
- 41.2. \_\_\_\_\_ 43,560 square-feet/acre x 15 watts/square-foot = 653,400 watts/acre.
- 42.3. \_\_\_\_\_ 1 megawatt = 1,000 kilowatts.
- 43.4. \_\_\_\_\_ A solar farm of 300 - 400 acres would produce approximately 196 - 261 MV.
- 44.5. \_\_\_\_\_ 20 kW is a manufacturing standard for non-commercial systems. This equates to 1,333 square-feet of solar collection surface (36.3 feet x 36.3 feet).
- 45.6. \_\_\_\_\_ 40kW requires 51.6 feet x 51.6 feet (2,663 square-feet) of solar panel surface.
- 46.7. \_\_\_\_\_ 500KW requires 33,323 square-feet or 0.765 acres of solar panel surface.
- 47.8. \_\_\_\_\_ 15 Watts/square-foot = expected output currently for PV.
- 48. \_\_\_\_\_ Maximum solar efficiency output is 1000 watts per square-meter at the equator at high noon.

~~9. \_\_\_\_\_~~  
~~19. Net Metering in Michigan Solar Integrated System~~

~~Net metering in Michigan allows installation of up to 20kW of off-site electrical generation to continuously roll-over any excess generation to the next month. Participation is limited to .75% of utilities peak demand of the prior year.~~

- ~~20. The net metering program ends ended June 1, 2018. Continuation of the program, if it happens, may discount excess power which is fed back into the utility system to some wholesale rate to be applied toward the owner's bill.~~
  - ~~a. Net metering sizing—"The project must be sized small enough so that it is no larger than what is needed to meet a customer's energy needs ("Page 20 in "Becoming a Solar Ready Community.")"~~

~~4.10. \_\_\_\_\_ It is anticipated that electric car batteries will be repurposed into systems for electrical storage in the future.~~

~~11. Current car batteries have a storage capacity of 60-160kV and it is anticipated they will have a capacity of 200kV in the near future.~~

~~12. Michigan's Net Metering Program ended June 1, 2018, replaced with an avoided-cost tariff or "inflow/outflow" model. ([https://www.michigan.gov/documents/mpsc/U-18383\\_4-18-18\\_620947\\_7.pdf](https://www.michigan.gov/documents/mpsc/U-18383_4-18-18_620947_7.pdf))~~

4.13. \_\_\_\_\_ Bodies of water listed in Section 10.1.2.:

Black River (Lower)	Mullett Lake	Silver Lake (Koehler Township)
Cheboygan River	Kleber Pond	Silver Lake (Wilmot Township)
Indian River	Lake Huron	Tower Pond
Sturgeon River	Lake Rondo	Twin Lakes
Black Lake	Lancaster Lake	Vincent Lake
Burt Lake	Lance Lake	Wildwood Lake
Devereaux Lake	Long Lake	Woldan Pond
Douglas Lake	Paradise Lake	
Echo Lake	Reswell Lake	
Munro Lake	Roberts Lake	

**From:** Peter Moritzburke <peter@orionrenewables.com>  
**Sent:** Monday, January 28, 2019 12:57 PM  
**To:** Michael C. Turisk  
**Subject:** RE: Cheboygan County solar ordinance

Michael – Thanks for the updated version. My understanding is that:

- Even if the Facility and associated structures meets or exceeds setback requirements, vegetative buffers will still be required unless waived by the adjacent property owner. This seems onerous in the event that associated structures are distant (greater than the setback requirements) from dwellings, roads, etc.
- Trees planted for the vegetative screening would be 7 feet from the Facility perimeter, but fencing could be 1 foot from the property line or public road ROW. If so it seems that the fence would be between the property line and the vegetative screening, effectively limiting the value of the vegetative screening.

Are these correct interpretations?

Please let me know if you see a need, or value, of having a call with Patty this week. I'm able to meet 2/5 as well.

Best,  
Peter

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Peter F. Moritzburke  
Development Consultant  
Orion Renewable Energy Group  
Cell: (415)306-1214

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**From:** Michael C. Turisk <mturisk@cheboygancounty.net>  
**Sent:** Monday, January 28, 2019 8:29 AM  
**To:** Peter Moritzburke <peter@orionrenewables.com>  
**Subject:** RE: Cheboygan County solar ordinance  
**Importance:** High

Peter, please find attached two iterations of the latest Ordinance Amendment, one “clean” and the second showing Track Changes. Note that legal counsel agreed that a compromise could be made regarding assurances.

Sincerely,

**Michael Turisk**  
Director, Cheboygan County Planning and Zoning  
870 South Main St.  
Cheboygan, MI 49721  
Phone: 231.627.8489  
Fax: 231.627.3646  
Email: [mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)

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**From:** Peter Moritzburke [<mailto:peter@orionrenewables.com>]  
**Sent:** Wednesday, January 23, 2019 3:28 PM

**To:** Michael C. Turisk

**Subject:** RE: Cheboygan County solar ordinance

Hi Michael – As follow up to our call last week, below are the main points we discussed. I'm happy to have a call with you and Patty Croft this or next week, and in person on 2/5. Please let me know.

- 17.30.3 – 4G-J: In general, detailed facility engineering work is done for the building permit, rather than for the zoning permit. At zoning permit phase solar developers are able to provide a conceptual level of design detail, but it will require significantly more detail work for the building permit application. Typically the detail provided for the zoning permit includes a “maximum extents” layout, designed to demonstrate the maximum potential impact of the project in terms of equipment setbacks, vegetative screening, noise propagation, etc. Thus any future changes to the design submitted for the building permit would have less impact than the design approved for the zoning permit.
- 17.30.6.C – B: Any vegetative screening requirements should take into consideration the distance from dwellings, road rights-of-way, and property lines, and not overburden the project with unreasonable screen heights. Specifically, if vegetation screening is required to consider road elevation relative to the solar equipment, setbacks should be reasonable and, if met, should not require vegetative screening. For example, if a road is 1000 feet away from, and at a grade 50 feet above, the equipment, the project should not be required to plant vegetative screening 58 feet tall (at time of planting).
- 17.30.6.C – A, B and D: These sections overlap considerably, causing potential cross-reference issues. It seems A and B should be integrated for setbacks, and vegetative screening should be integrated with landscaping (D).
- 17.30.6.C – G: We request that this performance guarantee be required at time of commercial operation (or land use permit issuance) rather than at time of zoning permit approval. The time gap between zoning permit and construction may be substantial. In addition, because our leases also require a removal bond (posted no later than 15 years after commercial operation), we would request that bond fulfill both requirements. Landowner could be added as a named beneficiary or other designation.

I plan to attend the 2/6 Planning Commission meeting as well. Thanks for continuing to be open to input.

Best,  
Peter

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Peter F. Moritzburke  
Development Consultant  
Orion Renewable Energy Group  
Cell: (415)306-1214

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**From:** Michael C. Turisk <[mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)>

**Sent:** Friday, January 18, 2019 5:25 AM

**To:** Peter Moritzburke <[peter@orionrenewables.com](mailto:peter@orionrenewables.com)>

**Subject:** RE: Cheboygan County solar ordinance

Peter, sorry, but I was unavailable to talk yesterday. However, I would be available at 3pm or later this afternoon if you wish to talk today.

Sincerely,

**Michael Turisk**

Director, Cheboygan County Planning and Zoning  
870 South Main St.  
Cheboygan, MI 49721

Phone: 231.627.8489  
Fax: 231.627.3646  
Email: [mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)

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**From:** Peter Moritzburke [<mailto:peter@orionrenewables.com>]  
**Sent:** Thursday, January 17, 2019 4:33 PM  
**To:** Michael C. Turisk  
**Subject:** RE: Cheboygan County solar ordinance

Michael – I got a report of last night’s meeting from our attorney. I have concerns related to the amount of design detail, and security posting, required for the use permit rather than the building permit. Vegetative buffer at road level vs at project site is another concern; if the site is 20 ft below the road, that would require very tall, and very expensive, new plantings as buffer.

Are you available to talk this pm or tomorrow?

Best,  
Peter

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Peter F. Moritzburke  
Development Consultant  
Orion Renewable Energy Group  
Cell: (415)306-1214

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**From:** Michael C. Turisk <[mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)>  
**Sent:** Monday, January 14, 2019 7:15 AM  
**To:** Peter Moritzburke <[peter@orionrenewables.com](mailto:peter@orionrenewables.com)>  
**Subject:** RE: Cheboygan County solar ordinance

That would be fine. I’ll look for your invite.

Sincerely,

**Michael Turisk**  
Director, Cheboygan County Planning and Zoning  
870 South Main St.  
Cheboygan, MI 49721  
Phone: 231.627.8489  
Fax: 231.627.3646  
Email: [mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)

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**From:** Peter Moritzburke [<mailto:peter@orionrenewables.com>]  
**Sent:** Monday, January 14, 2019 9:43 AM  
**To:** Michael C. Turisk  
**Subject:** RE: Cheboygan County solar ordinance

Does tomorrow at 10 ET fit for you? If so, I’ll send an invite.

Peter F. Moritzburke  
Development Consultant  
Orion Renewable Energy Group  
Cell: (415)306-1214

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**From:** Michael C. Turisk <[mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)>  
**Sent:** Monday, January 14, 2019 9:09 AM  
**To:** Peter Moritzburke <[peter@orionrenewables.com](mailto:peter@orionrenewables.com)>  
**Subject:** RE: Cheboygan County solar ordinance

Certainly. Let me know a time that works best for you and I'll call your cell (unless directed to do otherwise).

Sincerely,

**Michael Turisk**  
Director, Cheboygan County Planning and Zoning  
870 South Main St.  
Cheboygan, MI 49721  
Phone: 231.627.8489  
Fax: 231.627.3646  
Email: [mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)

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**From:** Peter Moritzburke [<mailto:peter@orionrenewables.com>]  
**Sent:** Monday, January 14, 2019 8:53 AM  
**To:** Michael C. Turisk  
**Subject:** Re: Cheboygan County solar ordinance

Hi Michael - Yes, our attorney, Jeff Jocks, will be there. I'm getting final confirmation on that this am. I would certainly be there if not for the final permitting phase of another project out of state.

Are you open before Wed for a call?

Best,,  
Peter

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Peter F. Moritzburke  
Development Consultant  
Orion Renewable Energy Group  
Cell: (415)306-1214

From: Michael C. Turisk  
Sent: Monday, January 14, 8:41 AM  
Subject: RE: Cheboygan County solar ordinance  
To: Peter Moritzburke

Peter, just curious if you and/or another Orion staffer will be present on Wednesday evening.

Sincerely,

Michael Turisk  
Director, Cheboygan County Planning and Zoning  
870 South Main St.  
Cheboygan, MI 49721

Phone: 231.627.8489  
Fax: 231.627.3646  
Email: [mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)

**From:** Peter Moritzburke [<mailto:peter@orionrenewables.com>]  
**Sent:** Thursday, December 27, 2018 11:16 AM  
**To:** Michael C. Turisk  
**Subject:** RE: Cheboygan County solar ordinance

Hi Michael – I hope you had a merry Christmas. Thanks for the link. I'll be wrapping up (fingers crossed) a permitting process in another state on Jan 14, so attending the Jan 16 P&Z meeting will be a challenge, but I'll make my best effort to attend. If I can't be there then a representative for Orion will be.

Best,  
Peter

---

Peter F. Moritzburke  
Development Consultant  
Orion Renewable Energy Group  
Cell: (415)306-1214

**From:** Michael C. Turisk <[mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)>  
**Sent:** Thursday, December 27, 2018 6:02 AM  
**To:** Peter Moritzburke <[peter@orionrenewables.com](mailto:peter@orionrenewables.com)>  
**Subject:** RE: Cheboygan County solar ordinance

Peter, please see the attached Planning Commission packet from 12.19 that includes draft minutes from the meeting of 12.5:

[http://is0.gaslightmedia.com/cheboygancounty/\\_ORIGINAL\\_/fs77-1544739529-48779.pdf](http://is0.gaslightmedia.com/cheboygancounty/_ORIGINAL_/fs77-1544739529-48779.pdf)

Sincerely,

Michael Turisk  
Director, Cheboygan County Planning and Zoning  
870 South Main St.  
Cheboygan, MI 49721

Phone: 231.627.8489  
Fax: 231.627.3646  
Email: [mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)

**From:** Peter Moritzburke [<mailto:peter@orionrenewables.com>]  
**Sent:** Friday, December 21, 2018 5:39 PM  
**To:** Michael C. Turisk  
**Subject:** RE: Cheboygan County solar ordinance

Hi Michael – Are the minutes available from the Dec 5 meeting? I don't see them on the P&Z website. Happy holidays!

Best,  
Peter

---

Peter F. Moritzburke  
Development Consultant  
Orion Renewable Energy Group  
Cell: (415)306-1214

**From:** Michael C. Turisk <[mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)>  
**Sent:** Friday, December 7, 2018 5:58 AM  
**To:** Peter Moritzburke <[peter@orionrenewables.com](mailto:peter@orionrenewables.com)>  
**Subject:** RE: Cheboygan County solar ordinance

Yes; they'll be available next week.

Sincerely,

Michael Turisk  
Director, Cheboygan County Planning and Zoning  
870 South Main St.  
Cheboygan, MI 49721

Phone: 231.627.8489  
Fax: 231.627.3646  
Email: [mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)

**From:** Peter Moritzburke [<mailto:peter@orionrenewables.com>]  
**Sent:** Thursday, December 6, 2018 4:39 PM  
**To:** Michael C. Turisk  
**Subject:** RE: Cheboygan County solar ordinance

Michael – Thanks for the update. I plan to attend.

Will there be meeting minutes available from last nights meeting?

Best,  
Peter

---

Peter F. Moritzburke  
Development Consultant  
Orion Renewable Energy Group  
Cell: (415)306-1214

**From:** Michael C. Turisk <[mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)>  
**Sent:** Thursday, December 6, 2018 1:34 PM  
**To:** Peter Moritzburke <[peter@orionrenewables.com](mailto:peter@orionrenewables.com)>  
**Subject:** RE: Cheboygan County solar ordinance  
**Importance:** High

Peter, please note that at last evening's meeting the Planning Commission voted to reschedule the public hearing for Wednesday, January 16. Let me know if you have questions.

Sincerely,

Michael Turisk  
Director, Cheboygan County Planning and Zoning  
870 South Main St.  
Cheboygan, MI 49721

Phone: 231.627.8489  
Fax: 231.627.3646  
Email: [mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)

**From:** Peter Moritzburke [<mailto:peter@orionrenewables.com>]  
**Sent:** Monday, November 5, 2018 11:05 PM  
**To:** Michael C. Turisk  
**Subject:** Re: Cheboygan County solar ordinance

Thank you, Michael. We'll review and provide written comments for the 11/21 meeting. As fyi, our attorney, Jeff Jocks, plans to attend on our behalf.

Best,  
Peter

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Peter F. Moritzburke  
Development Consultant  
Orion Renewable Energy Group  
Cell: (415)306-1214

**From:** Michael C. Turisk <[mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)>  
**Sent:** Monday, November 5, 2018 11:41 AM  
**To:** Peter Moritzburke  
**Subject:** RE: Cheboygan County solar ordinance

Peter, please see attachment. Some fine-tuning remains, particularly with formatting; however, the broad strokes are certainly there. Let me know if you have questions.

Sincerely,

Michael Turisk  
Director, Cheboygan County Planning and Zoning  
870 South Main St.  
Cheboygan, MI 49721

Phone: 231.627.8489  
Fax: 231.627.3646  
Email: [mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)

**From:** Peter Moritzburke [<mailto:peter@orionrenewables.com>]  
**Sent:** Friday, November 2, 2018 9:16 AM  
**To:** Michael C. Turisk  
**Subject:** Re: Cheboygan County solar ordinance

Hi Michael - I have a reminder on my calendar for 11/9 to check for availability of the draft ordinance. By chance is that available now? We plan to provide written comments for the 11/21 meeting and will have a representative attend on Orion's behalf.

Best regards,  
Peter

---

Peter F. Moritzburke  
Development Consultant  
Orion Renewable Energy Group  
Cell: (415)306-1214

**From:** Michael C. Turisk <[mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)>  
**Sent:** Monday, October 22, 2018 11:49 AM  
**To:** Peter Moritzburke  
**Subject:** RE: Cheboygan County solar ordinance

Thanks for the call.

Sincerely,

Michael Turisk  
Director, Cheboygan County Planning and Zoning  
870 South Main St.  
Cheboygan, MI 49721

Phone: 231.627.8489  
Fax: 231.627.3646  
Email: [mturisk@cheboygancounty.net](mailto:mturisk@cheboygancounty.net)

**From:** Peter Moritzburke [<mailto:peter@orionrenewables.com>]  
**Sent:** Monday, October 22, 2018 12:35 PM  
**To:** Michael C. Turisk  
**Cc:** Reid Buckley; Mark Hemstreet; Ed Shoener ([eshoener@shoener.com](mailto:eshoener@shoener.com))  
**Subject:** Cheboygan County solar ordinance

Hello Michael,

This morning I left a message for you regarding status of the solar ordinance review process with Planning and Zoning. Please give me a call when you get a chance. Thank you.

Regards,  
Peter

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Peter F. Moritzburke  
Development Consultant  
Orion Renewable Energy Group  
Cell: (415)306-1214

## Deborah Tomlinson

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**From:** carl muscott <carlmuscott@yahoo.com>  
**Sent:** Saturday, January 12, 2019 5:53 PM  
**To:** John B. Wallace; Richard Sangster; Cal Gouine; Roberta Matelski; Mike Newman; Steve Warfield; Mary Ellen Tryban  
**Cc:** Jeff Lawson; pwendling@upnorthlaw.com; Deborah Tomlinson; L. Scott Swanson; Matt Friday  
**Subject:** January 16, 2019 Planning Hearing-Secreted Agenda

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

County Commissioners,

On December 26, 2018, your current Planning and Zoning Director Michael Turisk published in the Cheboygan Tribune notice of the Solar Energy amendment hearing for January 16, 2019. There was no mention of an additional unrelated amendment for an Administrative Search Warrant.

On Friday, 1/11/2019, at about 3 PM, the Planning Dept finally made the meeting agenda and packet public. An Administrative Search Warrant amendment is tagged onto the end of the Solar Ordinance. It is in fact an entirely different section of the zoning law, an enforcement tool, that empowers the Cheboygan County Planning Dept staff *"to inspect land, buildings and/or structures to determine violations of or compliance with this Ordinance"*.

Michael Turisk has now added an Administrative Search Warrant amendment into the meeting agenda. That is a violation of the required 15 days notice by publication in a newspaper of general circulation as required by law. More info and the actual published notice from 12/26/2018 and 1/16/2019 agenda made available on Friday are available and posted on the Cheboygan County Watchdog blog.

<https://cheboygancountywatchdogs.blogspot.com/>

Lawmakers need to follow the laws. There is no reason to empower Cheboygan County staff, exemplified by people like Michael Turisk who lacks a degree in land planning and any Michigan planning experience, to search our property or homes. That Administrative Search Warrant may and could be used to violate the Fourth Amendment rights of any property owner in Cheboygan County. Mr Turisk need not worry. He owns no property in Cheboygan and I suspect Michael Turisk has never been a landowner.

## Deborah Tomlinson

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**From:** dduffiney <dduffiney@yahoo.com>  
**Sent:** Monday, January 14, 2019 12:34 PM  
**To:** Deborah Tomlinson  
**Subject:** 4th Amendment

As a homeowner and American Citizen, I 100% oppose this amendment. I do NOT and will NOT authorize the zoning commission or any other entity to enter onto my privately owned property let alone any dwelling or building located on my property. This is NOT a duty of the zoning commission nor should be assigned as a duty.

Please, on my behalf and in my absence print and read my opinion at this meeting.

Thank you,  
Dana Kilpatrick

## Deborah Tomlinson

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**From:** Craig Kimble <craigkimble01@gmail.com>  
**Sent:** Monday, January 14, 2019 12:37 PM  
**To:** Deborah Tomlinson  
**Subject:** Absolutely No!

Hi Debbie,

As a property and business investor in Cheboygan I would like to express my disapproval of any erosion of our 4th Amendment rights.

Sincerely,  
Craig Kimble

## Deborah Tomlinson

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**From:** Wayne Ruxton <ruxtonw@yahoo.com>  
**Sent:** Monday, January 14, 2019 11:55 AM  
**To:** Deborah Tomlinson  
**Subject:** Administrrtive Search Warrant

How and why can this even be justified. It is in direct conflict of the fourth amendment. We have enough restrictions on our lives without adding another. I cannot believe that the commission felt this would be necessary for them to carry out their duties.

Please read this comment into the meeting minutes.

Thank you.

Wayne D. Ruxton  
1794 W Slater Road  
Indian River, MI 49749  
231-625-2105  
[ruxtonw@yahoo.com](mailto:ruxtonw@yahoo.com)

## Deborah Tomlinson

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**From:** Judith Graham <jjubear43@comcast.net>  
**Sent:** Tuesday, January 15, 2019 9:39 AM  
**To:** Deborah Tomlinson  
**Subject:** Administrative Search Warrant

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Judith A Graham

9355 BirchRidge Rd

I am totally against this Administration Search Warrant.

What is the Planning Commission Board thinking not about our rights that is for sure. This amendment should **NOT** be put into the Zoning ordinance 200.

Why would I want someone on my property to do an Administration Search Warrant if someone's property needs to be searched let it be done by the police and legally

My comment is **NO! NO! NO!** and this e-mail may be read by Michael Turisk the Planning and Zoning Director.

Thank you.

Judith Graham

## Deborah Tomlinson

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**From:** Brenda Nash <brendal.nash@gmail.com>  
**Sent:** Tuesday, January 15, 2019 8:41 AM  
**To:** Deborah Tomlinson  
**Subject:** Section 8

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Debbie,

RE: Section 8. Amendment of Article 21

Article 21 of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to add a new Section 21.12. which shall read in its entirety as follows: 21.12.

I take it to mean anyone at the County commissioners level can have someone come knock on my door and demand to enter my residence at anytime.

Is this what it is saying? If so, I am saying I am 100% against this amendment and violation of my rights.

Please clarify and pass my being against this amendment.

Brenda Nash

Walker Township Treasurer

Cheboygan Co MI

**Deborah Tomlinson**

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**From:** Troy Oom <ttoom121265@gmail.com>  
**Sent:** Tuesday, January 15, 2019 7:24 PM  
**To:** Deborah Tomlinson  
**Subject:** Don't let them in

They have no right to enter my home my buildings for that matter my property at any time without my permission let's not let this happen thank you Troy Ohio

**Deborah Tomlinson**

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**From:** Kristy Pierson <kpierson651@gmail.com>  
**Sent:** Wednesday, January 16, 2019 12:47 PM  
**To:** Deborah Tomlinson  
**Subject:** Community watchdogs.

I am 100% against this. Not only are you taking our rights away but your disrespecting us and our homes. There is no reason anyone should be able to just walk into my house with no probable cause. This is why we have warrants, this why there are precesses to go through to get those warrents. We are human beings who have a right to our privacy not animals that can be stepped on whenever our county or government sees fit.

**Deborah Tomlinson**

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**From:** Mike Davis <1penis420@gmail.com>  
**Sent:** Wednesday, January 16, 2019 4:50 PM  
**To:** Deborah Tomlinson  
**Subject:** 4th amendment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

This violates my rights as an American citizen. hell no go find some real Crim.

Deborah Tomlinson

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**From:** Julia Rivers <jewlzrivers@gmail.com>  
**Sent:** Wednesday, January 16, 2019 4:49 PM  
**To:** Deborah Tomlinson  
**Subject:** [Possible Spam]

**Importance:** Low

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

You may print and read my comments:

I am against the "administration search warrant" .

My fear is this..kids home alone. They see some guy roaming the property. Now a 911 phone call wasting time and money. Or worse, someone gets injured or fatally harmed because the trespassing brought on fear enough to be deemed as a threat. I know if I am home alone and someone was roaming the property, or in my buildings etc, I would assume he is a bad man up to no good. This is a very dangerous reality of how poorly this can pan out. Frankly, Id feel instantly threatened regardless of whether a warrant was presented or not. I did nothing wrong but you present a search warrant to search seems like such a harassing waste of everyone's time, money, and resources. Case loads are big enough without adding this ball of fun to things. This is a slimy attempt at an add on to the solar plan and should not even be on the same paper as the solar situations. It is not even a related issue. This is not a good way to encourage new people to move here either, I do know that. Who would want to live where their constitutional rights do NOT matter? We cannot afford anymore reasons to NOT live here. We need growth!!

Julia Rivers



Virus-free. [www.avast.com](http://www.avast.com)

Deborah Tomlinson

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**From:** Valerie Lovelly <vlovelly@gmail.com>  
**Sent:** Wednesday, January 16, 2019 4:44 PM  
**To:** Deborah Tomlinson  
**Subject:** Fwd:

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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

**From:** Valerie Lovelly <vlovelly@gmail.com>  
**Date:** Wed, Jan 16, 2019 at 4:43 PM  
**Subject:**  
**To:** <debbiet@cheboygancounty.net>

My stand on searching a home without cause. Seems like invasion of privacy.

I personally don't have anything that I would need not to be seen. I believe that if there is a reason then go through the proper channels for search. If it were for building inspection like foundation or building soundness etc. then make a appointment like you do now. Blight - site & fine them.

No from me.

Please print and present at meeting.

Valerie Lucier

Cheboygan county resident

Sent from my iPhone