



City Council Agenda Item Report

FROM: Ryan Cummins, City Manager

MEETING DATE: February 19, 2025

SUBJECT: Request for Comments on Proposed Boat Ramp near Mouth of the Kalamazoo River

DESCRIPTION:

The Saugatuck Dunes Coastal Alliance (Coastal Alliance) has submitted the attached letter requesting that the City provide comments via resolution and/or letter to the Army Corps of Engineers related to an application by North Shores of Saugatuck LLC, for a permit to install a boat ramp in the Kalamazoo River.

Further details of the proposed project, Coastal Alliance concerns, and prior Council resolution related to a marina basin are attached.

Saugatuck Township advised they will not be submitting comments as they view this as an improvement of an existing piece of infrastructure that is for private use and the Township defers to EGLE for decisions on launch permits.

The Michigan Environment, Great Lakes, and Energy is considering the request and conducted a public hearing last summer. The video of the hearing can be viewed here: https://www.youtube.com/watch?v=C4X8U6IA_TM

Staff is seeking Council direction on whether you desire to make formal comments on the application for permits.

BUDGET ACTION:

None at this time.

LEGAL REVIEW:

Legal will be at your meeting for any questions.

SAMPLE MOTION:

Workshop item at this time.



SAUGATUCK DUNES COASTAL ALLIANCE
PO 1013, Saugatuck, MI 49453

February 5, 2025

Mayor Holly Anderson
Mayor Pro-Temp Lauren Stanton
Manager Ryan Cummins
City of Saugatuck
102 Butler St.
PO Box 86
Saugatuck, MI 49453
(269) 857-2603

Dear Holly, Lauren, and Ryan,

On December 3, 2024, the US Army Corps of Engineers requested comment from the Coastal Alliance in their Section 106 National Historic Preservation Act Review of a proposed boat ramp at the mouth of the Kalamazoo River; attached you will find the Coastal Alliance comments.

The substance of our argument to deny the boat ramp is public safety. We believe it does not matter “how” boats and other watercraft enter the river; what matters is “where” the watercraft enters and “how many” boats there are. Whether a high-intensity boat basin or a boat ramp, the Kalamazoo River Mouth should not be considered a safe location for either of these uses. For this reason, we believe the Boat Ramp should be denied.

The City previously and unanimously approved two resolutions (attached) opposing the proposed marina at the Kalamazoo River Mouth; one was sent to USACE, and the other to EGLE. We believe the boat traffic associated with the proposed boat ramp will almost certainly exceed that of the proposed marina (see calculations on page 5 of the attached document).

We are asking the City, therefore, to take one of two possible courses of action:

1. Prepare and pass a resolution similar to the one unanimously approved on 10/24/22; or,
2. Submit the same resolution to the Army Corps accompanied by a letter expressing concerns with public safety threatened by allowing too many boats to enter the river at the proposed location of the boat ramp.

Thank you for your consideration of this request. Please let us know what questions you may have; and if it would be helpful, we are available to assist in drafting the resolution or letter.

Bobbie Gaunt
Chair, Board of Directors
Saugatuck Dunes Coastal Alliance

David Swan
President, Board of Directors and Co-Founder
Saugatuck Dunes Coastal Alliance

January 25, 2025

Kerrie E. Kuhne
Chief, Western Section
Regulatory Branch
U.S. Army Corps of Engineers, Detroit District
477 Michigan Avenue, Room 603
Detroit, MI 48226-2550

Dear Ms. Kuhne,

Please accept the following comments and supporting evidence from the Saugatuck Dunes Coastal Alliance in your Section 106 National Historic Preservation Act review of NorthShore of Saugatuck's application for permits to construct a high-intensity boat ramp, which you requested on December 3, 2024.

In terms of adverse impacts, NorthShore's proposed boat ramp is nearly identical to its proposed marina, which was denied by USACE and the Michigan Department of Environmental and Great Lakes (EGLE) in February 2024. The adverse impacts are not created by how the boats enter the river (marina or ramp). The adverse impacts result from where and how many boats enter the channel.

The boat traffic associated with the proposed boat ramp will almost certainly exceed that of the proposed marina (see calculations on page 5 of this document). Allowing significant boat traffic to enter the water at the River Mouth is not consistent with current and past uses and will create significant adverse impacts on ecological, historic, and cultural values as well as the Public Interest.

Executive Summary

The Saugatuck Dunes Coastal Alliance, a group of local residents, tribal nations, businesses, and environmental, historic, and civic organizations committed to protecting and preserving the Saugatuck Dunes and Kalamazoo River Mouth, vigorously opposes NorthShore of Saugatuck's proposal to construct an intensive-use boat ramp at the Kalamazoo River Mouth. **We strongly urge USACE to deny the permit because:**

- The USACE review does not consider two surrounding sites identified as historically significant by Michigan State Historic Preservation Office (SHPO) and Advisory Council on Historic Preservation (ACHP).
- The Permit Area is too small. The proposed boat ramp would not be proposed 'but for' the entire NorthShore development, which is not part of the permit area. Piecemealing their applications obfuscates the cumulative impacts of their proposed development.
- The proposed project is not consistent with past and current uses of the River Mouth area, including the Potawatomi lifeways and cultural and spiritual beliefs and practices associated with use of the River Mouth.

- Use of the proposed boat ramp is completely unlike that of Broward Marine, which operated for just 27 years and whose use was restricted to the launch of boats that Broward produced, which averaged three boats per year.
- Federal, state, and local regulators and lawmakers have enacted explicit conditions, criteria, policies and regulations that prohibit the proposed boat ramp. Again, it **doesn't matter how the boats enter the river. It matters where and how many.**
- The cumulative impact of the proposed project will change the established character of the Traditional Cultural Property (TCP) of the Potawatomi and other Historic Districts.
- There are prudent and feasible alternatives that are more consistent with how local residents, business owners, tourists, and tribal nations use the Kalamazoo River Mouth.
- The proposed project violates the Public Trust and Public Interest.

Given these factors and evidence outlined below, USACE has no choice but to deny NorthShore of Saugatuck's permit application.

The Area of Potential Effect (APE) should be expanded to include all Historic Properties that would be potentially impacted by the proposed boat ramp.

800.1(a): "The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties."

In addition to the three adjacent properties that USACE has identified for the permit area, there are two additional surrounding properties – a cultural landscape based upon the theme of Art and a cultural landscape based upon the theme of Landscape by Design (Conservation) that have been identified in earlier Section 106 reviews associated with the NorthShore marina development.

The Michigan State Historic Preservation Office (SHPO) and Advisory Council on Historic Preservation (ACHP) have both contacted USACE to underscore the significance of these two historic sites:

- "The SHPO had made a determination that the Ox-Bow School of Art appears to meet the criteria for eligibility for listing in the NHRP [National Register of Historic Places] prior to the review of these documents, however the boundaries for an overall district have not been conclusively determined." *August 26, 2020, letter from SHPO to USACE*
- "We are aware that by letter of August 26, 2020, the Michigan SHPO has also disagreed with the USACE's determinations of eligibility for the referenced cultural landscapes. To resolve this disagreement, and in accordance with 36 CFR §800.4(c)(2), the agency official shall now obtain a determination of eligibility from the Keeper of the National Register of Historic Places pursuant to 36 CFR part 63. We also advise the USACE to conduct supplemental efforts to identify historic properties within an appropriately defined APE, including consideration of properties located outside the Corps' permit area which may not have been previously determined to be eligible for inclusion on the National Register." *September 20, 2020, letter from ACHP to USACE to request a determination of eligibility for a cultural landscape designation from the Keeper of National Register of Historic Places.*

To our knowledge, USACE has failed to pursue identifying the two additional historic properties that both SHPO and ACHP have recognized:

- “Page 4 of the ACHP’s 9/10/20 letter recommended that the Corps undertake seven actions, including seeking DOEs [Determination of Effect] from the Keeper for both the Ox-Box [sic]/Saugatuck Dunes HD [Historic District] and the Mouth of the Kalamazoo TCP/TCL. As the Corps’ 9/18/20 letter to the Keeper seeks a DOE for the Mouth of the Kalamazoo River TCP only, this DOE is limited to that request.” *Footnote 1 of the Determination of Eligibility from the Keeper of the National Register of Historic Places*

The proposed project is not consistent with current and past uses of the Kalamazoo River Mouth area.

800.3(b) “...the agency official may use information for other reviews under Federal, State, or tribal law to meet the requirements of section 106.”

800.3(f)1 “The agency official shall invite any local governments or applicants that are entitled to be consulting parties under 800.2(c).”

The introduction of a high-intensity boat ramp is inconsistent with current and past uses of the Kalamazoo River Mouth area.

For nearly 140 years, the Kalamazoo River Mouth has been identified as an area of great ecological, historic, artistic and cultural significance:

- Potawatomi cultural and spiritual beliefs and practices associated with use of the River Mouth
- Inspiration for artists affiliated with the Ox-Bow School of Art over the past 100+ years
- Low-impact recreational use by local residents and tourists, including hiking, fishing, boating, birding, etc.
- Habitat for lake sturgeon and endangered mussels (purple wartyback). From the 2019 Lower Kalamazoo River Greenway Plan:
“Some of the highest quality habitat and rarest species can be found within a couple mile stretch of the mouth of the Kalamazoo River. There are several parks and preserves, including Saugatuck State Park, Tallmadge Woods, Patricia Birkholz Natural Area, and Saugatuck Harbor Natural Area, where visitors can experience these areas. Protecting and preserving these areas around Saugatuck should be one of the highest conservation priorities along the greenway.”

These values have inspired the local communities and the State of Michigan to invest more than **\$20 million** to secure and protect parks and natural areas at the River Mouth – protections that drive the area’s robust and sustainable tourism economy.

The Kalamazoo River Mouth is -- and has always been -- historically and culturally significant to the Potawatomi

In 2020, the Keeper of the National Register of Historic Places determined that the River Mouth meets the criteria of a Traditional Cultural Property (TCP) of the Potawatomi.

In the Keeper's November 5, 2020, Determination of Eligibility Notification it was noted: "What the MBPI THPO referred to in her 11/29/19 letter as "the distinct historical and contemporary cultural significance of the mouth of the river" is manifest in the Tribe's ethnogenesis, language, rituals, handicrafts, foodways, traditions, social structure, governance, place names, and ongoing cultural identity."

As noted in *National Register Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties (rev. 1998)*, a TCP "... can be defined generally as one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community" (p. 1).

USACE itself documented the "past and present cultural use of the Kalamazoo River" in its November 15, 2022, Memorandum for Record (MFR). We urge you to re-read the MFR, especially the Conclusion, which states in part:

"The introduction of a 50-slip marina in the vicinity of the river mouth would introduce additional boats and docking structures into an area that has remained primarily natural and where no marinas currently exist."

"Due to the extent of past and present cultural use of the Kalamazoo River itself, views of the area from the river are particularly important, and the visual effects of the undertaking on the character of the river mouth for viewers in the river weigh heavily in our review of the undertaking's effect on the TCP."

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

The proposed boat ramp is inconsistent with the historic use of the River Mouth as a respite for artists "in rural isolation."

The Ox-Bow School of Art established and has sustained a vibrant arts culture in the Saugatuck area since 1908. According to the Ox-Bow website, the 110-acre natural area was founded to "serve as a respite for artists from the industrializing havoc of Chicago." Founders Frederick Fursman and Walter Marshall Clute, artists from The School of the Art Institute of Chicago, selected the site for "the natural beauty of the area, as well as its rural isolation."

A high-intensity boat ramp will diminish the integrity of how the surrounding landscape has been used for more than 100 years. **The proposed project will diminish the established setting, feeling, and association of the river mouth, the dunes, and wetlands.**

Use of the proposed boat ramp is completely unlike that of Broward Marine, which operated at the same location for a very different purpose.

USACE's assumption in its December 3, 2024, letter to consulting parties that the primary use of the area is as a marina is false. In 1977, the late Frank Denison, owner of Broward Marine, was issued a Special Land Use Variance from Saugatuck Township on April 27, 1977, to construct a boat ramp at the site of the proposed boat ramp. Broward Marine operated for just 27 years (1977-2004) and its use was limited to the launch of boats produced by the manufacturer, which averaged **three boats per year**.

The conditions of the Broward Marine variance (attached) confined activity to a 850' X 850' space and limited the use to [emphasis added]:

"the purpose of building watercraft and maintaining and servicing such watercraft that you build, subject to the following conditions:

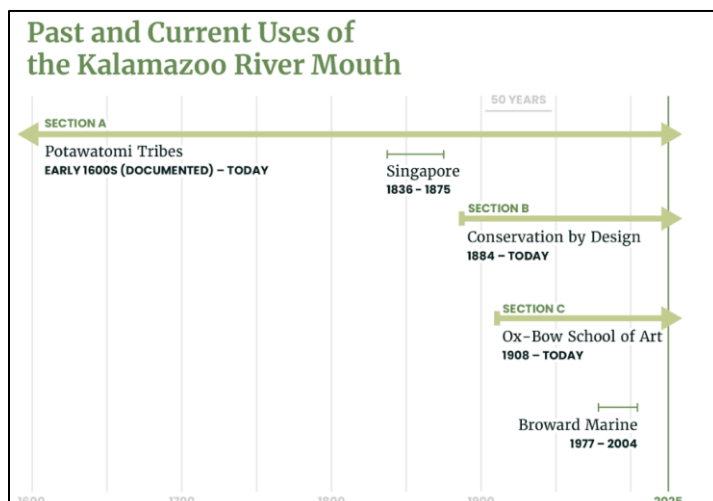
...

5. The subject property may not be used for any commercial or industrial use other than for maintenance and service work upon boats built at that facility.

6. The existing green belt must be maintained and improved so as to blend the commercial buildings with the natural environment so as to make said buildings inconspicuous as reasonably possible to persons on the river and to your neighbors located to the east.

Your failure to comply with the foregoing conditions will entitle the Township of Saugatuck to withdraw the variance; you must understand that your proposed use is contrary to the existing zoning ordinance and your proposed use is allowed under and by virtue of the above variance subject to the six (6) specified conditions."

In contrast, the developer has already built 65 boat storage facilities on its property, has plans to construct 96 more homes, and is approved for 17 additional lots. Conservative estimates put the number of boats using the boat ramp could easily reach or exceed 100, double the 50 that would have been docked at the developer's proposed **marina**, which both USACE and EGLE denied. **This is a significant change in current and past uses of the Kalamazoo River Mouth area.**



Again, the adverse impacts on the ecological, historic, and cultural values of the River Mouth **don't result from how the boats enter the river, but where and how many boats enter.**

Federal, state, and local regulators and lawmakers have enacted explicit policies and regulations that prohibit the proposed boat ramp.

- EGLE denied the developer's application to build a marina at the same location. The boat traffic associated with the proposed high-volume boat ramp has potential to far exceed that of the proposed boat basin marina (see calculation on p. 5). EGLE cited 'significant adverse impacts' in denying the permit on February 9, 2024 [emphasis added]:

"The proposed project will have significant adverse effects on the natural resources associated with the Kalamazoo River, the uses of the Kalamazoo River, and the public trust.

"The proposed marina will likely have significant effects on the public and tribal uses of the river, and thus infringe on the public trust rights to navigate and fish. Other uses of the water, including recreation, fish and wildlife, and aesthetics, will also be affected.

"EGLE finds the proposed project would adversely impact the natural resources of the Kalamazoo River and the public's right to navigate and fish."

- **In 2017, the Saugatuck Township Planning Commission placed restrictions on NorthShore of Saugatuck's use of the River Mouth** including a condition that explicitly prohibited boat launch facilities and in and out boat service. Minutes from the April 26, 2027, minutes state [emphasis added]:

"Prietz read the list of conditions suggested by the township attorney and added at this meeting:

1. The applicant shall obtain all required state and federal permits and approvals to construct the boat basin and marina, including, without limitation, any that are needed from the United States Corps of Engineers (USACE), the United States Environmental Protection Agency (USEPA) and the Michigan Department of Environmental Quality (MDEQ).

2. There shall be no fuel sales, no pump-out services or facilities, no boat storage facilities, no boat launch facilities and no in and out boat service provided at the marina."

- **The 2005 and the 2016 Tri-Community Master Plans address concerns about boat traffic on the Kalamazoo River being at capacity** [emphasis added]:

"Carrying capacity refers to the physical capacity and intrinsic suitability of water to absorb and support various types of use. Such an analysis is typically performed by an inventory of existing surface water use during weekdays and peak weekends. Data is then examined to match the size of the waterbody and its capacity to assimilate various mixes of use. Such an analysis would probably reveal there is not much excess capacity for new boat slips in Kalamazoo Lake and River."

“In seeking to balance economic development with environmental protection, the concept of carrying capacity should be a major consideration. If the carrying capacity of land or water is exceeded, then activities cannot be undertaken without unacceptable impacts on users, the environment, or both. Impacts can include increased trip times, decreased safety, pollution, loss of open space, and many other considerations. The key is prevention of overuse by limiting intensity of use on adjoining lands and regulating surface water use.”

- **The Saugatuck Township Planning Commission in 2009 revised its Water Access Code of Ordinances with provisions to limit boat access at the River Mouth.**

“ARTICLE XII. - WATER ACCESS AND DOCK DENSITY REGULATIONS

Sec. 40-906. - Intent and purpose.

(a) The township, after extensive deliberations and discussions, has concluded that the use of water resources situated within the township must be considered within the framework of the township's longterm costs and benefits. Further, the township has concluded that it is desirable to retain and maintain the physical, cultural and aesthetic characteristics of its Inland Waterways and its portion of Lake Michigan.

(b) Pursuant to its deliberations and discussions, the township has concluded that a lack of regulation regarding the density of Docks on and general access to Inland Waterways and Lake Michigan within or adjacent to the township has resulted in a Nuisance condition and an impairment of irreplaceable natural resources of the township. Further, the lack of regulation is resulting in the destruction of property values and constitutes a threat to the public health, safety and welfare of all persons utilizing these Inland Waterways and Lake Michigan and occupying adjacent properties within the township. Consequently, the township desires to adopt reasonable regulations regarding Dock density and general water access to protect the public health, safety and welfare, as well as the irreplaceable natural resources of the township.

(c) The township has further concluded that regulation of water access and Dock density will help reduce conflicts which occur between residential single-Family use of the waterfront and shared waterfront use.”

- **The City of Saugatuck, which owns a nature preserve across from the proposed marina and boat ramp, unanimously passed a resolution in October 2022 detailing concerns with NorthShore of Saugatuck's use of the River Mouth.** The Resolution (attached), which was submitted to USACE and EGLE lists the adverse effects on navigation, fishing, recreation, fish and wildlife that will result from excessive additional boat traffic at the Kalamazoo River Mouth [emphasis added]: Following are representative excerpts:

“The City finds that the proposed marina will have an adverse effect on the public trust, and may impact related riparian rights.

“The City finds that by damaging the historical, ecological, and cultural values of the area which attract tourism and recreation to the Tri-Communities, the proposed marina will negatively impact the use of waters for recreation, aesthetics and the local tourism industry. The proposed marina may further impact fish and wildlife.

“The City finds that the proposed marina basin is not consistent with the public uses in and around the area.”

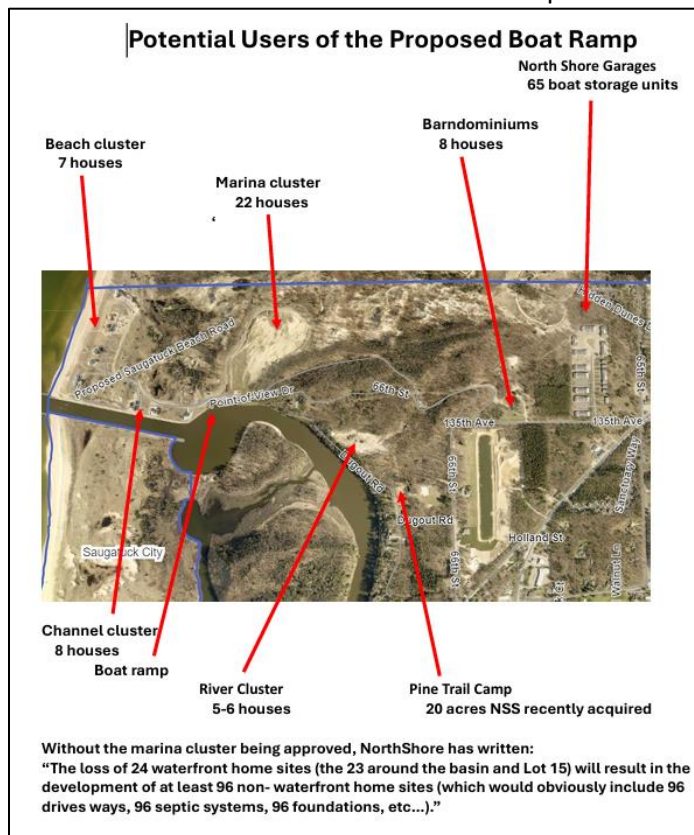
The cumulative impacts of the proposed project are significant.

Section 800.5(a)1: "Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be further removed in distance, or be cumulative."

The sections above detail how regulatory agencies since 1977 have limited excessive boat traffic at the Kalamazoo River Mouth to protect ecological, historic, artistic and cultural values.

The proposed NorthShore marina project has changed considerably since 2017 when it was initially discussed with USACE and EGLE. While the agencies were aware of plans for the 50-slip marina and denied that permit, the USACE may not be aware are that:

- NorthShore has built over 65 boat storage units, each capable of housing several large boats on the eastern end of their development that could potentially have use of the boat ramp.
- NorthShore stated in their June 14, 2019, response letter to Army Corps they plan to construct 96 more houses if denied the marina permit.



As noted on page 5, the number of boats using the proposed boat ramp could easily reach 100 or more, double the number of docks at the proposed marina that USACE and EGLE denied.

- How will NorthShore schedule the use of the boat ramp given that number of boats?
- How will they coordinate the return of that many boats?

- What will happen during a sudden storm if many boats need to quickly use the boat ramp?
- How will that many boats waiting for the boat ramp impact other boaters navigating to the docks further upriver via the channel?

There remain many unanswered questions about the scope, impacts, and purpose of the proposed projects – the boat ramp, the boat storage, the number of houses, the number of boats that will be granted access to the marina area. During [EGLE's public hearing](#) for the boat ramp, NorthShore refused to say how many boats would have access to the ramp and whether they would limit use in any way. While it is impossible to precisely measure each of the adverse impacts, we do know that the previously identified impacts, in aggregate, will have a profound negative impact on the River Mouth – to its ecological, historic, and cultural values ... to cultural lifeways and tribal rights ... to navigational safety ... to the arts community ... to the Public Interest and Public Trust.

There are Prudent and Feasible Alternatives to the Boat Ramp

NorthShore has several options to avoid the negative impacts of its proposed boat ramp:

- The developer owns approximately 1,100 feet of frontage on the Kalamazoo River where homeowners have a legal right to docks.
 - Given lot width requirements, the developer could build up to nearly 9 (8.96 lots) lots along the river where the boat launch and marina are proposed.
 - According to the Saugatuck Township Code of Ordinances, 125-foot lots are permitted 1 dock with 2 slips. This would allow for a total of 18 boats.
- Additionally, there are existing boat ramps and marinas available for use further upriver.

Additional Key Considerations and Facts

- The City of Saugatuck, which owns a nature preserve immediately across from the proposed boat ramp, **was not noticed**. As noted above, the City detailed its concerns about the proposed marina in a letter to EGLE dated August 14, 2023 and a letter to USACE dated October 24, 2022. [800.3(f)1 "The agency official shall invite any local governments or applicants that are entitled to be consulting parties under 800.2(c)."]
- To our knowledge, USACE has not yet requested comments on the Public Interest Factors Review, as well as the Environmental Review. We request a Public Hearing so that interested stakeholders may submit evidence and provide comment on those reviews.

Conclusion

It doesn't matter how the boats enter the river. It matters where and how many. The adverse impacts to the historic and cultural uses of the River Mouth that would result from the proposed boat ramp are potentially more significant to those of the applicant's proposed marina, which USACE denied in February 2024.

Until the applicant addresses the scope and impacts of, and alternatives to, the boat ramp, we urge USACE to deny the permit.

The Coastal Alliance appreciates USACE's consideration of the evidence we have submitted. We are happy to answer any questions you may have.

Thank you for your service.

Sincerely,

Bobbie Gaunt
Chair, Board of Directors
Saugatuck Dunes Coastal Alliance

David Swan
President, Board of Directors and Co-Founder
Saugatuck Dunes Coastal Alliance

Attachments

- Application Denial Letter_EGLE_020924
- Built by Broward Marine in Saugatuck
- City of Saugatuck Resolution No. 221024-A
- City of Saugatuck Resolution No. 230814-A
- Tri-Community Master Plan 2016
- Kalamazoo River Mouth TCP DOE_110520
- Letter ACHP to USACE_091020
- Lower Kalamazoo River Greenway Plan_2019
- Location and Construction of proposed boat ramp
- Map – Potential users of the proposed boat ramp
- MBPI comments_112919
- McClurken affidavit and exhibits_2018
- MFR TCP_effect determination_111522
- Mouth of the Kalamazoo River TCP_Ethnographic Report
- NWP-36_Boat Ramps regulations
- Saugatuck Historic Walking Guide
- Section 106_regulations
- USACE letter to consulting parties_120324
- SHPO letter to USACE_082620
- Variance Broward Marine_042777
- Saugatuck Township Code of Ordinances
- Saugatuck Township Planning Commission Minutes April 26, 2017_Permit Conditions
- NorthShore June 14, 2019, response to USACE pg. 64 for comment regarding 96 additional houses
- YouTube video of EGLE's August 13, 2024, public hearing on the proposed boat ramp (https://www.youtube.com/watch?v=C4X8U6IA_TM)



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, DETROIT DISTRICT
477 MICHIGAN AVENUE ROOM 603
DETROIT MI 48226-2550

December 4, 2024

Regulatory Branch
File No. LRE-2010-00304-52-N24

Saugatuck Dunes Coastal Alliance
PO Box 1013
Saugatuck, Michigan 49453

Dear Mr. Swan:

The Detroit District of the U.S. Army Corps of Engineers is reviewing an application by North Shores of Saugatuck, LLC for a Department of the Army (DA) permit to install a boat ramp in the Kalamazoo River offshore Saugatuck Beach Road in Saugatuck Township, Section 4, Township 3N, Range 16W, Allegan County, Michigan (Encl. 1). A copy of the proposed plans is attached (Encl. 4). The proposed project is within the Kalamazoo River Mouth Traditional Cultural Property (TCP) and near an archaeological site. We are writing to seek your input on historic property concerns to assist with our review under Section 106 of the National Historic Preservation Act (Section 106).

The applicant proposes to replace an existing gravel launch ramp with a concrete surface ramp along the western wall of an existing boat well. The parcel contains approximately 1,100 feet of water frontage. Our scope of analysis and the permit area for our review of the project under Section 106 is a 255 foot long by 135-foot-wide area (Encl. 3) along the Kalamazoo River and adjacent shoreline, including a 104 foot long by 23-foot-wide area (Encl. 4, p.3) within the river where the proposed concrete boat ramp would be installed and the adjacent upland areas where equipment use and storage would occur. As shown on the attached plans, the work would involve mechanical grading of approximately 96 cubic yards of a 2.28-foot-deep layer of accumulated sand to evenly spread the material and level the slope within a 48 foot long by 23-foot wide (1,104 sq. ft.) area on the riverbed. Gravel stone fill (bedding material) would be placed over a geotextile fabric within a 104 foot long by 23-foot-wide area and pre-cast concrete panels would be placed atop the gravel to form a 104 foot long by 23-foot-wide boat ramp. All proposed work would be performed from dry land with no need for any barge-mounted equipment in the water.

Historical imagery dated 1955 and 1976 (Encl. 5) shows the parcel's natural shoreline prior to construction of the existing seawall. By 1988, the initial construction of inland boat wells and seawall installation had been completed along the entire waterfront parcel (Encl. 8). Offshore work/structures and disturbances along the waterfront previously permitted by the Corps include new seawall installation and excavation of an inland boat slip (1978), dredging to construct a 3-slip inland boat well (1980), new seawall installation with 5,000 cubic yards of backfill shoreward of the

seawall to create upland areas (1983 and 1990), dredging and backfill within 30 feet landward of a failed seawall, seawall replacement with areas of toe stone, and discharges to construct the existing crushed-rock surface boat ramp (2011-2017) (Encl. 6-9, 11-12). Some of this work occurred within the permit area when it was developed and used as part of Broward Marine boat building facility. This facility consisted of a large industrial building and boat wells along the riverbank, in the mid-1970s. Related offshore structures shown in aerial photographs dated between 1988 through 2011 included boat lifts, docks, and mooring piles along the seawall; all have been removed. The Broward Marine building was removed by 2010 but the two boat wells remain in place and are currently protected by a steel sheet pile seawall that extends inland along their borders.

The project site is directly adjacent to the Corps' Navigational Structures at the Saugatuck Harbor, which is listed in the NRHP. The permit area is located about 250 feet away from the eastern edge of the seawall that connects to Saugatuck Harbor's north pier (Encl. 10). We have preliminarily determined that the proposed work would have no adverse effect on the Corps' Navigational Structure.

The permit area is encompassed by archaeological site 20AE619. We believe site 20AE619 is eligible for listing in the NRHP based on intact archaeological deposits located in previously conducted surveys outside the permit area for this project. We understand the boundary of site 20AE619 is unverified by field study. Archaeological surveys have not been conducted within the permit area. The permit area is not expected to contain intact archaeological resources given the extent of previous disturbance, including excavation of a boat well, installation of seawall, and grading and fill associated with installation of the existing gravel boat ramp.

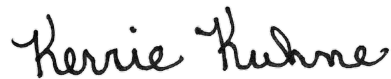
The work proposed within the permit area is mostly located waterward of the OHWM elevation of 581.5 feet (IGLD 85) within a previously excavated boat well, and the proposed work does not require any dredging or excavation activities. The boat ramp and bedding materials would be installed on top of riverbed sediments that will be leveled and redistributed to create a smooth surface. The constructed boat ramp would not extend beyond the waterward limits of the surrounding seawall. Overall, the depth of previous ground disturbances that have occurred within the permit area is much greater than the depth of ground disturbance proposed on the riverbed for the installation of the boat ramp. Therefore it is very unlikely that any undiscovered resources shall be discovered during construction of the project. Based on the extent of recent disturbances to the site, it is our preliminary determination that the proposed project would have no adverse effect to site 20AE619.

The permit area is within the boundaries of the Kalamazoo River Mouth Traditional Cultural Property (TCP) which is eligible for listing in the NRHP. We expect the proposed work would cause minor, temporary turbidity in the waterway due to leveling of existing sand and construction discharges for the installation of the boat ramp. The

proposed project would have minimal impacts to lake sturgeon, and would not impact wild rice, birch, white pine, black ash or cattails. The project is consistent with the current use of the river in general, and consistent with past and current use of the permit area. Noise and visual characteristics of the area after construction would be similar to current conditions. If a permit is issued, it could include special conditions prohibiting in-water work between March 15-June 30 and September 1-December 15 as recommended by the MDNR Fisheries Division to minimize potential impacts during lake sturgeon spawning and migration periods. Special conditions could also include the use of a turbidity barrier around the work area during construction and requiring the applicant to immediately stop work and notify the Corps upon discovery of a potential resource eligible for listing in the NRHP. Based on our review, we preliminarily determined that the project, with the aforementioned special conditions, would have no adverse effect on the Kalamazoo River Mouth TCP.

If you have comments on the proposed project, we request your response within 30 days from the date of this letter. In the absence of a response, we will assume that you do not have concerns about the proposed work. If you need additional time, or have questions on this matter, please contact Kristi DeFoe at the above address, by E-Mail at Kristi.M.DeFoe@usace.army.mil, or by telephone at (313) 226-7718. In all communications, please refer to File Number LRE-2010-00304-52-N24.

Sincerely,

A handwritten signature in black ink that reads "Kerrie Kuhne". The signature is written in a cursive, flowing style.

Kerrie E. Kuhne
Chief, Western Section
Regulatory Branch

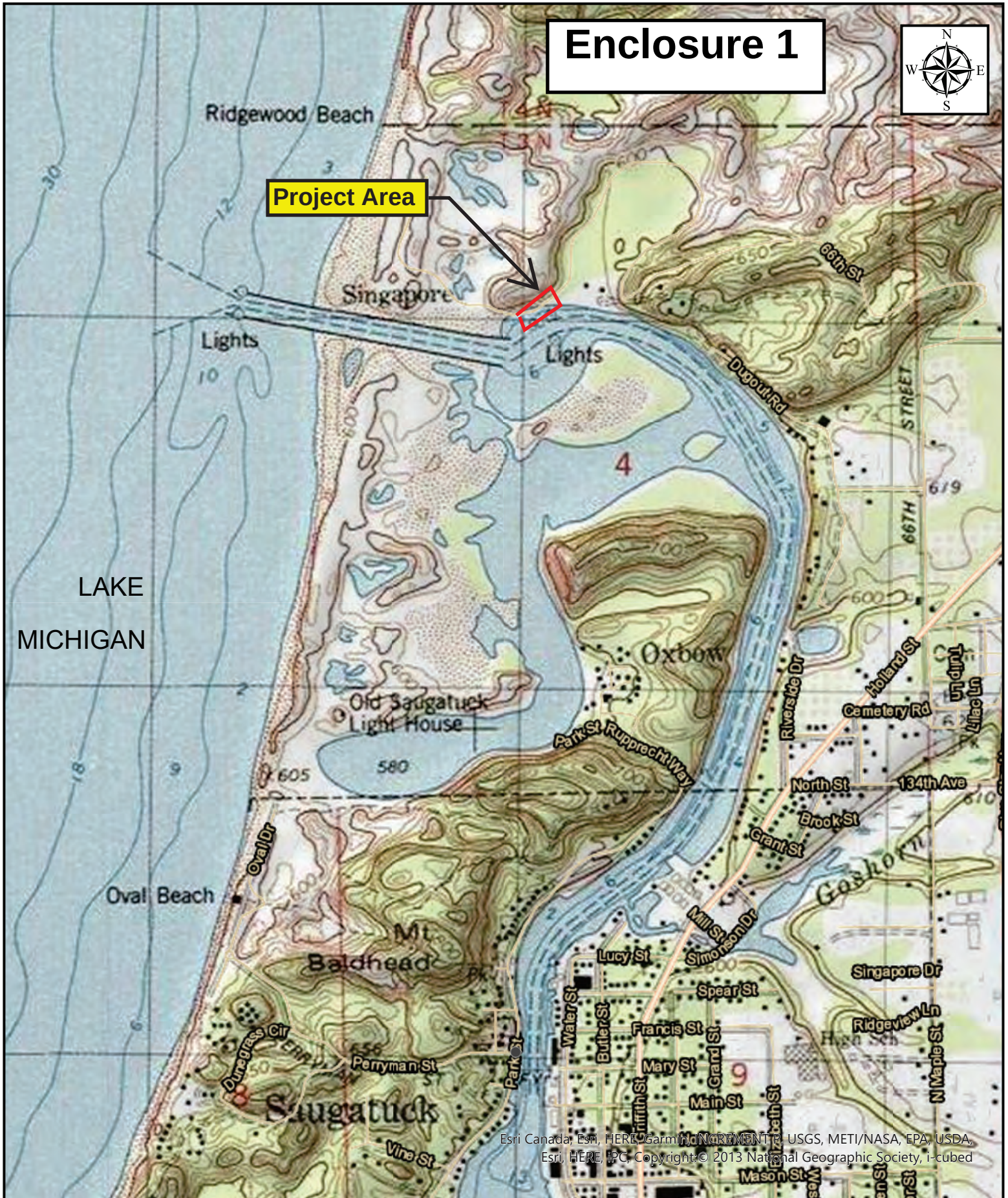
Enclosures

Enclosure 1



Project Area

LAKE
MICHIGAN



Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, METI/NASA, EPA, USDA,
Esri, HERE, IPC, Copyright © 2013 National Geographic Society, i-cubed



Saugatuck quad.

0 0.13 0.25 0.5
mi

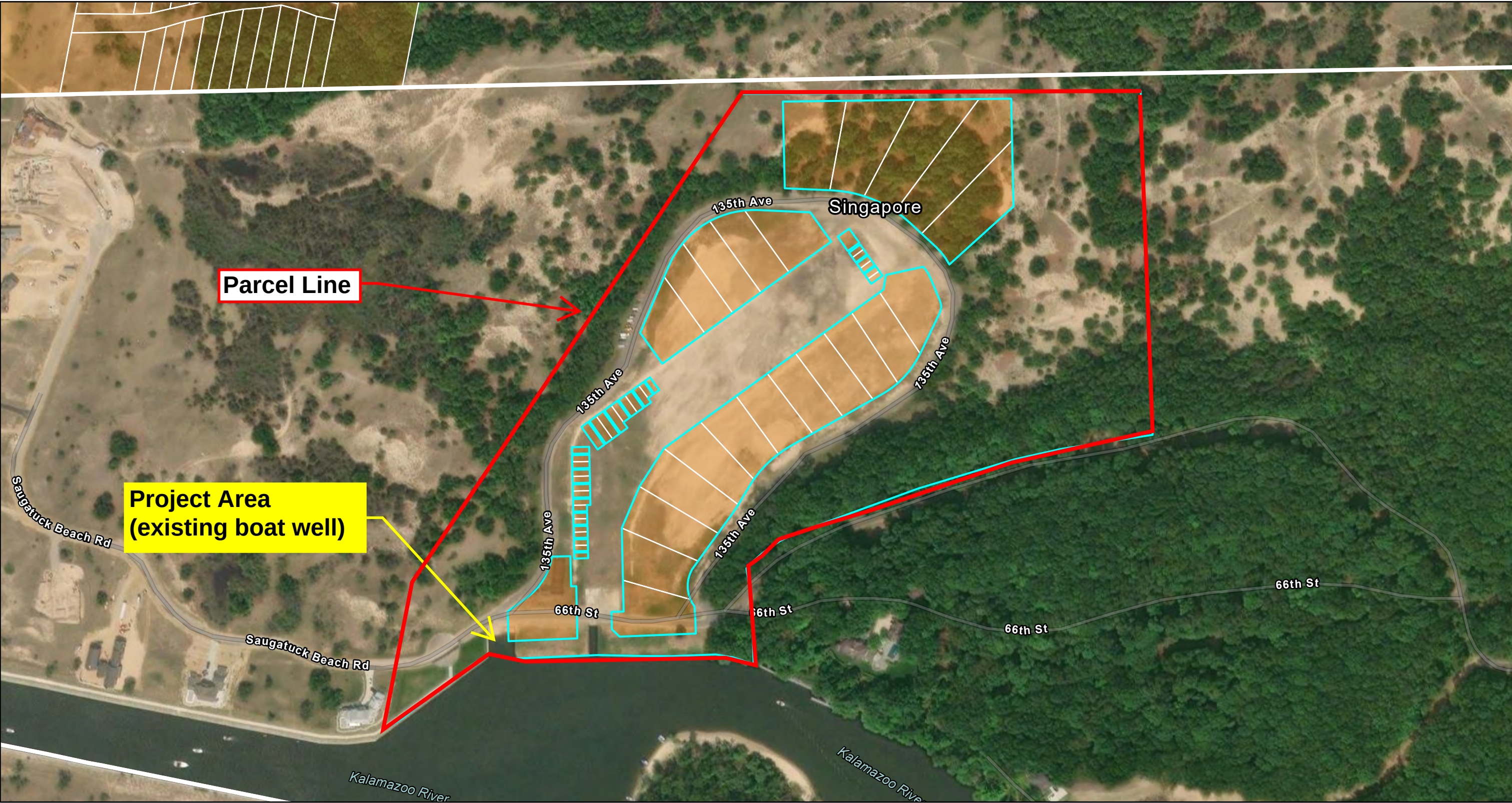
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Map Created by: PM NAME

Date: 8/21/2024

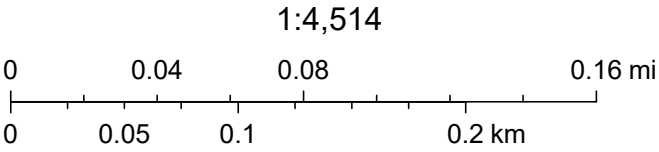
Coordinate System: WGS 1984 Web
Mercator Auxiliary Sphere

92



8/14/2024, 2:24:44 PM

Sublots
Allegan County Units



Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/ NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS, Maxar

March 2021

Enclosure 3

Legend

Measure

Unauthorized
concrete boat ramp
has been removed

Saugatuck Bch Rd

66th St

135'

255'

Permit Area

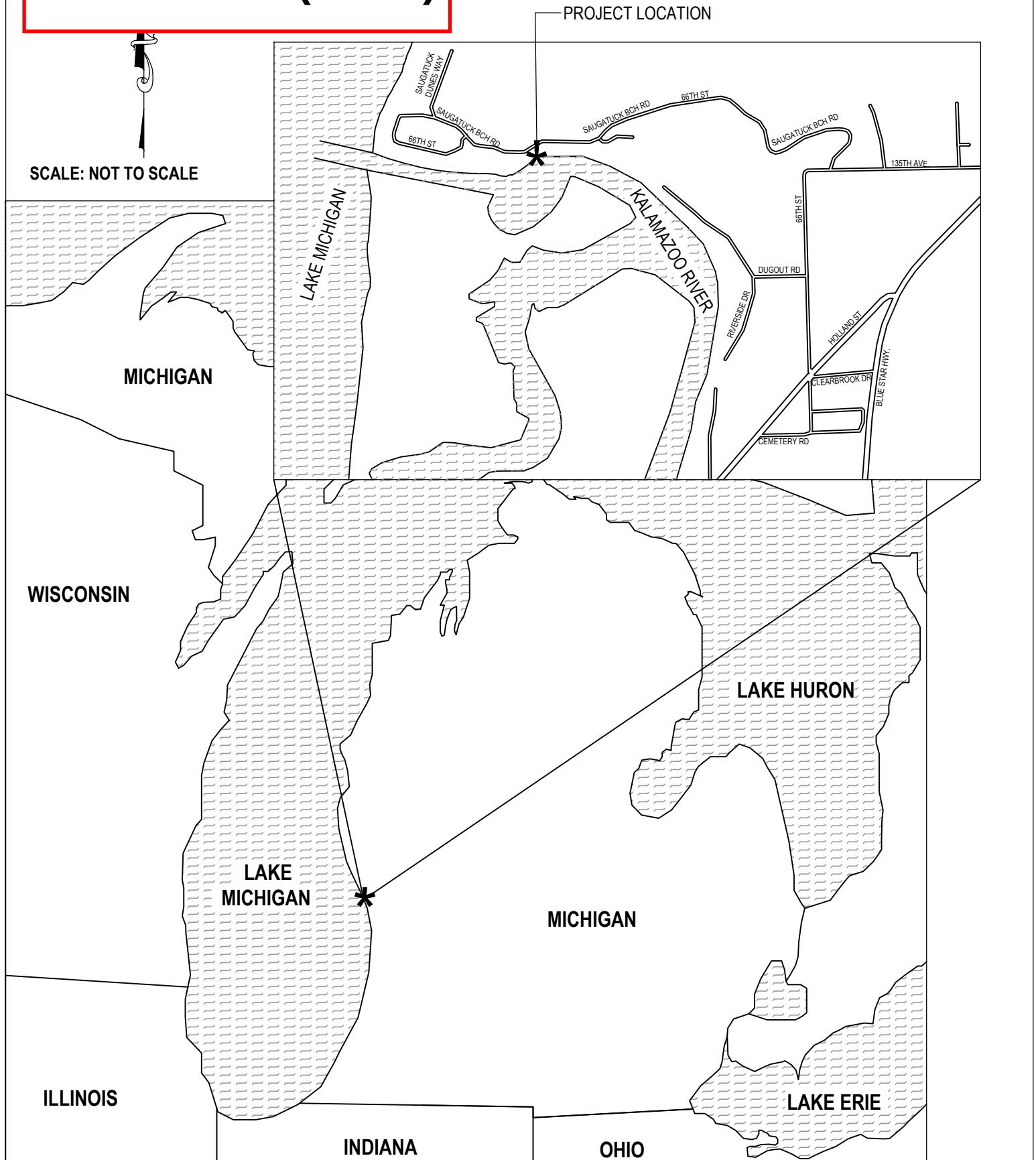
Kalamazoo River

Google Earth

300 ft 94



Enclosure 4 (1 of 6)



NOTES:

1. TOPOGRAPHIC AND BATHYMETRIC SURVEY PERFORMED BY EDGEWATER RESOURCES ON 01/11/2023
2. VERTICAL DATUM IS IGLD'85
3. HORIZONTAL DATUM IS MICHIGAN STATE PLANE, SOUTH ZONE, NAD83, INTERNATIONAL FOOT.
4. AVERAGE WATER LEVEL ON DAY OF SURVEY = 578' IGLD'85
5. PROPERTY LINES ARE APPROXIMATE. NO BOUNDARY SURVEY WAS PERFORMED BY EDGEWATER RESOURCES.
6. USACE OHWM = 581.5' (IGLD'85), EGLE OHWM = 580.5' (IGLD'85)
7. FEMA 100-YEAR FLOODPLAIN: 583.0' (NAVD88) - 0.45 = 582.55' (IGLD'85)
8. LWD = 577.5' (IGLD'85)

ADJACENT PROPERTY OWNER:
NORTH SHORES OF SAUGATUCK LLC
148 S RIVER AVE STE 100
HOLLAND, MI 49423

APPROX.
PROP LINE

ROAD RIGHT-
OF-WAY

FEMA 100-YEAR FLOODPLAIN 582.55' (BLUE LINE)

USACE OHWM 581.5' (RED LINE)

STEEL SHEET
PILE WALL

STEEL SHEET
PILE WALL

APPROX.
PROP LINE

CONC. SIDE
WALK

REVTMENT
STONE

KALAMAZOO RIVER

ADJACENT PROPERTY
OWNER
DENISON GERTRUDE
WINSLOW TRUST
RYDER DAVID R TRUSTEE
MCDERMOTT WILL &
EMERY LLP
PO BOX 1088
SAUGATUCK, MI 49453

(2 of 6)

EXISTING CONDITIONS

APPLICANT: NORTHSHORE OF SAUGATUCK
WATERWAY: KALAMAZOO RIVER
CITY: SAUGATUCK TOWNSHIP
COUNTY: ALLEGAN
DATE: 02/27/2024 (REVISED 4/15/24)
DATUM: IGLD85

SHEET: 2 OF 6

Edgewater
resources

518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269.932.4502
edgewaterresources.com

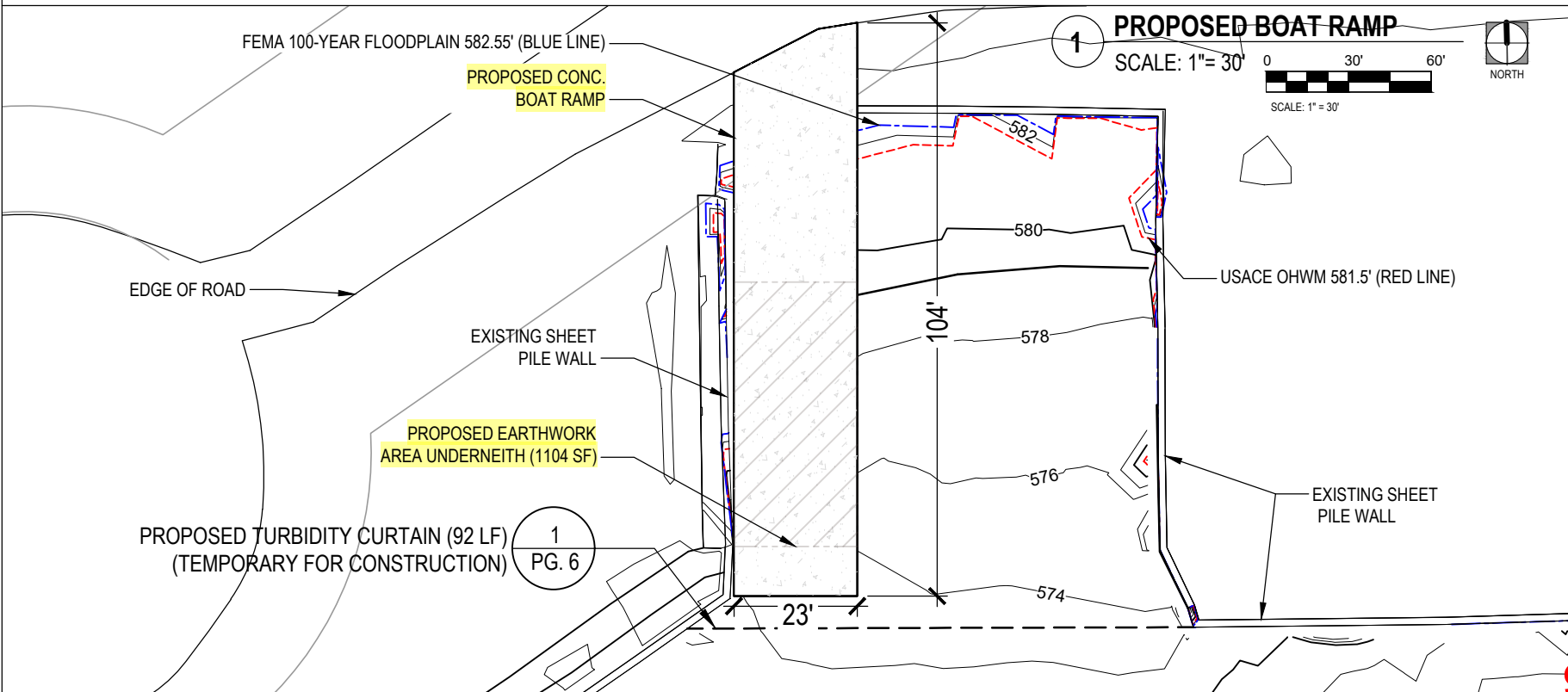
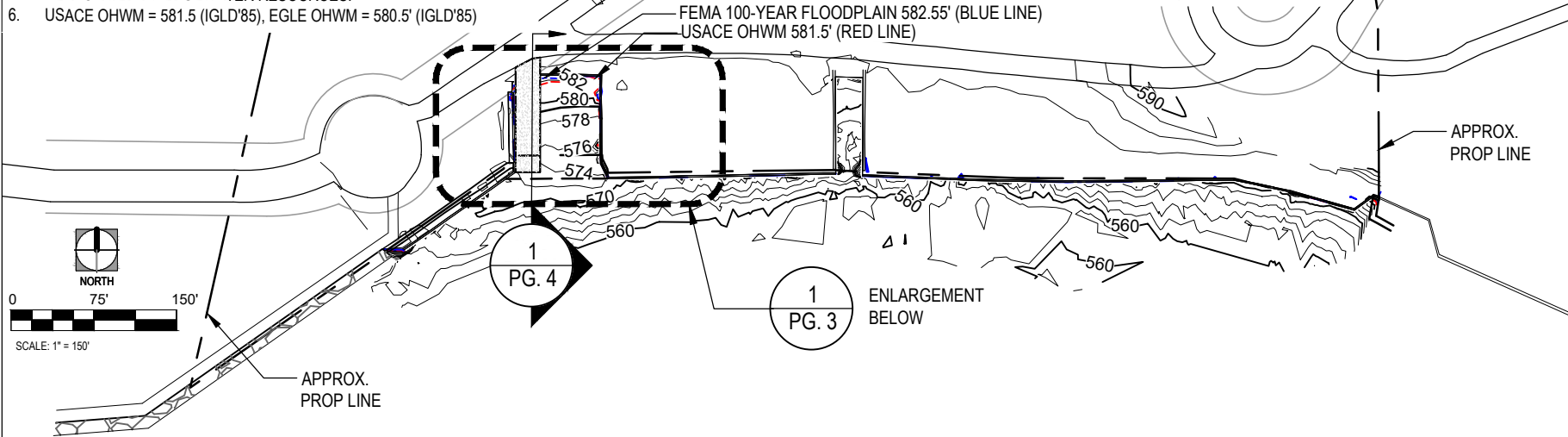
0 75' 150'
SCALE: 1" = 150'

NOTES:

1. TOPOGRAPHIC AND BATHYMETRIC SURVEY PERFORMED BY EDGEWATER RESOURCES ON 01/11/2023
2. VERTICAL DATUM IS IGLD'85
3. HORIZONTAL DATUM IS MICHIGAN STATE PLANE, SOUTH ZONE, NAD83, INTERNATIONAL FOOT.
4. AVERAGE WATER LEVEL ON DAY OF SURVEY = 578' IGLD'85
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7. LWD = 577.5' (IGLD'85)
8. FEMA 100-YEAR FLOODPLAIN: 583.0' (NAVD88) - 0.45 = 582.55' (IGLD'85)
9. OWNER TO CONDUCT ANNUAL INSPECTION OF POTENTIAL LOCALIZED EROSION AND SETTLEMENT. WHEN APPLICABLE, OWNER TO IMPLEMENT SUFFICIENT CORRECTIVE MEASURES PER CODE
10. ALL SESC MEASURES & CORRECTIVE ACTIONS TO COMPLY WITH THE APPLICABLE SOIL EROSION AND SEDIMENTATION CONTROL (SESC) RULES AND REGULATIONS (SOIL EROSION AND SEDIMENTATION CONTROL - 1994 PA 451, PART 91, AS AMENDED, MCL 324.9101 ET SEQ.)

(3 of 6)



PROPOSED CONDITIONS

APPLICANT: NORTHSORE OF SAUGATUCK
WATERWAY: KALAMAZOO RIVER
CITY: SAUGATUCK TOWNSHIP
COUNTY: ALLEGAN
DATE: 02/27/2024 (REVISED 4/15/24)
DATUM: IGLD85

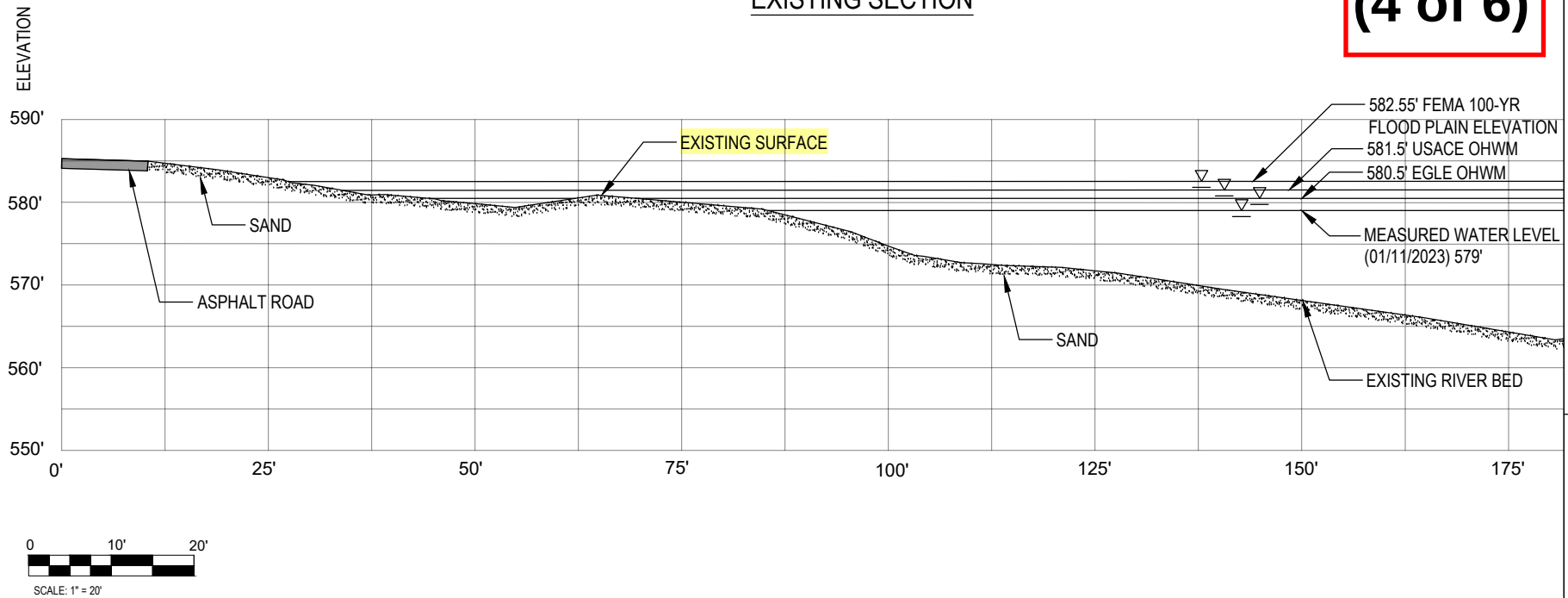
SHEET: 3 OF 6

Edgewater
resources

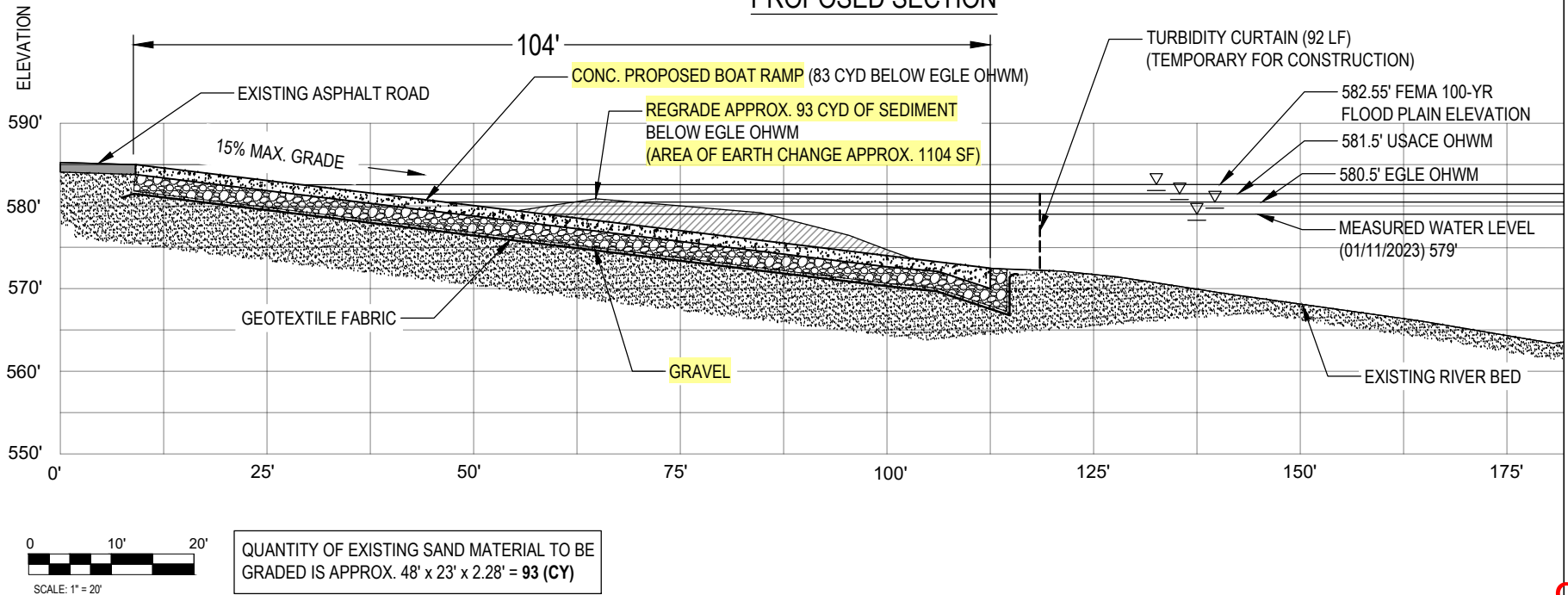
518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269.932.4502
edgewaterresources.com

EXISTING SECTION

(4 of 6)



PROPOSED SECTION



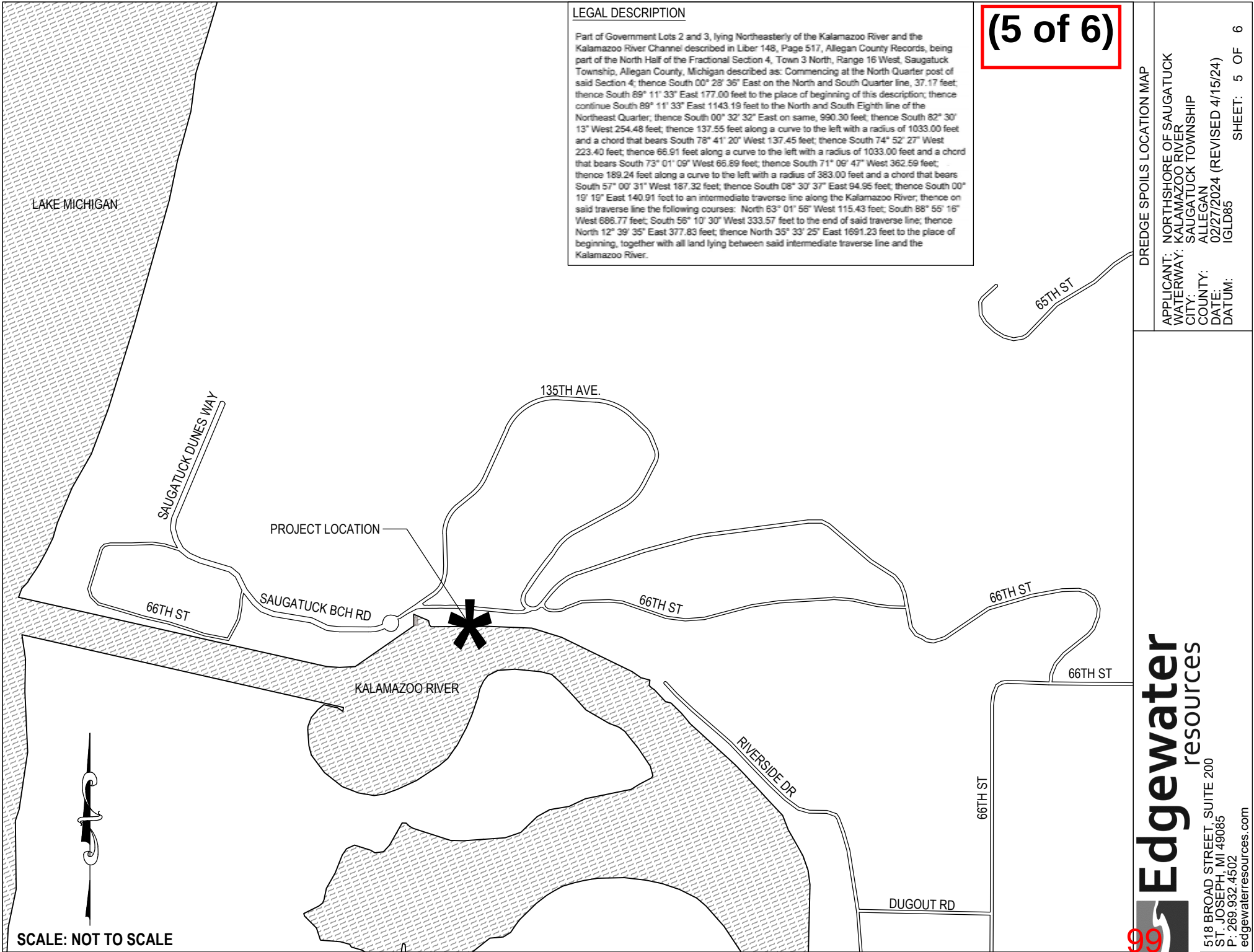
PROPOSED SECTIONS

APPLICANT: NORTHSIDE OF SAUGATUCK
WATERWAY: KALAMAZOO RIVER
CITY: SAUGATUCK TOWNSHIP
COUNTY: ALLEGAN
DATE: 02/27/2024 (REVISED 4/15/24)
DATUM: IGLD85

SHEET: 4 OF 6

Edgewater
resources

518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269.932.4502
edgewaterresources.com



(5 of 6)

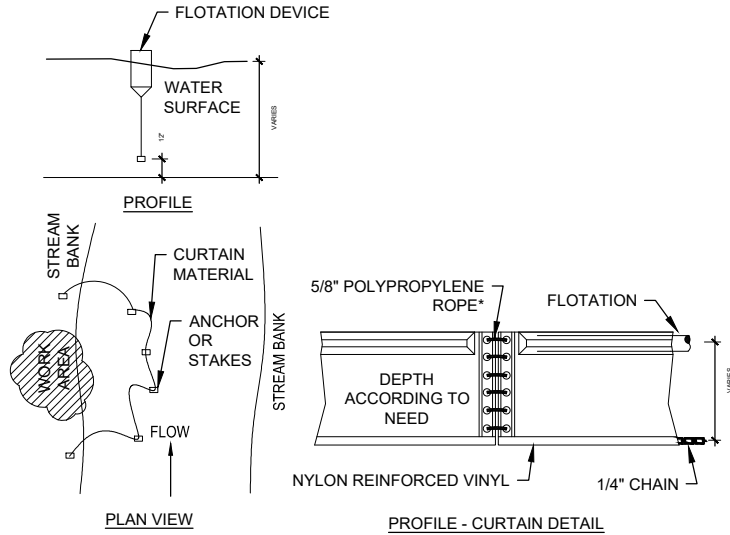
DREDGE SPOILS LOCATION MAP

APPLICANT: NORTHSORE OF SAUGATUCK
WATERWAY: KALAMAZOO RIVER
CITY: SAUGATUCK TOWNSHIP
COUNTY: ALLEGAN
DATE: 02/27/2024 (REVISED 4/15/24)
DATUM: IGLD85

SHEET: 5 OF 6

NOTES:

1. TYPE OF TURBIDITY CURTAIN TO BE DETERMINED BY A QUALIFIED ENGINEER OR CPESC.
2. *ANCHORS & JOINTS VARY DEPENDING ON TYPE OF WATERBODY AND VELOCITY OF WATERFLOW.
3. PRIOR TO DREDGING A SILTATION (TURBIDITY) BARRIER CURTAIN WILL BE INSTALLED AS SHOWN ON PG. 3 (SUPPORTED BY FLOTATION AND ANCHORING DEVICES) .
4. THE SOIL EROSION AND SEDIMENTATION CONTROL MEASURES SHALL CONFORM TO STATE OF MICHIGAN SOIL EROSION AND SEDIMENTATION CONTROL GUIDEBOOK, LATEST EDITION.
5. TURBIDITY CURTAIN SHALL BE PROVIDED AND INSTALLED PER DETAIL S61 OF THE STATE OF MICHIGAN SOIL EROSION AND SEDIMENTATION CONTROL GUIDEBOOK, LATEST EDITION.
6. SESC MEASURES WILL BE CHECKED TO ENSURE THE ARE CORRECTLY INSTALLED OR MAINTAINED, CORRECTIVE ACTION SHALL BE TAKEN TO REPAIR OR FIX INSTALLED SESC MEASURES.



1

TURBIDITY CURTAIN DETAIL

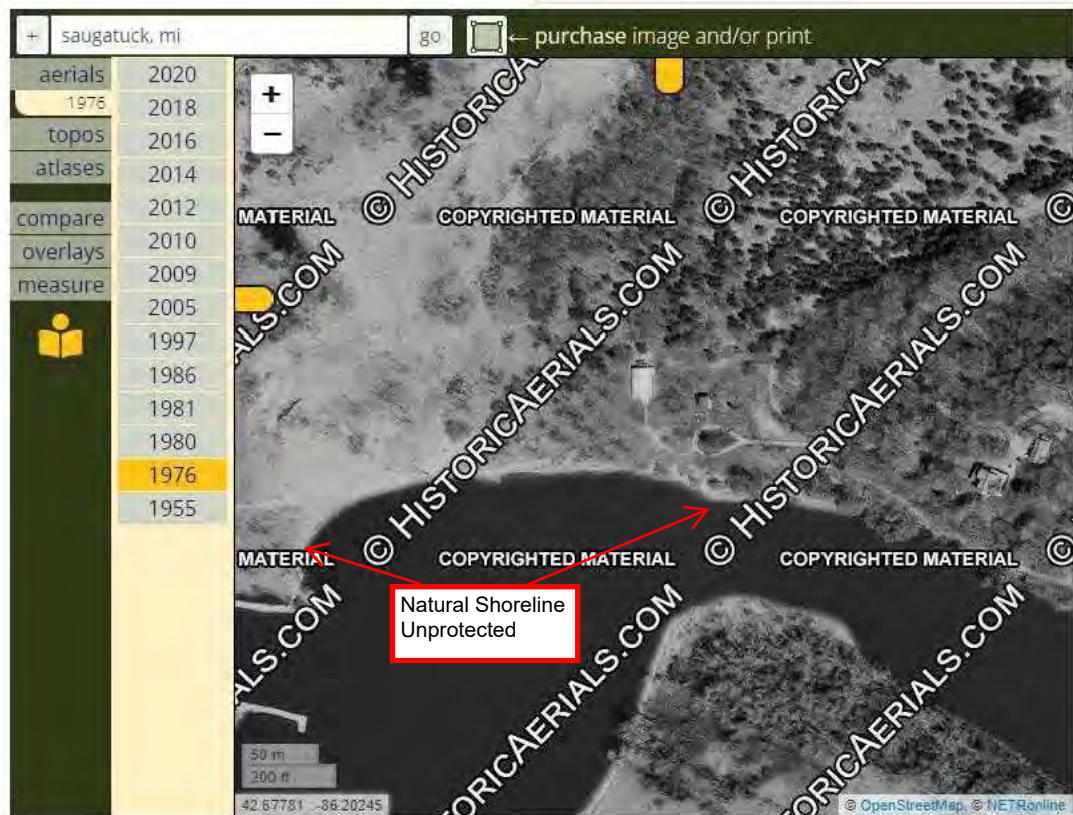
SCALE: NTS

PROPOSED CONDITIONS

APPLICANT: NORTHSORE OF SAUGATUCK
WATERWAY: KALAMAZOO RIVER
CITY: SAUGATUCK TOWNSHIP
COUNTY: ALLEGAN
DATE: 02/27/2024 (REVISED 4/15/24)
DATUM: IGLD85

SHEET: 6 OF 6

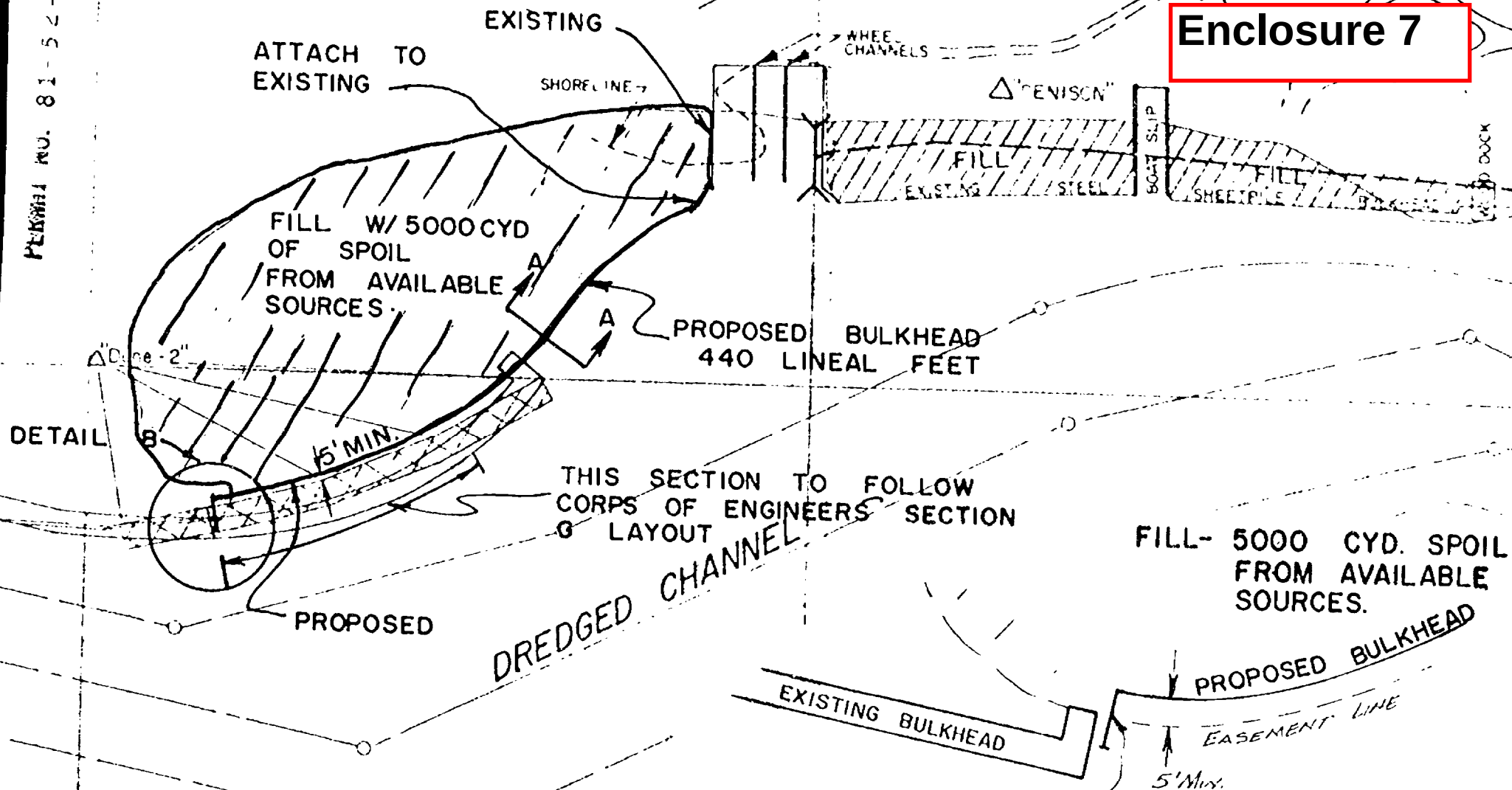
Enclosure 5



Corps 1983 aerial photo depicting work areas authorized by the Corps for excavated boat wells, new seawall installation, and associated areas of backfill.



Enclosure 7



Corps 1983 permit site plan depicting authorized backfill to create uplands landward of existing and proposed seawall.

NOTE: BULKHEAD HAS 5' RETURN WALL AND DOES NOT CONNECT TO EXISTING NORTH REVETMENT. THE 5' RETURN WALL IS TO BE PERPENDICULAR TO THE PROPOSED BULKHEAD LINE

APPLICATION By:
FRANK DENISON
REVISED 10-1-82
SHEET 1 of 2

DETAIL B

Corps Aerial 1988

Enclosure 8



April 2011

Enclosure 9

Permit Area

Saugatuck Bch Rd

66th St

Previous dock and
mooring piles

Kalamazoo River

Kalamazoo River

Google Earth

300 ft

105



September
2017

Enclosure 10

Permit Area

Saugatuck Bch Rd

Saugatuck Bch Rd

Approximate end of USACE
seawall structure for the
North Pier

250'

Approximate
Parcel Line

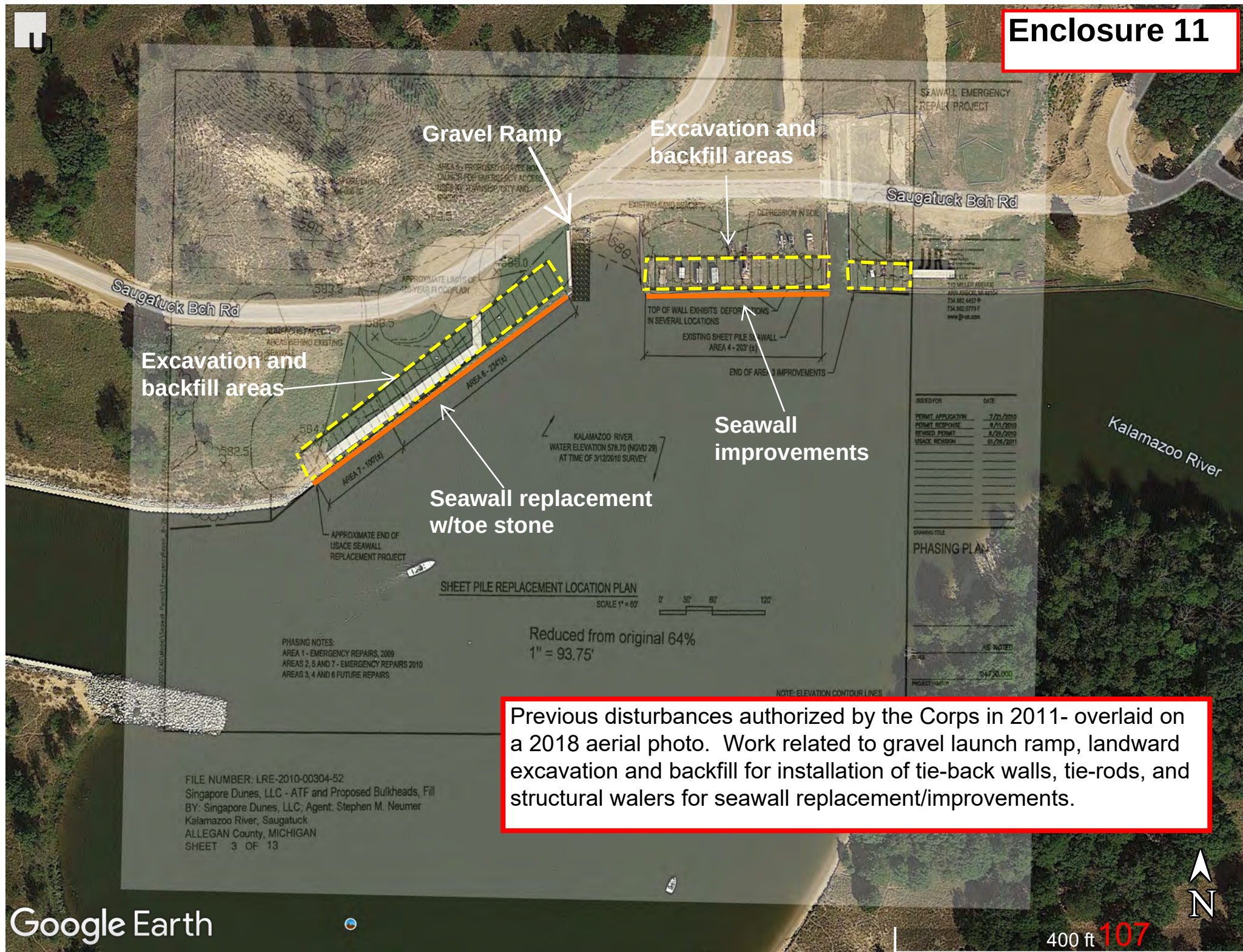
Kalamazoo River

Google Earth

300 ft

106

N



Enclosure 12

PROPERTY OWNER:
SINGAPORE DUNES, LLC

5" COMPACTED LIMESTONE, 1" TO 3"
PLACED OVER GEOTEXTILE FABRIC
AND LIGHTWEIGHT STEEL GRATING

EXISTING
SAND
BEACH

SEAWALL EMERGENCY
REPAIR PROJECT

Owner:
SINGAPORE DUNES, LLC

JJR
landscape architecture
planning
urban design
civil engineering
environmental science
JJR, LLC
110 MILLER AVENUE
ANN ARBOR, MI 48104
734.662.4457 F
734.662.0779 F
www.jjr-us.com

ISSUED FOR	DATE
PERMIT RESPONSE	8/11/2010
USACE REVISION	01/25/2011

DRAWING TITLE
**PHASE 4
LAYOUT**

SCALE **AS NOTED**
PROJECT NUMBER **24730.000**
DRAWING NUMBER **C31**

Reduced from original 64%
1" = 62.5'

SHEET PILE LAYOUT PLAN
SCALE 1" = 40'

NOTE: ELEVATION CONTOUR LINES
ARE FROM AN AERIAL SURVEY. ACTUAL
EXISTING GRADE ALONG THE SEAWALL
VARIES. VERTICAL DATUM IS NGVD29.

FILE NUMBER: LRE-2010-00304-52
Singapore Dunes, LLC - ATF and Proposed Bulkheads, Fill
BY: Singapore Dunes, LLC; Agent: Stephen M. Neumer
Kalamazoo River, Saugatuck
ALLEGAN County, MICHIGAN
SHEET 11 OF 13

2011 Corps permit site plan depicting
authorized gravel launch ramp and
disturbances 30 feet landward of the
seawall.



Unauthorized concrete boat ramp being removed.



Existing gravel ramp to be replaced with proposed concrete boat ramp.

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

RESOLUTION NO. 221024-A

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

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

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

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

¹ 33 CFR § 320.4.

² *Id.*

³ *Id.*

⁴ *Id.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹² *Id.* at 1-4.

¹³ *Id.* at 1-2.

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

¹⁴ *Id.*

¹⁵ 33 CFR § 320.4(j)(1).

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

¹⁷ *Id.*

¹⁸ *Id.* at 1-4.

¹⁹ *Id.* at 1-5.

²⁰ *Id.* at 1-6.

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

²¹ *Id.* at 1-10.

²² *Id.* at 1-12.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 1-13.

²⁸ *Id.* at 2-8.

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

²⁹ *Id.* at 3-1.

³⁰ *Id.* at 4-23.

³¹ *Id.* at 5-7.

³² *Id.* at 5-9.

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

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

³³ *Id.* at 5-11.

³⁴ *Id.* at 7-1.

³⁵ *Id.* at 7-18.

³⁶ *Id.*

³⁷ *Id.* at 8-1.

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

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

³⁸ *Id.* at 8-1 through 8-2.

³⁹ *Id.* at 8-2.

⁴⁰ *Id.* at 8-6.

⁴¹ *Id.* at 8-25

- y. *“Several vistas have public values that deserve protection. These include the entry into and exit from Lake Michigan on the Kalamazoo River, the view from Mount Baldhead, the view of Kalamazoo Lake from both ends, and approaches to the Kalamazoo River Bridge”* (emphasis added).⁴²
- z. “In seeking to balance economic development with environmental protection, the concept of carrying capacity should be a major consideration. If the carrying capacity of land or water is exceeded, then activities cannot be undertaken without unacceptable impacts on users, the environment, or both. Impacts can include increased trip times, decreased safety, pollution, loss of open space, and many other considerations. The key is prevention of overuse by limiting intensity of use on adjoining lands and regulating surface water use. Environmental protection must be a leading principle in making future land use decisions along the waterfront. Environmentally sensitive areas such as sand dunes, wetlands, high risk erosion areas, floodplains, and key woodlands should be protected from unnecessary destruction. Development should complement rather than destroy these areas and their values. By doing so the environmental quality of the air and water will be improved, wildlife habitat will be preserved, scenic values will be protected, and the character of the area will be maintained. Some new intensive shoreline development will be desirable and necessary, but the balance should not be disproportionately on the side of new tax base as it has been for the past three decades. Opportunities to enhance the waterfront should be seized. Parks and open spaces should eventually be linked with other public places.”⁴³
- aa. “Protection mechanisms, like the Natural River designation, should be recognized for the ancillary benefits they bring to the community.”⁴⁴
- bb. “Good land use planning is essential to the future quality of life in the Tri-Communities. Actual future land uses are difficult to predict and guide to achieve desired results. A future land use map and plan expresses local and use goals and policies and provides a land use scenario which a community may use as a physical guide. Goals and policies, in turn, drive land use and development decisions.”⁴⁵
- cc. “The following planning and design principles are the technical foundation in support of the proposed land use arrangements graphically depicted on the Future Land Use Map. These principles are consistent with the goals and policies in Chapter 1 and should remain the basis for reviewing any subsequent changes to the proposed Future Land Use Map. These planning principles are:

⁴² *Id.*

⁴³ *Id.* at 8-25 through 8-26.

⁴⁴ *Id.* at 8-27.

⁴⁵ *Id.* at 10-1.

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

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

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

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

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

⁴⁶ *Id.* at 10-1.

⁴⁷ *Id.* at 10-3.

⁴⁸ *Id.*

⁴⁹ *Id.* at 10-4.

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

hh. “The R-3 Lakeshore Residential Zoned District is that area of the township where controls are placed upon the use and development of areas adjacent to the shoreline of Lake Michigan *so as to preserve the shoreline as a natural resource to prevent and/or control erosion and to maintain the aesthetic qualities of the area*” (emphasis added).⁵¹

ii. “Public acquisition of the Denison property on both sides of the Kalamazoo River is the top priority for the Tri-Communities.”⁵²

jj. “While the above priority initiatives are being implemented, the matters that come before planning commissions and governing bodies month-to-month will permit many opportunities to implement key policies in this Plan (see policies in Chapter 1). Following are key strategies that should be implemented at every opportunity through local zoning, subdivision regulations and capital improvement programs. Many may first require updates to existing Zoning Ordinances. Most of the following strategies focus on preservation of the existing charter of the Tri-Communities:

- Protect the natural environment of the area AND Protect the visual quality of and visual access to the waterfront.”⁵³

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

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

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

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

⁵⁰ *Id.*

⁵¹ *Id.* at 10-12.

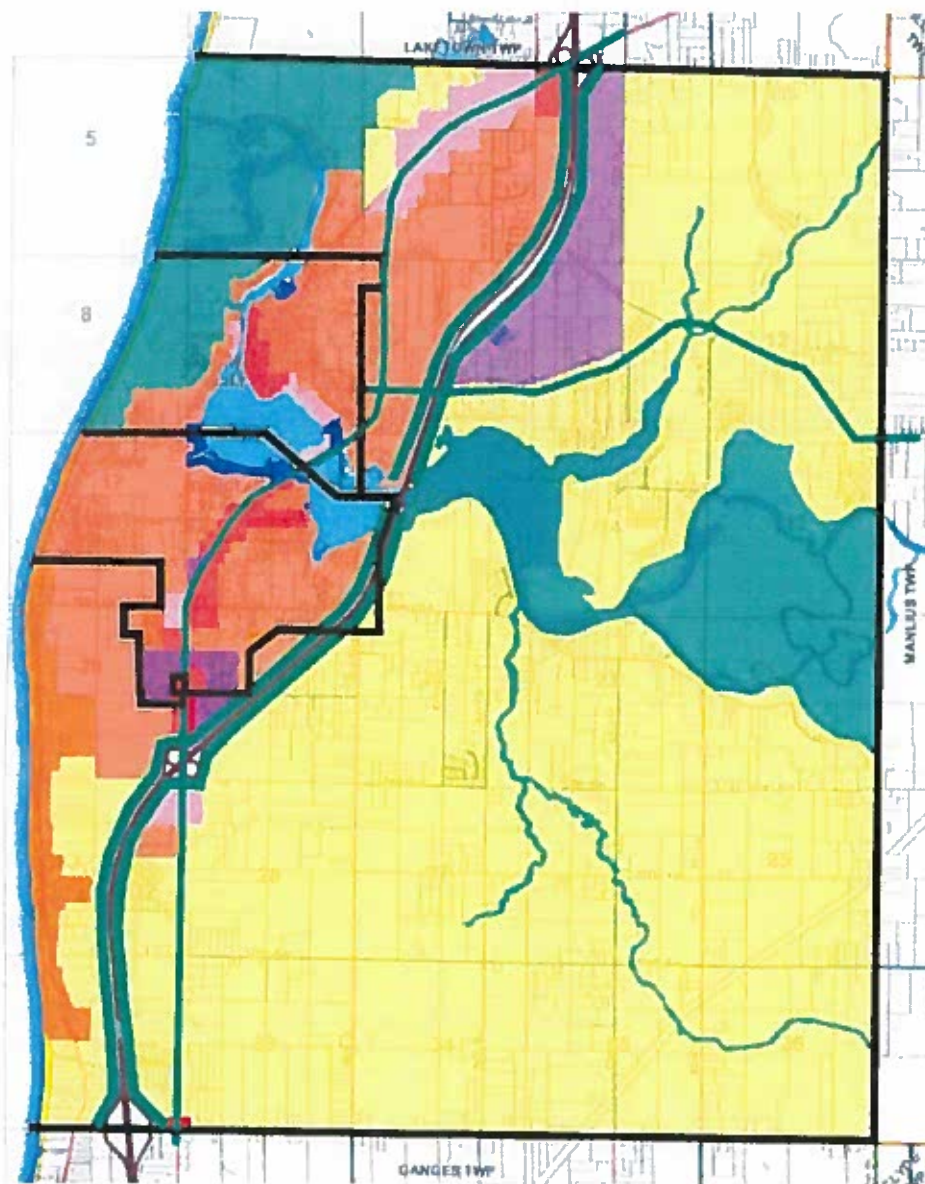
⁵² *Id.* at 13-2.

⁵³ *Id.* at 13-5.

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

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

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



Legend

Rural Low Density Single Family Residential/Agricultural
 Medium to High Density Single and Multi-Family Residential
 Mixed Use Residential/Commercial
 Waterfront Mixed Use

Commercial
 Industrial
 Greenspace, Preserve
 Highway Buffer

CONCLUSION

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

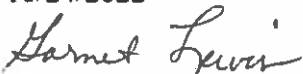
YEAS: Council Members: Bekken, Gardner, Leo, Stanton, Trester

NAYS: Council Members: None

ABSTAIN: Council Members: Dean

ABSENT: Council Members: Lewis

RESOLUTION DECLARED ADOPTED. Dated: 10/24/2022

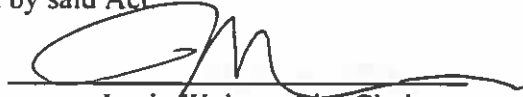


Garnet Lewis, Mayor

CERTIFICATION

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

Attest:


Jamie Wolters, City Clerk



CITY OF SAUGATUCK
COUNTY OF ALLEGAN
STATE OF MICHIGAN

RESOLUTION NO. 230814-A

**A RESOLUTION PROVIDING CITY COUNCIL'S PUBLIC COMMENT
TO THE DEPARTMENT OF ENVIRONMENT, GREAT LAKES AND ENERGY ON
NORTH SHORES OF SAUGATUCK, LLC'S PERMIT TO BUILD A MARINA BASIN**

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

WHEREAS, North Shores of Saugatuck, LLC has applied for a permit from the Department of Environment, Great Lakes and Energy ("EGLE") (with EGLE Submission Number HPF-7A8A-RGC7Q) under 1994 Public Act 451 to build a marina basin located in the Kalamazoo River, near the mouth of the Kalamazoo in Saugatuck Township (the "Township"), Michigan.

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

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

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

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

WHEREAS, on June 2, 2023, EGLE provided Public Notice to the City to seek input on the HPF-7A8A-RGC7Q application to build a marina basin (the "Application").

WHEREAS, in response to the Public Notice and the understanding that EGLE will still consider public comment as part of the open application, City Council desires to provide public comment on the pending Application and stress to EGLE the importance of carefully reviewing and considering whether the project will adversely affect the public trust and riparian rights as set forth below.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The legislature of the State of Michigan has found that "[t]he critical dune areas of this state are a unique, irreplaceable, and fragile resource that provide significant recreational, economic, scientific, geological, scenic, botanical, educational, agricultural, and ecological benefits to the people of this state and to people from other states and

countries who visit this resource.”¹

2. Michigan law states that EGLE “shall issue a permit if it finds that the structure or project will not adversely affect the public trust or riparian rights.”²
3. EGLE is required to “consider the possible effects of the proposed action upon the inland lake or stream and upon waters from which or into which its waters flow and the uses of all such waters, including uses for recreation, fish and wildlife, aesthetics, local government, agriculture, commerce, and industry.”³
4. The legislature of this State has chosen to regulate use impacting the critical dunes of this state in order to “[e]nsure and enhance the diversity, quality, functions, and values of the critical dunes in a manner that is compatible with private property rights.”⁴
5. The legislature of this State has recognized the importance of critical dune areas and the “benefits to the people of this state and to people from other states and countries who visit this resource.”⁵
6. Subject to section 35316, EGLE must approve a permit “unless the local unit of government or the department determines that the use will significantly damage the public interest on the privately owned land, or, if the land is publicly owned, the public interest in the publicly owned land, by significant and unreasonable depletion or degradation of any of the following: (i) The diversity of the critical dune areas within the local unit of government. (ii) The quality of the critical dune areas within the local unit of government. (iii) The functions of the critical dune areas within the local unit of government.”⁶
7. The City, as a municipality having particular interest in the project finds that the proposed excavation to build a marina basin in the Kalamazoo River near the City will “adversely affect the public trust. . . .”⁷
8. The City finds that the excavation and construction of the proposed marina will have significant adverse environmental effects on Michigan’s Critical Dune Area and its tree canopy and wooded sand dunes along the Kalamazoo River.
9. The City finds that the excavation and construction of the proposed marina will have significant negative effects on uses of the area for recreation, agriculture, and aesthetics by destroying the historic site of Singapore and damaging wild rice growth gathered and connected to the area, a Potawatomi traditional cultural resource.
10. The City finds that the Tri-Community tourist-based economy relies on the preservation of the historical, ecological, and cultural values in the river mouth area and that the excavation and construction of the proposed marina will have a significant negative impact on the uses of the surrounding waters for commerce and industry.
11. The City finds that the proposed marina basin has the potential of impacting well-

1 MCL 324.35302.

2 MCL 324.30106.

3 MCL 324.30106.

4 MCL 324.35302.

5 *Id.*

6 MCL 324.35304.

7 MCL 324.30106.

established public and private uses of the area, including public lands held by governmental agencies to the north and south of the proposed marina basin.

ECOLOGICAL OVERVIEW: THE PROPOSED PROJECT WILL RESULT IN A SIGNIFICANT AND UNREASONABLE DEPLETION AND DEGRADATION OF THE QUALITY AND DIVERSITY OF THE CRITICAL DUNE AREAS

1. The construction of the canal will decrease Michigan's Critical Dune Area by 6.5 acres.⁸
2. The construction of the canal will destroy the historic site of Singapore, a 19th century lumber town buried under the dunes and eligible for the National Register of Historic Places.⁹
3. The construction of the canal may damage the Potawatomi traditional cultural resources, disturbing Lake Sturgeon, wild rice growth traditionally gathered and connected to the area, and traditional burial grounds at the mouth of the Kalamazoo River.¹⁰
4. The construction of the canal will contribute to deforestation of a significant tree canopy of wooded sand dunes along the Kalamazoo River.¹¹
5. The construction of the canal will contribute to negative impacts to the City of Saugatuck effort to maintain its own areas, as well as conservation measures taken to support, augment, and further the positive environmental impacts of the City's property, such as the adjacent Saugatuck Harbor Natural Area, Tallmadge Woods Nature Preserve, and the Patty Birkholtz Natural Area.¹²

HISTORY OF THE TRI-COMMUNITY'S VALUES AND TOURIST ECONOMY: THE PROPOSED PROJECT WILL HAVE AN ADVERSE EFFECT ON THE USE OF THE AREA FOR RECREATION, FISH AND WILDLIFE, AESTHETICS, LOCAL GOVERNMENT, AND COMMERCE.

1. The City of Saugatuck, Saugatuck Township, and the Village of the City of Douglas ("Tri-Communities") have a 137-year history of deliberately building a tourist-based economy centered on the *preservation* and *conservation* of public open space in the river mouth area.

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

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

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

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

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

2. In 1884, the Village of Saugatuck—the former governmental entity prior to incorporation of the Village into the now City of Saugatuck— purchased Mount Baldhead and the lake frontage to the west. The lake frontage would eventually become Oval Beach. Stairs up the east side of the dune and a pavilion at the bottom were built to attract tourists to the area.
3. In 1920, Thomas Eddy Tallmadge purchased 105 acres of forested dunes surrounding the Ox-Bow School of Art. To protect the school and land, Tallmadge made arrangements with the City to preserve the land as green space in times the school did not operate.
4. In 1936, the City opened Oval Beach.
5. In 1957, the National Park Service conducted a survey of potential park sites along Lake Michigan. The Park Service wrote in its study: “[b]y virtue of its fine beaches (Oval Beach) and scenic hinterlands, Saugatuck has a high public use value. . . . *Immediate steps should be taken to safeguard these values in order to meet the recreation demands of this region.*” (emphasis added).
6. Between 1977 and 1988, local citizens worked to establish Saugatuck Dunes State Park and Natural Area.
7. In 1977, the Natural Areas Conservancy of West Michigan (NACOWMI) acquired a 300-acre parcel, known as the Luther-Uhl property, which was adjacent to what would become the Saugatuck Dunes State Park.
8. Around this time, the State acquired 550 acres from the Augustinian Seminary. It kept 40 acres of this land for the operation of a prison and gave the remainder of the land to the Department of Natural Resources (DNR).
9. Following its acquisition of the land, the DNR advocated for the Luther-Uhl land to be protected as a natural area for scientific study.
10. Following this, the DNR announced its state park plan which called for a 1,500 car parking lot on the beach and an off-road vehicle area. *The local response was immediate and unanimously negative.*
11. The DNR withdrew its state park plan and allowed for the formation of a citizen’s advisory committee to draft a master plan for Saugatuck Dunes State Park. *This was the first time a citizen’s advisory committee was entrusted to create a State Park Master Plan.*
12. Patty Birkholz, a Parks Commissioner from the Township, was appointed Chair of the committee.
13. The committee’s Master Plan called for a *low-impact nature study* and prohibited overnight camping—a rare prohibition in the state park system.
14. The Master Plan included detailed expansion plans for acquiring, among other lands, those around the proposed marina basin, including the NorthShore of Saugatuck property. These plans called for an expanded natural area and designated historic site where the buried ghost town of Singapore lies.
15. The Master Plan required the Luther-Uhl property to be legally designated as a Natural Area until October 1988.

16. The citizens charged with drafting the Master Plan worked with the conservancy community, the DNR, and the State for six years to ensure the protection of the land. In 1982, the Master Plan was unanimously approved by the Natural Resources Commission.
17. In January 2004, the DNR received over 100 individual letters supporting a proposed expansion of the Saugatuck Dunes State Park to include Denison property, which then became the Singapore Dunes LLC property and most recently became the NorthShore of Saugatuck property.
18. Between the years 2003 and 2005, the Tri-Communities came together for a series of meetings to discuss and debate land use issues and future development. This meeting led to the publication of the 2005 Tri-Community Master Plan, (the “2005 Master Plan”) which focused on protecting the historical, ecological, and cultural values that drive the tourist-based economy.
19. During this period of time, there were two townhall-style meetings, as well as the collection of data from a community survey. Almost every other resident in the community responded.
20. The 2005 Master Plan was unanimously approved by the City of Saugatuck, the City of the Village of Douglas, Saugatuck Township, and Allegan County.
21. To put the 2005 Master Plan into place, the municipalities took several actions towards protecting the natural areas.
22. In 2007, the Tri-Communities placed a conservative easement onto Tallmadge Woods Nature Preserve.
23. In 2009, the Tri-Communities assisted in the \$20 million public acquisition of the Saugatuck Harbor Natural Area. A grant of \$10.5 million from the Michigan Natural Resources Trust Fund was the largest public grant ever extended by this state fund.
24. In 2010, the City voters passed a millage to tax themselves for better support of the natural resources’ local zoning protections.
25. In 2010, local organizations applied to have the Wild Heart of Saugatuck, an area near the river mouth, added to the National Trust for Historic Preservation’s annual list of America’s 11 Most Endangered Places.
26. Lana Pollack, former Chair of the Michigan Natural Resources Trust Fund Board, submitted the following letter to the National Trust for Historic Preservation in support of the designation, primarily in hopes of protecting the state’s investment:

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

this case the historic and cultural context of the particular 171 acres that our grant was supporting.

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

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

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

27. In 2016, the updated Tri-Community Master Plan (the “2016 Master Plan”) was released. The priority among the Tri-Communities remains: “Public acquisition of the Denison property on both sides of the Kalamazoo River is the top priority for the Tri-Communities.”¹³
28. Today, the City owns nearly 16,000 feet of water frontage in the River Mouth Area immediately adjacent to the proposed canal. A portion of this is the Saugatuck Harbor Natural Area, a 177 acre designated natural area/sanctuary held under the supervision of the City. The Saugatuck Harbor Natural Area has 570 feet of water frontage on the Kalamazoo River, 1,800 feet of water frontage along the USACE channel, and nearly 6,200 feet of water frontage on the Old Harbor. All of this water frontage is in its natural state and does not have seawalls or riprap. The City also manages the Tallmadge Woods Nature Preserve, a 100-acre preserve with 6,200 feet of Kalamazoo River frontage and 2,900 feet of Old Harbor water frontage.
29. The Saugatuck Harbor Natural Area and the Tallmadge Woods Nature Preserve connect with Saugatuck’s Oval Beach and Mount Baldhead Park, together comprising 415 acres of park land and natural areas. These areas are all managed as low-impact natural areas to ensure the protection of the ecological, historical, and cultural values that drive

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

Saugatuck's tourism-based economy. These areas are indispensable to the economic well-being of the Tri-Communities.

30. The NorthShore of Saugatuck development and management may directly affect these natural areas and sanctuaries that the City manages for the benefit of the community.
31. Because of its effect on the low-impact natural areas and City-owned property, the NorthShore of Saugatuck development may have significant impacts on the Tri-Communities' tourist-based economy.
32. Among the goals listed in the 2016 Master Plan is the goal to "[p]rotect special environments and open spaces, including but not limited to sand dunes, wetlands, and critical wildlife habitat, from the harmful effects of incompatible development activity by limiting the type and intensity of land development in those areas."¹⁴
33. The 2016 Master Plan also outlines the goal to "[g]uide development in a manner which is orderly, consistent with the planned expansion of public facilities, and strives to preserve the scenic beauty, foster the wise use of natural resources, protect environmentally sensitive areas, and enhance the special character of the Tri-Communities."¹⁵
34. The 2016 Master Plan states that "[t]hese joint goals and policies are premised on a pledge by Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas to mutually cooperate in guiding future development to advance a common vision. It is intended that these goals and policies be consulted when considering future land use decisions within an individual jurisdiction, as well as those decisions that affect the interests of more than one jurisdiction."¹⁶
35. The goals and policies in the 2016 Master Plan "are premised on a pledge by Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas to mutually cooperate in guiding future development to advance a common vision."¹⁷
36. The goals and policies outlined in the 2016 Master Plan and those outlined by the City here should be considered a representation of the uses of bodies of water "for recreation, fish and wildlife, aesthetics, local government, agriculture, commerce, and industry."¹⁸
37. The 2016 Master Plan articulates the economic public interest in preserving the river mouth area of the Kalamazoo River for "low-impact development" or public open space.¹⁹
38. The City considers the 2016 Master Plan to be a reflection of the uses of bodies of water connected to the proposed project "for recreation, fish and wildlife, aesthetics, local government, agriculture, commerce, and industry." The 2016 Master Plan states "[t]hese joint goals and policies are premised on a pledge by Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas to mutually cooperate in guiding future development to advance a common vision. It is intended that these goals and policies be

¹⁴ City of Saugatuck et al., Tri-Community Master Plan 1-12 (2016).

¹⁵ *Id.* at 1-4.

¹⁶ *Id.* at 1-2.

¹⁷ *Id.*

¹⁸ MCL 324.30106.

¹⁹ See generally City of Saugatuck et al., Tri-Community Master Plan (2016).

consulted when considering future land use decisions within an individual jurisdiction, as well as those decisions that affect the interests of more than one jurisdiction.”²⁰

39. Specifically, the City considers the following 36 excerpts from the 2016 Plan to be a reflection of the plans for “recreation, fish and wildlife, aesthetics, local government, agriculture, commerce, and industry”²¹:

1. “Goal: Guide development in a manner which is orderly, consistent with the planned expansion of public facilities, and strives to preserve the scenic beauty, foster the wise use of natural resources, protect environmentally sensitive areas, and enhance the special character of the Tri-Communities.”²²
2. “Policy: Insure compatible land use planning and zoning across municipal borders and minimize land use conflicts by separating incompatible uses and requiring buffers where necessary.”²³
3. “Policy: Support efforts to foster tourism by preserving the scenic beauty of the environment, expanding recreational opportunities, improving tourist attractions, preserving the historic character of the communities through the preservation of historic structures, expanding cultural and arts opportunities and encouraging development of promotional material which highlight the attractions of the Tri-Communities.”²⁴
4. “Goal: Encourage planning efforts based on the understanding, knowledge and respect for the Tri-Community’s historical and cultural resources.”²⁵
5. “Policy: Discourage the development of high intensity residential uses along the waterfront.”²⁶
6. “Goal: Protect special environments and open spaces, including but not limited to sand dunes, wetlands, and critical wildlife habitat, from the harmful effects of incompatible development activity by limiting the type and intensity of land development in those areas.”²⁷
7. “Policy: Identify development limitations on special environments which classify environments based on their value to the ecosystem, unique attributes, the presence of endangered plant and wildlife species, and other characteristics deemed significant.”²⁸
8. “Policy: Encourage acquisition of special environments of significant public value by public agencies or nonprofit conservancy organizations for the purpose of preservation.”²⁹
9. “Policy: Prepare and maintain a subarea plan for the Oxbow Peninsula including the [NorthShore of Saugatuck Property] ‘Denison Property.’”³⁰
10. “Policy: Promote the preservation of open spaces and natural areas, as well as limited, carefully planned development along the Kalamazoo River, Kalamazoo Lake, Silver Lake, Goshorn Lake, and Lake Michigan and connecting streams, creeks, and drainage ways to protect and enhance the scenic beauty of these waterfront areas.”³¹

20 *See id.*; see also MCL 324.30106.

21 *See* MCL 324.30106.

22 *Id.* at 1-4.

23 *Id.* at 1-5.

24 *Id.* at 1-6.

25 *Id.* at 1-10.

26 *Id.* at 1-12.

27 *Id.*

28 *Id.*

29 *Id.*

30 *Id.*

31 *Id.* at 1-13.

11. "In 2002 the City of Saugatuck completed a strategic plan for purposes of future growth and development and efforts involved an examination of local tourism and public opinion. The following data was secured from the plan's survey of visitors to the area, and provides useful information considered applicable to each of the Tri-Communities when considering economic and recreational impacts on the area. . . Activities – beach (40%), dune rides (12%), and boating (11%) Spending Patterns - \$500 to \$599 (median range), 15% spend +\$1,000. . . ."32
12. "The primary reasons people visit or live in the three communities are to enjoy the scenery and recreational opportunities and to live in a picturesque, safe place while they commute to nearby (or distant) urban centers. Beach recreation, boating and other water activities, shopping, art galleries and enjoying the scenery are the primary attractions for both tourists and year-around residents. *While agriculture, industry and tourism are important economic sectors represented in the Tri-Communities, tourism is king.*" (emphasis added).33
13. "Mature trees represent a valuable resource in maintaining the aesthetic character of the area, not to mention their overall importance to wildlife and the natural environment. *In particular, the wooded sand dunes along the Kalamazoo River and Lake Michigan, and those buffering adjacent uses from I-196, are especially important. They should be managed to insure their long term existence.*" (emphasis added).34
14. "A large portion of the lakeshore both north and south of the mouth of the Kalamazoo River is undeveloped or very sparsely developed. *A portion of this segment of the shoreline is in public ownership as Oval Beach Park. In 2011, the City of Saugatuck completed its acquisition of the 173 acres of natural dunes and 3,650 feet of undeveloped Lake Michigan Shoreline, formerly owned by the Denison family, between the south Kalamazoo River pier and Oval Beach City Park. This was made possible through a partnership between the City; the Land Conservancy of West Michigan; a 10.5 million grant from the Michigan Natural Resources Trust Fund; The Nature Conservancy; The Conservation Fund; and generous private donors.* The Saugatuck Harbor Natural Area, as it is now called, is open year round for low impact uses such as hiking, fishing, bird watching and beach combing."35
15. "The Tri-Community area is rich in cultural, and historical points of interest and many archaeological sites can be found throughout the area. Leading economists and forward-thinking governmental leaders have recognized the social and economic value of promoting and preserving cultural and historic assets. The state of Michigan has made community cultural; planning a key part of its most publicized and marketed economic development strategies: the 'smart growth'; 'heritage/cultural tourism'; and 'cool cities' initiatives."36
16. "Archaeological sites are of particular scientific value to the fields of anthropology, ecology and biology, and may have historic or ethnic significance as well. There are 120 archaeological sites scattered throughout the Tri-Community area, mostly related to Ottawa and Potawatomi cultures. Their exact locations have not been disclosed by the Bureau of history to protect them from exploitation. One of these sites, the Hacklander Site, located in Section 23 is listed on the National Register of Historic Places and has components representing Middle and Late Woodland periods. *A second important site is the old Singapore site located at the north edge of the 'new' (1906) harbor channel. Recipients of Federal assistance must ensure that their projects avoid damage or destruction of significant historical and archaeological resources.* The

32 *Id.* at 2-8.

33 *Id.* at 3-1.

34 *Id.* at 4-23.

35 *Id.* at 5-7.

36 *Id.* at 5-9.

Michigan Bureau of History reviews these projects to assess their impact on archaeological sites.” (emphasis added).³⁷

17. “Parks, recreation, and open space are essential to the quality of life of area residents, and are an important component of the local tourist economy. They enhance property values, as well as physical and psychological well-being.”³⁸
18. “According to the 2004 community opinion survey, following was the response to the question of whether the respondent would support the additional recreation-related activities even if it meant an increase in general property taxes. . . . The greatest support among recreation-related topics was for better water quality with 62.5%, bike lanes/pathways with 60.5% support and *parks and recreation at 50.9%. When citizens express a willingness to pay higher taxes for a service that is very significant.*” (emphasis added).³⁹
19. “*Recreation is important to the Tri-Communities and the visual experience of the community is tied to the recreational experience.* Residents like to live in the Tri-Communities, in part, because it is a uniquely attractive location. *Tourists visit and spend money in the Tri-Communities based in part on the visual experience. Natural features and open spaces are important components of the Tri-Communities,* contrasting with the concentrated, developed areas of the City of Saugatuck and the City of the Village of Douglas. The compact, strong identities of the City and Village are enhanced when natural, open spaces surround the two communities. Water is one of the natural features surrounding the City and Village and helping to give them form and identity. Wetlands, woodlands, farms and parks are other existing natural features that currently contribute to natural open space.”⁴⁰
20. “Tourists have always been attracted to the area, but tourism is now the number one economic activity. . . . Consequently, how the waterfront is used will be of crucial importance to the future of the Tri-Community area.”⁴¹
21. “*Although waterfront lands have high revenue generating potential, a major attraction of both the Lake Michigan and Kalamazoo River waterfronts is their scenic, natural shorelines composed of forested sand dunes and large wetland areas. Should these natural areas be greatly damaged or destroyed through inappropriate development, then the ‘goose that laid the golden egg’ will be dead. It is essential that the natural beauty of the waterfront be maintained along the Lake Michigan shoreline, the Kalamazoo River from the channel to Saugatuck, and from the Blue Star Highway Bridge inland.*” (emphasis added).⁴²
22. “This plan seeks to define a balance between competing uses. It places protection of the natural environment at first and foremost in making future land use decisions along the Lake Michigan and Kalamazoo River waterfronts. The ultimate goal is to minimize disruption of the natural environment so that new development and redevelopment is in harmony with the environment, rather than in conflict with it. Alteration of existing natural features should be very limited, and with mitigation to provide the same values and functions nearby.”⁴³
23. “Under the state Wilderness, Wild, and Natural Areas Program (Part 351 of the Natural Resources and Environmental Protection Act of 1994), the DNR is charged with identifying, dedicating and administering wilderness, wild and natural areas. Within the Saugatuck region, the DNR has dedicated the Saugatuck Dunes Natural Area to

37 *Id.* at 5-11.

38 *Id.* at 7-1.

39 *Id.* at 7-18.

40 *Id.*

41 *Id.* at 8-1.

42 *Id.* at 8-1 through 8-2.

43 *Id.* at 8-2.

protect the unique dune ecosystem of open dunes, blowouts, interdunal wetlands and wooded dunes, Pitcher's Thistle occurs within the area and is listed as a threatened species by both the state and federal government. The Saugatuck Dunes Natural Area is within Saugatuck Dunes State Park. Sensitive dune ecosystems also occur in the dune areas on either side of the Kalamazoo River mouth at Lake Michigan. This area is planned for protection but details have yet to be finalized. Management would likely be the responsibility of the City of Saugatuck, Saugatuck Township and the State Park. The entire Kalamazoo River, including the Saugatuck/Douglas area is designated as an area of particular concern by the DNR. Areas of particular concern are those having scarce resources, unusual scenic beauty, unusual economic value, recreational attractions, or some combination of the above. They are only located in coastal areas. Altering the environment in an area of 'particular concern' could have a significant impact on the quality of coastal and Great Lakes waters."⁴⁴

24. "As has been emphasized throughout this Plan, *the natural beauty of the waterfront has much to do with the attraction of the Tri-Community area.*" (emphasis added).⁴⁵
25. "*Several vistas have public values that deserve protection. These include the entry into and exit from Lake Michigan on the Kalamazoo River, the view from Mount Baldhead, the view of Kalamazoo Lake from both ends, and approaches to the Kalamazoo River Bridge.*" (emphasis added).⁴⁶
26. "In seeking to balance economic development with environmental protection, the concept of carrying capacity should be a major consideration. If the carrying capacity of land or water is exceeded, then activities cannot be undertaken without unacceptable impacts on users, the environment, or both. Impacts can include increased trip times, decreased safety, pollution, loss of open space, and many other considerations. The key is prevention of overuse by limiting intensity of use on adjoining lands and regulating surface water use. Environmental protection must be a leading principle in making future land use decisions along the waterfront. Environmentally sensitive areas such as sand dunes, wetlands, high risk erosion areas, floodplains, and key woodlands should be protected from unnecessary destruction. Development should complement rather than destroy these areas and their values. By doing so the environmental quality of the air and water will be improved, wildlife habitat will be preserved, scenic values will be protected, and the character of the area will be maintained. Some new intensive shoreline development will be desirable and necessary, but the balance should not be disproportionately on the side of new tax base as it has been for the past three decades. Opportunities to enhance the waterfront should be seized. Parks and open spaces should eventually be linked with other public places."⁴⁷
27. "Protection mechanisms, like the Natural River designation, should be recognized for the ancillary benefits they bring to the community."⁴⁸
28. "Good land use planning is essential to the future quality of life in the Tri-Communities. Actual future land uses are difficult to predict and guide to achieve desired results. A future land use map and plan expresses local and use goals and policies and provides a land use scenario which a community may use as a physical guide. Goals and policies, in turn, drive land use and development decisions."⁴⁹
29. "The following planning and design principles are the technical foundation in support of the proposed land use arrangements graphically depicted on the Future Land Use Map. These principles are consistent with the goals and policies in Chapter 1 and

⁴⁴ *Id.* at 8-6.

⁴⁵ *Id.* at 8-25

⁴⁶ *Id.*

⁴⁷ *Id.* at 8-25 through 8-26.

⁴⁸ *Id.* at 8-27.

⁴⁹ *Id.* at 10-1.

should remain the basis for reviewing any subsequent changes to the proposed Future Land Use Map. These planning principles are:

- Protection of public health and safety
- *Conservation of natural resources*
- *Environmental Protection*
- Minimizing public service costs
- Efficiency and convenience in meeting land use needs
- *Insuring compatibility between land uses.*" (emphasis added).⁵⁰

30. "Failure to consciously protect nonrenewable natural resources exposes a community to unbridled destruction of those resources which are the foundation for an area's character and quality of life. Conservation of natural resources usually focuses on: land, water, minerals, certain soils (such as prime farmland), wetlands, sand dunes, areas supporting an abundance and diversity of wildlife, and unique forested lands. Areas where the land and the water meet are the most important. Indiscriminate land subdivision frequently reduces the size or alters the shape of land, thereby compromising the resource value and production potential of those lands. This occurs frequently in prime agricultural areas and once lost, these lands may never be reclaimed for food production purposes."⁵¹
31. "This principle aims at preventing pollution, impairment or destruction of the environment. While there is considerable overlap with natural resource conservation issues, environmental protection measures focus primarily on air and water quality, and the impact of activities where the water meets the land. Environmental quality is best preserved by planning for appropriate land use activities in and near sensitive environmental areas, and managing development accordingly."⁵²
32. "A central objective of land use planning is to locate future land uses so that they are compatible with one another. This prevents future nuisance situations between adjacent land uses, such as loud sound, ground vibrations, dust, bright lights, restricted air flow, shadows, odors, traffic, and similar impacts."⁵³
33. "Other natural resource areas include sand dunes, wetlands, floodplains, streams, creeks and drains, the Kalamazoo River, Lake Kalamazoo, and areas at high risk of erosion along Lake Michigan. *These areas are proposed for very limited future development in keeping with their fragility and importance in buffering Lake Michigan storms*, filtering and storing water during periods of flooding, draining stormwater from land, providing habitat for a wide range of plants and animals, and for their wide ranging open space values. *Destroying these resources would destroy the essential qualities which continue to attract residents and tourists to the area.* If conserved and wisely used, waterways and farms will become a natural greenbelt system that continues to enhance the area for years to come. Local zoning ordinances should be reviewed to ensure they include adequate conservation practices." (emphasis added).⁵⁴
34. "The R-3 Lakeshore Residential Zoned District is that area of the township where controls are placed upon the use and development of areas adjacent to the shoreline of Lake Michigan *so as to preserve the shoreline as a natural resource to prevent and/or control erosion and to maintain the aesthetic qualities of the area.*" (emphasis added).⁵⁵

⁵⁰ *Id.* at 10-1.

⁵¹ *Id.* at 10-3.

⁵² *Id.*

⁵³ *Id.* at 10-4.

⁵⁴ *Id.*

⁵⁵ *Id.* at 10-12.

35. "Public acquisition of the Denison property on both sides of the Kalamazoo River is the top priority for the Tri-Communities."⁵⁶
36. "While the above priority initiatives are being implemented, the matters that come before planning commissions and governing bodies month-to-month will permit many opportunities to implement key policies in this Plan (see policies in Chapter 1). Following are key strategies that should be implemented at every opportunity through local zoning, subdivision regulations and capital improvement programs. Many may first require updates to existing Zoning Ordinances. Most of the following strategies focus on preservation of the existing charter of the Tri-Communities:
- Protect the natural environment of the area AND Protect the visual quality of and visual access to the waterfront."⁵⁷
40. The City finds that the marina basin may cause harm to the long-protected uses of public bodies of water for "recreation, fish and wildlife, aesthetics, local government, agriculture, commerce, and industry."⁵⁸

HISTORIC LAND-USE AND PLANNING: THE CANAL WILL HAVE AN ADVERSE AFFECT ON "PRIVATE PROPERTY RIGHTS" AND TO THE USE OF THE AREA BY "THE PEOPLE OF THIS STATE AND TO PEOPLE FROM OTHER STATES AND COUNTRIES WHO VISIT THIS RESOURCE"

41. The City finds that the 2005 Master Plan and the 2016 Master Plan reflect the designation of the area for the use by private landowners and by "people of this state and to people from other states and countries who visit this resource."⁵⁹
42. The 2005 Master Plan states "The northwest corner of the Township, along with [] most of the land in Saugatuck west of the Kalamazoo lake should be preserved for public open space and the portion that remains in private ownership should be maintained for low intensity uses (like the art colony and church camp)."⁶⁰
43. The 2005 Master Plan and the 2016 master plan state "Although waterfront lands have a high revenue generating potential, a major attraction of both the Lake Michigan and Kalamazoo River waterfronts is their scenic, natural shorelines composed of forested sand dunes and large wetland areas. Should these natural areas be greatly damaged or destroyed through inappropriate development, then the 'goose that laid the golden egg' will be dead. It is essential that the natural beauty of the waterfront be maintained along the Lake Michigan shoreline, the Kalamazoo River from the channel to Saugatuck, and from the Blue Star Highway Bridge inland."⁶¹
44. The 300-acre Patty Birkholz Natural Area is immediately adjacent to the proposed marina basin. It is one of only 20 legally-designated natural areas in the State of Michigan, and the City finds its preservation as one of the preeminent natural areas in the State of great importance to the local community and City.
45. The Master Plan for Saugatuck Dunes State Park and Patty Birkholz Natural Area calls for a low-impact nature area.

⁵⁶ *Id.* at 13-2.

⁵⁷ *Id.* at 13-5.

⁵⁸ MCL 324.30106.

⁵⁹ *Id.*

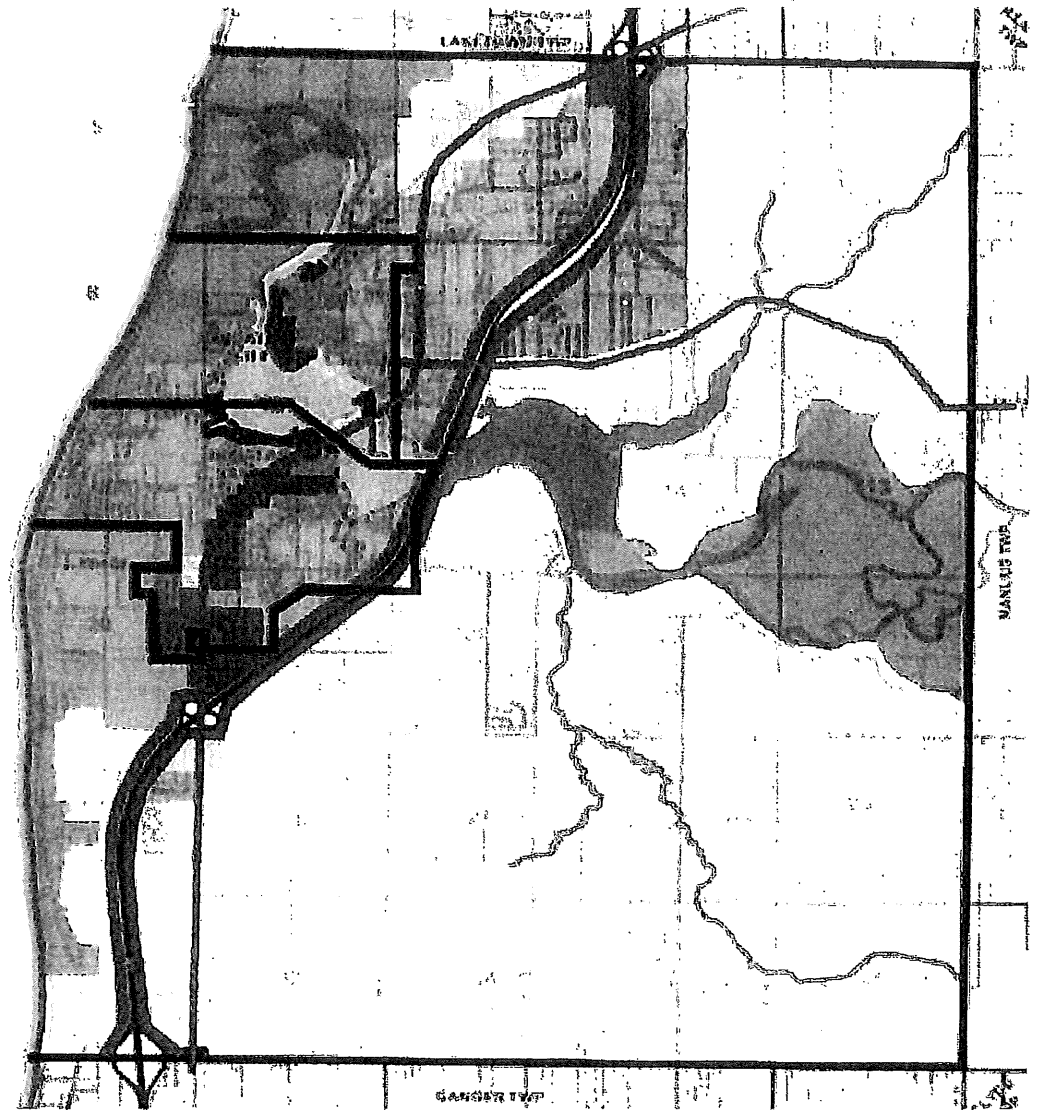
⁶⁰ City of Saugatuck et al., Tri-Community Master Plan 10-7 (2005).

⁶¹ *Id.* at 8-1 through 8-2; City of Saugatuck et al., Tri-Community Master Plan 8-1 through 8-2 (2016).

46. The parking lot for these nature areas was situated to be as far from the natural area as possible to ensure no noise, vibrations, glare, or fumes would be introduced into this sanctuary. The proposed marina basin itself would be contrary to those extra efforts to maintain the natural area in pristine environmental condition and quality.
47. The City finds that the proposed marina basin is contrary to the well-established riparian rights and responsibilities of adjacent private landowners.
48. The City finds that the proposed marina basin is contrary to the rights of those from this state and from other states and countries who visit the dunes.
49. For reference, the City acknowledges that the following is the future land use map proposed by the 2016 Master Plan:

Map 10-1

Future Land Use Map



Legend

 Rural Low Density Single Family Residential/Agricultural	 Commercial
 Medium to High Density Single and Multi-Family Residential	 Industrial
 Mixed Use Residential/Commercial	 Greenspace, Preserve
 Waterfront Mixed Use	 Highway Buffer

Tri-Community Master Plan Update

2016

10-2

PLEASE NOTE:

Any promise of future conservation easements, trails, land swaps by the property owner of NorthShore of Saugatuck, based upon what happens with permitting, is considered a Quid Pro Quo and is thus not considered a conservation easement permissible for tax reduction. xvi

50.

CONCLUSION

51. The City finds that the proposed marina will have an adverse effect on the public trust, and may impact related riparian rights.
52. The City finds that by damaging the historical, ecological, and cultural values of the area which attract tourism and recreation to the Tri-Communities, the proposed marina will negatively impact the use of waters for recreation, aesthetics and the local tourism industry. The proposed marina may further impact fish and wildlife.
53. The City finds that the proposed marina basin is not consistent with the public uses in and around the area.
54. Based on the findings in this Resolution, the City of Saugatuck asks the Department of Environment, Great Lakes and Energy to strongly consider standards and findings established by the Michigan Legislature in 1994 Public Act 451, to consider the appropriateness of the requests made.

YEAS: Council Members: Baldwin, Muncy, Leo, Gardner, Lewis

NAYS: Council Members: None

ABSENT: Council Members: Stanton

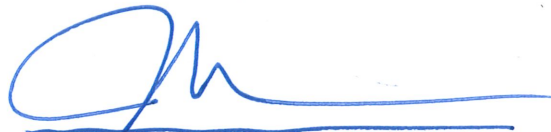
Abstain: Council Member: Dean

RESOLUTION DECLARED ADOPTED.

Dated: 8-14-23



Scott Dean, Mayor



Jamie Wolters, City Clerk

CERTIFICATION

I, Jamie Wolters, the City Clerk of the City of Saugatuck do hereby certify the foregoing is a true and complete copy of a resolution adopted by the Saugatuck City Council at a regular meeting held 8-14-23, in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan, 1976, as amended, the minutes of the meeting were kept and will be or have been made available as required by said Act.

Attest:



Jamie Wolters, City Clerk

Jamie Wolters

From: Jamie Wolters
Sent: Monday, February 10, 2025 2:55 PM
To: Jamie Wolters
Subject: FW: Maple Street Drainage Response from Engineer
Attachments: Maple St. Drainage Study Response 1-28-25.pdf

Hi everyone,

Attached is the response from my engineer regarding the proposal for the Maple Street Drainage issue. Please include it in the February 19th workshop packet.

If you haven't had a chance yet, here's the link to watch the videos/photos of the Maple/Mason Street drainage issue to get a clearer picture of the velocity and volume of the water eroding the property.

<https://www.dropbox.com/scl/fo/qzon6mvpb81lr62ajkgv0/ABSHqHeSKcoSBGPSKIQpWcE?rlkey=m5zslq6cgoy6hdoov2q1ujr4n&st=3gs3qln0&dl=0>

Also, the offer still stands for the members of the council who have not yet walked the property to do so. Feel free to access it from both sides.

Thanks for your time and consideration. I appreciate all the work that has gone into trying to resolve this problem. I'm hoping to be able to finally get some closure on this. See you on the 19th!

Thank you,
Wendy Colsen