

CITY OF CHARLEVOIX
210 STATE ST. CHARLEVOIX, MICH. 49720
PLANNING COMMISSION PUBLIC MEETING AGENDA

MONDAY, DECEMBER 9, 2019 AT 6:00 PM in the Council Chambers, 210 State Street,
Charlevoix, MI

- A. Call to Order/Pledge of Allegiance
- B. Roll Call
- C. Inquiry into Potential Conflicts of Interest
- D. Approval of Agenda
- E. Approval of the Minutes
 - 1. November 11, 2019 minutes
- F. Call for Public Comment Not Related to Agenda Items
- G. New Business
 - 1. 2020 Meeting Schedule
- H. Old Business
 - 1. Continued: Site Plan Review: Midtown Development, Inc., 115 Pine River Ln. – Residential Development
 - 2. Rooftop Usage Discussion
- I. Staff Updates
 - 1. ZBA Meetings Report
- J. Requests For Next Months Agenda or Research Items
- K. Adjournment by 8:00 PM unless extended by a motion

The City of Charlevoix will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon one weeks' notice to the City of Charlevoix. Individuals with disabilities requiring auxiliary aids or services should contact the City of Charlevoix Clerk's Office in writing or calling the following: City Clerk, 210 State Street, Charlevoix, MI 49720 (231) 547-3250.

CITY OF CHARLEVOIX

Approval of the Minutes

TO: Planning Commission

FROM: Kathy Egan

SUBJECT: November 11, 2019 minutes

DATE: December 9, 2019

ATTACHMENTS:

▣ November 11, 2019 Draft Minutes

CITY OF CHARLEVOIX
PLANNING COMMISSION MEETING MINUTES
Monday, November 11, 2019 - 6:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, MI

A. Call to Order/Pledge of Allegiance

The meeting was called to order at 6:00 p.m. by Chair Chamberlain.

B. Roll Call

Chair:	Sherm Chamberlain
Members Present:	Toni Felter, Brian Gelb, Dennis Halverson, Jennifer Muladore, Phillip Parr
Members Absent:	Ben Edwards, David Gray, RJ Waddell
Staff Present:	Kathy Egan, Community Planner

C. Inquiry into Potential Conflicts of Interest

Chair Chamberlain stated he would be abstaining from the Midtown Development vote because the company he works for has done work related to this project.

D. Approval of Agenda

Motion by Member Parr, second by Vice Chair Felter to approve the Agenda as presented. Motion passed by unanimous voice vote.

E. Approval of the Minutes

1. October 14, 2019 Meeting Minutes

Chair stated that there was the typographical error on the spelling of Kristin Jones' name. Motion by Member Gelb, second by Member Muladore to approve the minutes of October 14, 2019 as amended. Motion passed by unanimous voice vote.

F. Call for Public Comment Not Related to Agenda Items

G. New Business

H. Old Business

Chair Chamberlain recused himself.

1. Continued: Site Plan Review: Midtown Development, Inc., 115 Pine River Lane – Residential Development

Planner Egan stated this was a Level B Site Plan review for a site condominium at 115 Pine River Lane which included seven duplexes on the property. She stated that an amended site plan was submitted and additional public comment was received.

The public hearing was opened.

Harry Golski, Attorney representing the Lake House Association, referenced his letter which addressed additional concerns with the project related to the revised site plan. He recalled that at the previous meeting the Commission requested that the applicant submit an engineered plan for water retention. He stated he reviewed the revised plans and did not see the engineered plan so he felt that the primary reason that the item was tabled has not been met. He stated that there were issues related to the density that caused concern about the parking and set back requirements. He stated that the landscape plan contained in the revised site plan contains no landscape buffering on the Lake House boundary. He asked the Planning Commission to reject the revised plan in its present form.

Kristin Jones, 113 Pine River Lane, stated that she was part of a homeowner group that wants to keep their neighborhood. She expressed concern about the use density, required parking spaces, possibility that the space was going to be used as short-term rentals, no common space area, stormwater runoff, and neighborhood concerns.

Tim Burton, President of Midtown Development, Inc., stated that for the past five months he has been working with the Zoning Administrator to design a project that would be approved based on R-4 zoning. He indicated that the project did not include a parking lot, but parking spaces. He stated that the plans he submitted were stamped by Mansfield Engineering and included water retention on site through eight vessels that have been added to the rain garden area and the paver system meets the requirement for a permeable surface. He felt that if they set the buildings back by 25' there was not enough room for anything.

Mr. Burton stated that the property was not going to be driven by any commercial aspect but would be driven by the homeowners. He stated that they were trying to keep the retaining wall at no more than 5' that tapers to nothing on the high end. He stated that he offered some more buffering to the Jones' property.

The public hearing was closed.

Planner Egan advised that there were six letters submitted that were included in the agenda packet and two more received that day and she summarized the topics of the public comments included in the letters.

Member Halverson stated the Fire Chief's comments in the memo seemed to be in conflict with the findings of fact that were discussed at the October meeting. He stated that the Fire Chief cited that the fire suppression system is not code and not required, but with further review it appeared that the Fire Chief had concerns.

Planner Egan stated that there were six areas of concern that were discussed at the previous Planning Commission meeting and proceeded to review each of the responses from the applicant:

1. Snow removal - snow would be cleared with a tractor and removed from the site. Planner Egan stated that she was uncomfortable not having documentation regarding the method for snow removal.
2. Landscaping on the east side of the property – a revised landscape plan was submitted. Discussion regarding formalizing the 4' hedge requirement and including that an arborist be consulted for the best protection methods for the chestnut tree during construction and if the tree dies that there be a replacement tree planted.
3. Validation that there will be no other impervious surfaces such as for air conditioner pads – the original plan met this requirement and there were no additional plans for impervious surfaces.
4. Engineered drainage plan – stormwater retention area has been expanded on the revised plan.
5. Rear of property and landscape setback issues – discussed previously.
6. Needed draft of condominium documents – condition of approval would be that these documents would be required before final approval.

Member Edwards questioned if parking requirements would change if short-term rentals were allowed. Planner Egan stated that this is proposed as seven duplexes, but it has been shown by the plans that this could be interpreted as 28 units which would change the parking requirements drastically. She stated that they have something on file that shows these units as planned, but it could be interpreted at a future time to be sub-divided or used as four units per building as opposed to two units per building. Vice Chair Felter questioned if they were getting into a safety issue and Planner Egan stated that all zoning is for the health, safety and welfare of the residents.

Member Parr stated that the developer mentioned that once the units were sold he did not know what was going to happen with the units and the site plan is assuming that each unit will have two parking spaces, but there's no prohibition after the approval that someone couldn't split and have double that in each unit. Member Gelb stated that there was design and intent and if the plan is to allow for that flexibility with the units then it would seem that the plan ought to include adequate parking for it. Vice Chair Felter stated that her concern was that all their regulations were so that "we don't over build on property and it seemed to me we're hedging on that right here". Member Halverson stated from an owner's perspective allowing that flexibility they would probably be thinking of the rental possibility.

Member Halverson stated that his biggest concern was the memo from the Charlevoix Township Fire Chief received that day. Planner Egan reviewed the findings of fact from the previous meeting on the safety issues and the reference read: "The Planning Commission finds that the plan has been preliminary approved by the Police Chief and Charlevoix Township Fire Dept. and both have stated that public safety vehicles have adequate access to the property." The memo from Chief Dan Thorp stated that: "Pine River Lane development has met the fire departments requirements. But as far as my personal concerns, since fire suspension system is not code it will be putting the neighboring residents and businesses at risk. Even with the required distance between buildings being met. There is too much fire load in such a small area, with the winds that come off Lake Michigan."

Planner Egan suggested postponing the decision in order to obtain more information from staff. Vice Chair Felter polled each of the members present as to their thoughts on how to proceed:

- Member Halverson expressed concerns including safety issues, the Fire Chief's letter, and parking requirements.
- Member Edwards reiterated that the parking requirements were a stretch and the interpretation as to whether it is 14 units or 28 units; and the fire safety concerns addressed in the Fire Chief's memo.
- Member Gelb stated that the project met all the conditions from the previous meeting, and he felt it would be

- appropriate to create a condition that the design does not accommodate a separate rental situation.
- Member Muladore agreed with the concerns related to parking, access, and safety.

Motion by Member Halverson, second by Member Gelb to return to the Planning Commission with the language for the stated conditions as discussed tonight for the Commission's consideration at the December meeting. Motion passed by unanimous voice vote.

Motion by Member Muladore, second by Member Parr that the site plan review pending the prior motion be continued to the December 9, 2019 meeting. Motion passed by unanimous voice vote.

Chair Chamberlain returned to the meeting at this time.

2. Rooftop Usage Discussion

Chair Chamberlain and Planner Egan agreed that the Commission could hold off on the rooftop usage discussion until the next meeting.

I. Staff Updates

1. ZBA Meetings Report

Planner Egan stated the Zoning Administrator was not in attendance to present his ZBA Report. Chair Chamberlain commented that people received variances but haven't exactly built what the ZBA approved and he referenced a project across the street from his residence.

J. Request for Next Month's Agenda or Research Items

Planner Egan stated that the December meeting would include the two items from tonight's meeting and the 2020 meeting schedule.

Member Halverson expressed concern about getting a verbal recommendation at one meeting and then the next meeting getting a written response expressing issues with a case. He suggested asking the City Manager to require written reports from the Fire Chief rather than providing verbal opinions on issues coming before the Commission and Commission members concurred.

K. Adjournment by 8:00 PM Unless Extended by Motion

Motion by Member Parr, second by Member Gelb to adjourn the meeting. Motion passed by unanimous voice vote. Meeting adjourned at 7:40 p.m.

Joyce M. Golding/fgm

City Clerk

Sherm Chamberlain

Chair

CITY OF CHARLEVOIX

New Business

TO: Planning Commission

FROM: Kathy Egan

SUBJECT: 2020 Meeting Schedule

DATE: December 9, 2019

BACKGROUND

Attached is the proposed meeting schedule for 2020. A meeting schedule has to be adopted by resolution each year.

ATTACHMENTS:

- ▣ 2020 Meeting Schedule

Notice to the Public
City of Charlevoix Planning Commission
2020 Schedule of Regular Meetings

The regular meetings of the City of Charlevoix Planning Commission will be held in the City Council Chambers of Charlevoix City Hall at 210 State Street, Charlevoix, Michigan usually on the second Monday of each month as follows, unless rescheduled:

<u>Day</u>	<u>Meeting Date</u>	<u>Time</u>	<u>Agenda Packet Distribution Date</u>
Monday	January 13, 2020	6:00 PM	01/03/20
Monday	February 10, 2020	6:00 PM	02/02/20
Monday	March 9, 2020	6:00 PM	03/06/20
Monday	April 13, 2020	6:00 PM	04/04/20
Monday	May 11, 2020	6:00 PM	05/04/20
Monday	June 8, 2020	6:00 PM	06/01/20
Monday	July 13, 2020	6:00 PM	07/06/20
Monday	August 10, 2020	6:00 PM	08/03/20
Monday	September 14, 2020	6:00 PM	09/07/20
Monday	October 12, 2020	6:00 PM	10/05/20
Monday	November 9, 2020	6:00 PM	11/02/20
Monday	December 14, 2020	6:00 PM	12/07/20

General items for the meetings need to be submitted three days prior to the agenda packet distribution date (listed above in the right column).

Information submitted for site plan (inclusive of preliminary site plan information, site plan review materials, site plan amendment information) need to be submitted two weeks prior to the agenda packet mail date.

CITY OF CHARLEVOIX

Old Business

TO: Planning Commission

FROM: Kathy Egan

SUBJECT: Continued: Site Plan Review: Midtown Development, Inc., 115 Pine River Ln. – Residential Development

DATE: December 9, 2019

ATTACHMENTS:

- ❑ ZA Memorandum
- ❑ Site Plan for 12-9-19
- ❑ Applicant Arborist Report
- ❑ Master Deed Amendment
- ❑ Fire Chief letter from November
- ❑ Applicant Arborist Letter
- ❑ Arborist CV
- ❑ Public Comment
- ❑ Public Comment Attachment
- ❑ Public comment #2
- ❑ Public Comment #2 Attachment 1
- ❑ Public Comment #3
- ❑ Public Comment #4
- ❑ Public Comment #5



CITY OF CHARLEVOIX
210 STATE ST. CHARLEVOIX, MICH. 49720

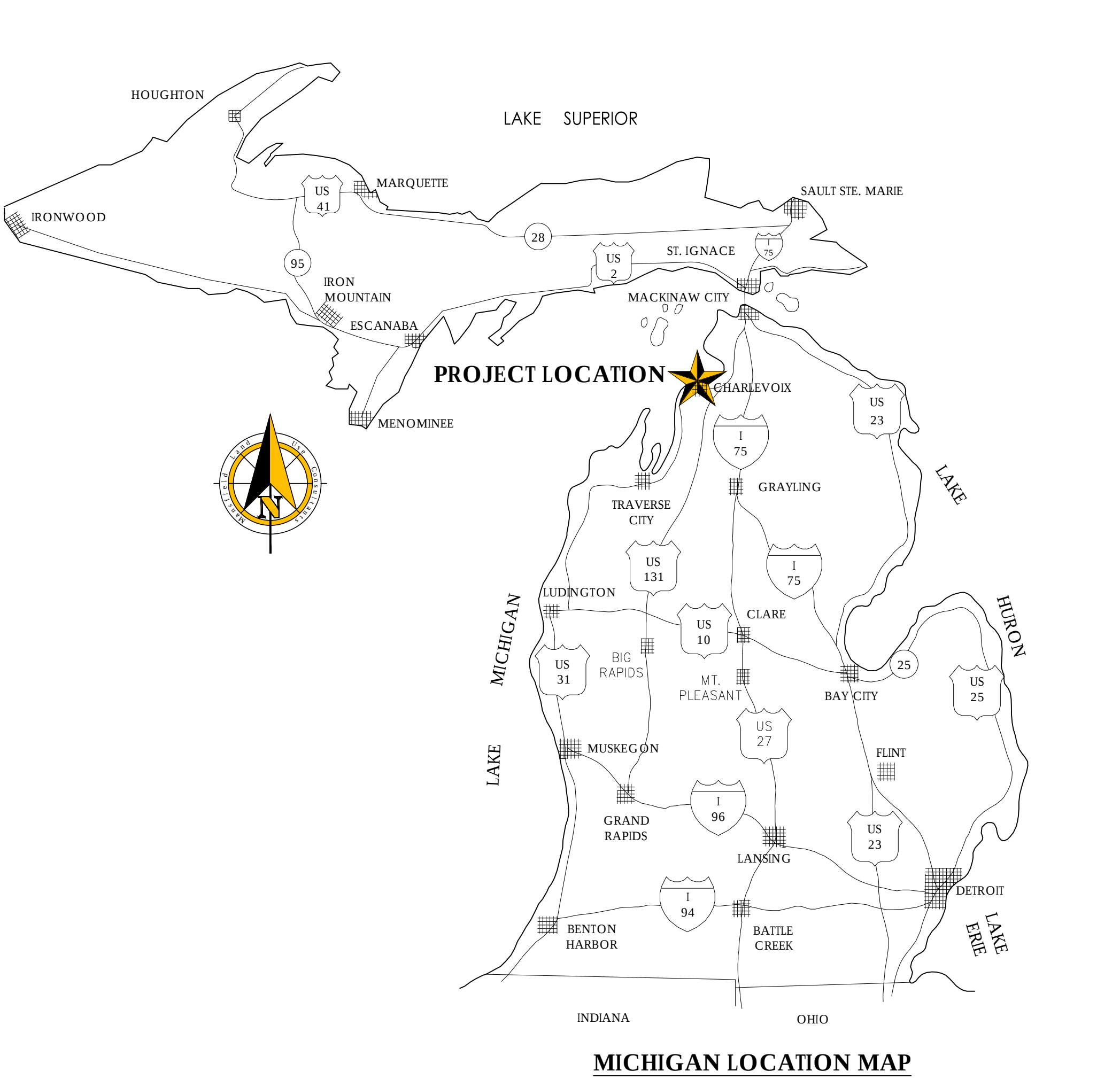
Memorandum

DATE: 12-3-2019
TO: Planning Commission
FROM: Jonathan Scheel Zoning Administrator
SUBJECT: 115 Pine River Lane Conditions

At the November Planning Commission meeting, the Planning Commission requested that the applicant needed to meet a number of conditions before approval. These conditions were:

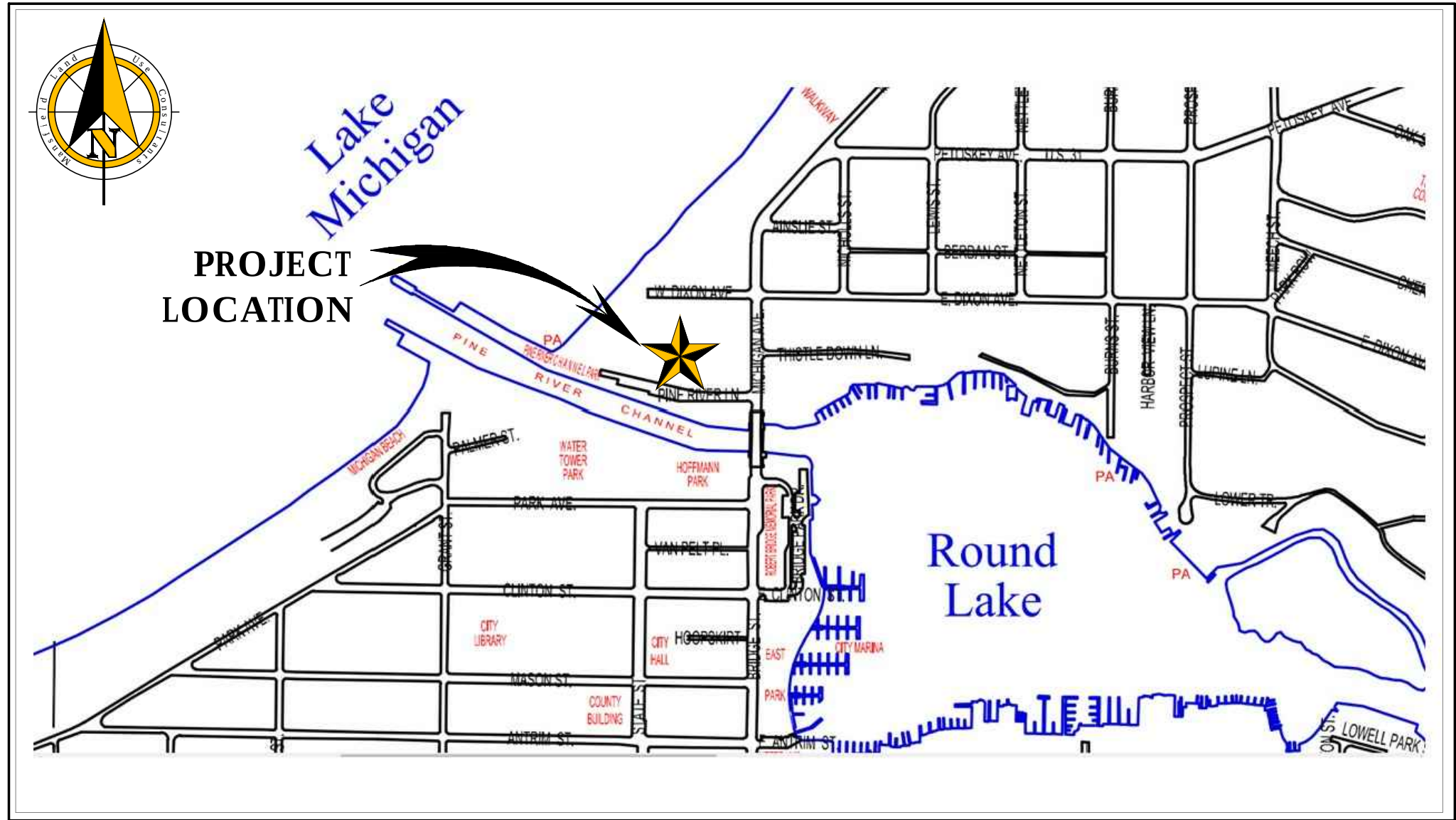
1. Snow removal: The site plan should include a statement that snow will be removed from the site and shall not be stored on site.
2. Landscaping: At applicant's expense (Section 153.234 (C)), the City of Charlevoix will consult with a licensed arborist on the following:
 - a. With the goal of retaining the large chestnut tree on the west side of the parcel, the arborist will report on the best practice of removal of other nearby trees, the removal/addition of underground utilities, and the best practice to protect the chestnut tree during construction. The arborist shall also recommend the best size and species for replacement of the chestnut tree if it does not live past 5 years after completion of construction.
 - b. In the event that the chestnut dies within five years of completion of the construction, the tree shall be replaced with a size and species as recommended by the arborist.
 - c. The Planning Commission shall approve the arborist's report and recommendations as a condition of approval of the site plan and prior to any land use permit being issued.
1. Page C.4 of the current plans shows a note (1) at the top of the sheet describing the method of snow removal.
2. Page C.4 of the current plans shows a note (2) at the top of the sheet describing a letter provided by Parshall Tree Care Experts, arborists from Traverse City, Michigan. This letter describes the conditions surrounding the Maple tree in question for the second condition. The letter describes the replacement tree as per the condition.

I as Zoning Administrator have also contacted a recommended tree expert and will have a written or verbal report at the December meeting.



MICHIGAN LOCATION MAP

VICINITY MAP



STANDARD PLAN LEGEND		
DESCRIPTION	EXISTING	PROPOSED
GROUND CONTOUR	605	
SPOT ELEVATION	613.2	613.50
CONTOUR FROM USGS TOPOGRAPHIC MAP		
TOP OF CURB ELEVATION	613.5	613.50
PAVEMENT (OR GUTTER FLOW LINE) ELEVATION	613.0	613.00
DIRECTION OF SURFACE FLOW		
DRAINAGE HIGH POINT		HP.
DRAINAGE LOW POINT		LP.
WATER MAIN		
SANITARY FORCE MAIN		
SANITARY SEWER		
STORM SEWER		
GAS MAIN		
OVERHEAD ELECTRIC		
PROPERTY LINE		
TREE LINE		
PINE LINE		
EDGE OF WETLAND		
EDGE OF WATER		
C/L OR DRAINAGE DITCH OR WATER LINE		
SILT FENCE		
DETENTION BASIN BERM		
MANHOLE (MH)		
CATCH BASIN (CB)		
CLEAN OUT (CO)		
RISER		
GATE VALVE		
FIRE HYDRANT ASSEMBLY		
CURB STOP & BOX		
POLE, POWER OR ELECTRIC		
LIGHT POLE		
SIGN		
BENCH MARK (BM)		
U/G UTILITY SIGN		
GUY ANCHOR		
SOIL EROSION CONTROL MEASURE (MICHIGAN UNIFIED KEYING SYSTEM) P=PERMANENT T=TEMPORARY		
IRON FOUND / IRON SET		
CONCRETE MONUMENT		
GOVERNMENT CORNER		
NAIL FOUND / NAIL SET		
RECORD / MEASURED	(R)	(M)
FENCE		
WOOD STAKE		

PROJECT DATA:

Proprietor:	Midtown Development, Inc.
Address:	311 E. Eighth St. Traverse City, MI 49684
Email:	timburden@gmail.com
Phone:	231-281-4983
Parcel ID:	052-127-002-00
Location:	115 Pine River Lane
Tax Description:	Beg N line Pine River Lane 387 ft NW W ll bridge N10°E 150 ft S77°E 50 ft N10°E 92.88 ft W 160 ft S10°W 222 ft to N line Pine River Ln E 110 ft to beg being pt of Gov Lot 1 Sec 27 T34N R8W & of Gov Lot 2 Sec 26-34-8
Parcel Zoned:	R-4 Zone Planned High Density Residential
Setbacks:	Front = 25' Side = 10' Rear = 25'
Flood Plain:	Per the National Flood Insurance Program FIRM Flood Insurance Rate Map Community Panel Number 260057 0005 B, Effective Date: February 11, 1983, Said parcel is located within Zone "C", area of minimal flood hazard.
Existing Use:	Vacant Land
Proposed Use:	14 Multi-Family, Detached Units
First Floor Structure Gross Square Footage:	570 s.f.
Second Floor Structure Gross Square Footage:	570 s.f.
Parking Required:	1.5 spaces per unit = 21 total required
Parking Provided:	26 provided (12 Units have 2-spaces)(2 Units have 1-space)
Drive Lane:	To be surfaced with asphalt or concrete pavement.
Parking:	All parking to be surfaced with pervious pavers.
Sidewalks-City:	To be concrete.
Sidewalks-Residential:	To be pervious pavers, except for Units 7 & 8 which will be concrete.
Parcel Acreage:	0.69 acres
Trash Removal:	Trash to be individual trash receptacles.
Snow Removal:	Snow removal shall be performed by use of a tractor mounted snow blower into a trailer to be removed to an off site location.
Utilities:	Proposed utilities shown schematically, final design shall be in accordance with City of Charlevoix standards.
Lighting:	All lights within the site will be mounted on the buildings and will meet dark sky requirements
Hazardous Materials:	No toxic or hazardous materials shall be used or stored on the site.
Storm Water:	Storm water detention system to be designed in accordance with the Charlevoix County Drain Commissioner. All roof drains and impervious surfaces to be directed toward detention system. Basement drains shall drain into the storm system. All storm run off on the site will be directed to the storm system with eaves troughs and catch basins, as required.
Survey:	Survey and topography performed by Ferguson and Chamberlain, and verified by Mansfield Land Use Consultants.



PLAN INDEX

- C1.0 COVER SHEET
- * C2.0 EXISTING CONDITIONS AND DEMOLITION PLAN
- * C4.0 SITE & DIMENSION PLAN
- * C6.0 UTILITY PLAN
- * L1.0 LANDSCAPE PLAN
- * (PURSUANT TO SITE PLAN APPROVAL ONLY - NOT FOR CONSTRUCTION)

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P.O. Box 4015
Traverse City, MI 49685
Phone: 231-946-9310
www.maaeps.com
info@maaeps.com

Mansfield
Land Use Consultants

REV#	DATE	DES	DSN	CHK	DESC
01	04-12-19	dim	mm	dim	Original design
02	06-08-19	dim	mm	dim	Revised per client
03	06-21-19	dim	mm	dim	Revised per client
04	08-15-19	dim	mm	dim	Revisions per Fire Department Review
05	10-08-19	dim	mm	dim	Revised to duplex units
06	10-08-19	dim	mm	dim	Revised landscape
07	11-01-19	dim	mm	dim	City Site Plan Submittal
08	11-22-19	dim	mm	dim	City Site Plan Submittal

Tim Burden
Proposed Residential
COVER SHEET
Sections 26 & 27, Town 34 North, Range 8 West
City of Charlevoix, Charlevoix County, Michigan

PRELIMINARY

PM: dim

DR: mm m m CD: dim CR: 04.12.19

JOB NO.: 19072

C1.0

Mansfield
— **ca.** —
Land Use Consultants

	DISC	CHK	DES	DATE	DIN	DISC
01	04-12-10	dim	dim	dim	dim	Original design
02	06-10-10	dim	dim	dim	dim	Review per client
03	06-11-10	dim	dim	dim	dim	Review per client
04	06-12-10	dim	dim	dim	dim	Revisions per Free Department Review
05	09-01-11	dim	dim	dim	dim	Review per client
06	10-16-11	dim	dim	dim	dim	Review per client
07	11-01-11	dim	dim	dim	dim	City Site Plan Submission
08	11-22-11	dim	dim	dim	dim	City Site Plan Submission

Tim Burden

**Proposed Residential
EXISTING CONDITIONS & DEMOLITION PLAN**

Sections 26 & 27, Town 34 North, Range 8 West
City of Charlevoix, Charlevoix County, Michigan

PRELIMINARY

P.M.: dlm		
DR.: mmm	CKD.: dlm	CREATED: 04.12.19

JOB NO.: 19072

C2.0

1. SNOW REMOVAL SHALL BE PERFORMED BY USE OF A TRACTOR MOUNTED SNOW BLOWER INTO A TRAILER TO BE REMOVED TO AN OFF SITE LOCATION.

2. LETTER PROVIDED FROM PARSHALL TREE CARE EXPERTS, NOVEMBER 2019:

I HAD THE OPPORTUNITY TO VISIT THE TIM BURNETT PROPERTY LOCATED AT SECTIONS 26 & 27, TOWN 34 NORTH, RANGE 8 WEST, CITY OF CHARLEVILLE, CHARLEVILLE COUNTY, MICHIGAN.

THE PURPOSE OF THE VISIT WAS TO ASSESS A 34" DBH (DIAMETER AT BREAST HEIGHT, 4.5 FEET OFF THE GROUND) SUGAR MAPLE LOCATED OUTSIDE THE WEST PROPERTY LINE. THE TREE APPEARS TO BE IN FAIR SHAPE GIVEN ITS SIZE AND AGE. THE PROPOSED EXCAVATION AND INSTALLATION OF UNDERGROUND UTILITIES APPEARS TO BE OUTSIDE OF THE DRIP LINE OF THE TREE, AND NOT CLOSE TO THE CRITICAL ROOT ZONE. IN MY PROFESSIONAL OPINION THE PROPOSED WORK IN THE VICINITY OF THE TREE WILL NOT JEOPARDIZE ITS OVERALL HEALTH GOING FORWARD.

I DO NOT RECOMMEND SEEING UP TEMPORARY FENCING TO KEEP PEOPLE AND EQUIPMENT OFF THE CRITICAL ROOT ZONE OF THE TREE. IF A REPLACEMENT TREE BECOMES NECESSARY TO PLANT, I WOULD RECOMMEND ANOTHER SUGAR MAPLE AS THE CURRENT ONE HAS THRIVED IN THIS LOCATION FOR MANY YEARS.

DAN SANKEY IS A CERTIFIED ARBORIST # RM-0867A

IMPERVIOUS SURFACE CALCULATIONS			
sf	ac		
30,213.49	0.69	Parcel Area	
15,106.75	0.35	Lot Coverage Allowed	50%
14,608	0.34	Lot Coverage Proposed	48.35%
15,606	0.36	Pervious Proposed	51.65%
Note:	0.11	of pervious area proposed is in pervious pavement (all parking spaces & sidewalks)	

NOTE:
Property boundaries, land contours, physical features and the like, illustrated on this plan are exhibited for planning purposes only. Mansfield Land Use Consultants makes no guarantee to the correctness nor the completeness of this information.

830 Cottageview Dr., Ste. 201
P.O. Box 4015
Traverse City, MI 49685
Phone: 231-946-9310
www.maaeps.com
info@maaeps.com

Mansfield
— **CS** —
Land Use Consultants

REV#	DATE	DES	CHK	DESC
01	04-12-19	dim	mm	Original design
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06	10-01-19	dim	mm	Revised trades per design
07	11-01-19	dim	mm	City Site Plan Submittal
08	11-22-19	dim	mm	City Site Plan Submittal

Tim Burden
Proposed Residential
SITE AND DIMENSION PLAN
Sections 26 & 27, Town 34 North, Range 8 West
City of Charlevoix, Charlevoix County, Michigan

PRELIMINARY

P.M:		
dlm		
DR:	CKD:	CREATED:
mm	dlm	04.12.19

JOB NO.: 19072

C4.0

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STORM DRAINAGE
INSTALL UNDERGROUND, BOTTOMLESS
CONCRETE DRY WELLS WITH CONNECTIONS
TO CATCH BASINS, AS SHOWN, TO MEET THE
CITY'S STORM WATER ORDINANCE, TYP.

**PROPOSED RETAINING
WALL, AS NEEDED, TO
ACCOMMODATE GRADING**

**(2) 9'x18' PARKING
SPACES FOR UNIT 1**

GENERAL CONSTRUCTION NOTES - GRADING:

1. FINAL GRADING SHALL PROVIDE POSITIVE DRAINAGE ACROSS THE ENTIRE SITE. EXCEPT AT BUILDING ENTRANCES AND CONCRETE APPROACH SLABS, THE GRADE ADJACENT TO THE BUILDING FOOTPRINT SHALL BE 6" BELOW THE FIRST FLOOR ELEVATION. AT BUILDING ENTRANCES AND CONCRETE APPROACH SLABS, THE GRADE SHOULD BE 3/4" BELOW THE FIRST FLOOR ELEVATION. RESTORATION SHALL INCLUDE FURNISHING AND PLACING 4" OF TOPSOIL AND HYDRO-SEEDING TO THE EXTENTS OF THE DISTURBED AREAS ON THE SITE. MULCH BLANKET IS REQUIRED WHERE SLOPES ARE 3:1 OR GREATER.
2. THE FINAL GRADES ADJACENT TO ALL SIDEWALK APRONS SHALL MATCH THE TOP OF CONCRETE WITH NO STEP DOWN.

NOTE:
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and the like, illustrated on this plan are exhibited for
planning purposes only. Mansfield Land Use
Consultants makes no guarantee to the correctness
nor the completeness of this information.

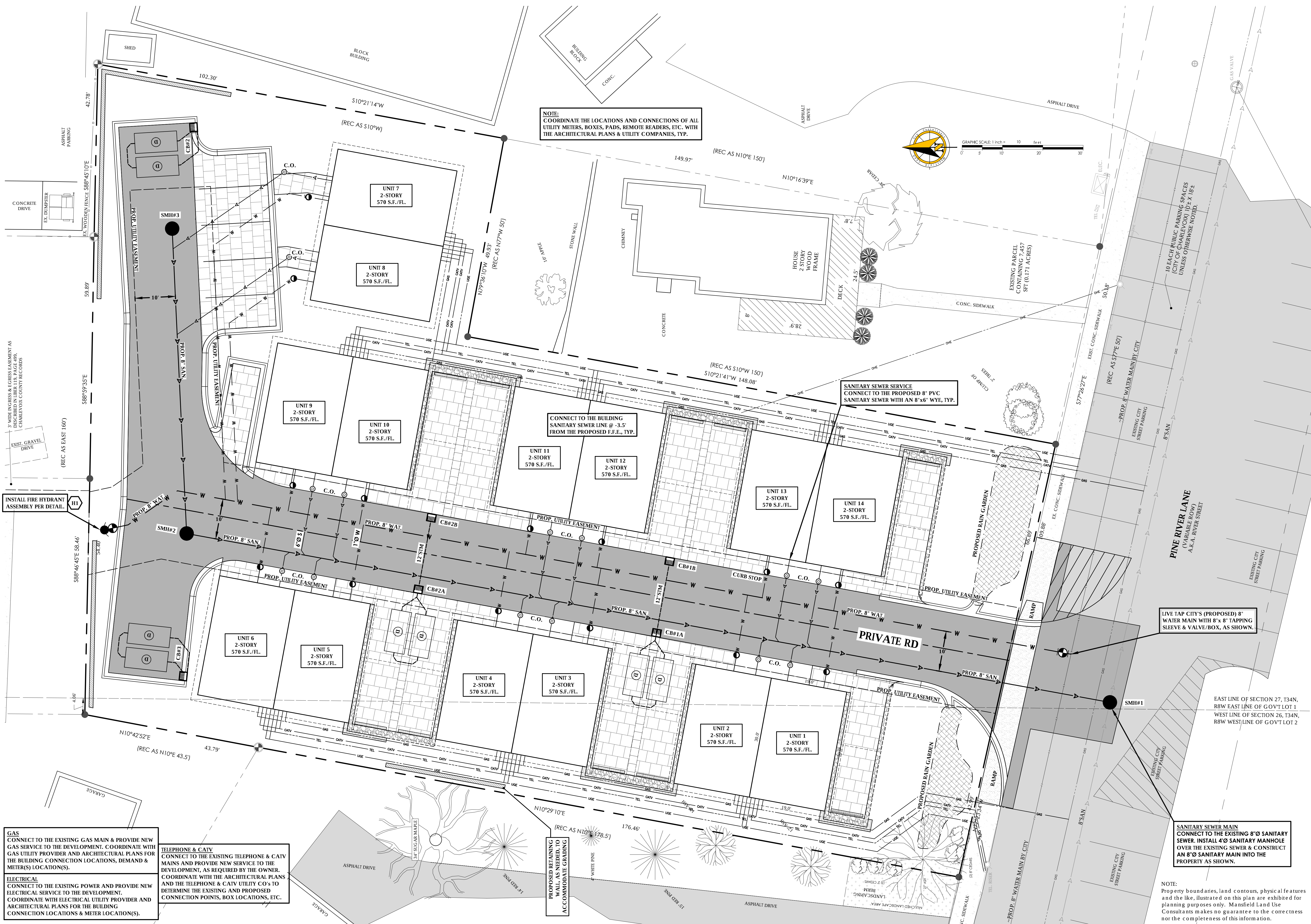
830 Cottageview Dr., Ste. 201
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www.mansfield.com
info@mansfield.com

Mansfield
Land Use Consultants

REV#	DATE	DES	DRN	CHK	DESC
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05	10-08-19	dim	dim	dim	Revised to duplex units
06	10-08-19	dim	dim	dim	Revised landscaping
07	11-01-19	dim	dim	dim	City Site Plan Submittal
08	11-22-19	dim	dim	dim	City Site Plan Submittal

Tim Burden
**Proposed Residential
GRADING & STORM PLAN**
Sections 26 & 27, Town 34 North, Range 8 West
City of Charlevoix, Chateaufort County, Michigan

PRELIMINARY			
DATE	SCALE	CREATED	
04.12.19	dim	04.12.19	
JOB NO.: 19072			
C5.0			



GAS
CONNECT TO THE EXISTING GAS MAIN & PROVIDE NEW GAS SERVICE TO THE DEVELOPMENT. COORDINATE WITH GAS UTILITY PROVIDER AND ARCHITECTURAL PLANS FOR THE BUILDING CONNECTION LOCATIONS, DEMAND & METER(S) LOCATION(S).

ELECTRICAL
CONNECT TO THE EXISTING POWER AND PROVIDE NEW ELECTRICAL SERVICE TO THE DEVELOPMENT. COORDINATE WITH ELECTRICAL UTILITY PROVIDER AND ARCHITECTURAL PLANS FOR THE BUILDING CONNECTION LOCATIONS & METER LOCATION(S).

TELEPHONE & CATV
CONNECT TO THE EXISTING TELEPHONE & CATV MAINS AND PROVIDE NEW SERVICE TO THE DEVELOPMENT, AS REQUIRED BY THE OWNER. COORDINATE WITH THE ARCHITECTURAL PLANS AND THE TELEPHONE & CATV UTILITY CO.'S TO DETERMINE THE EXISTING AND PROPOSED CONNECTION POINTS, BOX LOCATIONS, ETC.

PROPOSED RETAINING WALL, AS NEEDED, TO ACCOMMODATE GRADING

SANITARY SEWER MAIN
CONNECT TO THE EXISTING 8"Ø SANITARY SEWER. INSTALL 4'Ø SANITARY MANHOLE OVER THE EXISTING SEWER & CONSTRUCT AN 8"Ø SANITARY MAIN INTO THE PROPERTY AS SHOWN.

NOTE:
Property boundaries, land contours, physical features and the like, illustrated on this plan are exhibited for planning purposes only. Mansfield Land Use Consultants makes no guarantee to the correctness or the completeness of this information.

830 Cottageview Dr., Ste. 201
P.O. Box 4015
Traverse City, MI 49685
Phone: 231-946-9310
www.maeaps.com
info@maeaps.com

Mansfield

Land Use Consultants

REV#	DATE	DES	DRN	CHK	DESC
01	04-12-19	dim	dim	dim	Original design
02	06-08-19	dim	dim	dim	Revised per client
03	06-21-19	dim	dim	dim	Revised per client
04	08-15-19	dim	dim	dim	Revisions per Fee Drawn Review
05	10-08-19	dim	dim	dim	Revised to duplex units
06	10-08-19	dim	dim	dim	Revised to duplex units
07	11-01-19	dim	dim	dim	City Site Plan Submittal
08	11-22-19	dim	dim	dim	City Site Plan Submittal

Tim Burden

Proposed Residential

UTILITY PLAN

Sections 26 & 27, Town 34 North, Range 8 West
City of Charlevoix, Chateaufort County, Michigan

PRELIMINARY

FILE: dim

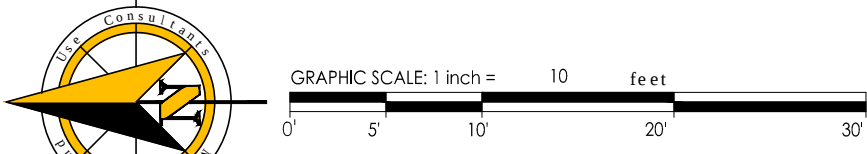
DATE: 04.12.19

CREATED: 04.12.19

JOB NO.: 19072

C6.0

RAIN GARDEN			
common name	botanical name	size	estimated quantity (s.t.)
Cupplant	Sulphur perfoliatum	cell (typ.)	71
Early Sunflower	Helopsis helianthoides	cell (typ.)	71
Mountain Mint	Pycnanthemum virginianum	cell (typ.)	71
Prairie Blazing Star	Liatris pycnostachya	cell (typ.)	71
Smooth Blue Aster	Aster laevis	cell (typ.)	71
Spotted Joe-Pye Weed	Eupatorium maculatum	cell (typ.)	71
Sweet Black-eyed Susan	Rudbeckia hirtelliflora	cell (typ.)	71
Wild Bergamot	Monarda fistulosa	cell (typ.)	71
Coneflower, Yellow	Ratibida pinnata	cell (typ.)	71
			638



REV#	DATE	DOS	DIN	CHK	DESC
01	04-12-10	dim	mm	dim	Original design
02	06-10-10	dim	mm	dim	Revised per client
03	06-21-10	dim	mm	dim	Revised per client
04	08-12-10	dim	mm	dim	Revisions per Fire Department Review
05	10-03-10	dim	mm	dim	Revised to duplex units
06	11-16-10	dim	mm	dim	Revised to space saving
07	11-16-10	dim	mm	dim	Revised to space saving
08	11-22-10	dim	mm	dim	City Sign Plan Submittal

830 Cottageview Dr., Ste. 201
P.O. Box 4015
Traverse City, MI 49685
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info@maaeps.com



parshalltreecare.com | 231.409.1295 | info@parshalltreecare.com

To whom it may concern,

I had the opportunity to visit the Tim Burden property located at Sections 26 & 27 , Town 34 North, Range 8 West City of Charlevoix , Charlevoix County , Michigan.

The purpose of the visit was to assess a 34" DBH (Diameter at breast height, 4.5 feet off the ground) Sugar Maple located outside the west property line. The tree appears to be in fair shape given its size and age. The proposed excavation and installation of underground utilities appears to be outside of the drip line of the tree, and not close to the critical root zone. In my professional opinion the proposed work in the vicinity of the tree will not jeopardize its overall health going forward.

I would recommend setting up temporary fencing to keep people and equipment off the critical root zone of the tree. If a replacement tree becomes necessary to plant, I would recommend another Sugar Maple as the current one has thrived in this location for many years.

Dan Sankey ISA Certified Arborist # RM-0867A
Parshall's Tree Care Experts



**SECOND AMENDMENT TO MASTER DEED
CHARLEVOIX POINTE CONDOMINIUM**

THIS SECONDAMENDMENT TO MASTER DEED has been executed on _____, 2019 on behalf of Charlevoix Pointe, L.L.C., a Michigan limited liability company, whose address is 138 Fairway Hills Drive, Traverse City, Michigan 49684 (the "Developer"), pursuant to the provisions of the Michigan Condominium Act, Act 59 of the Public Acts of 1978, as amended (hereinafter referred to as the "Act").

RECITALS

A. The Developer has established Charlevoix Pointe Condominium, by Master Deed dated September 19, 2014, recorded at Liber 1076, Page 101, Charlevoix County Register of Deeds, as amended by First Amendment to Master Deed, dated August 10, 2015, recorded at Liber 1102, Page 309, Charlevoix County Register of Deeds.

B. The purpose of this Amendment is to revise the number of condominium units and the allowable uses of those units.

1. Article IV of the Master Deed is replaced as follows:

*ARTICLE IV
TITLE AND NATURE*

The Condominium Project shall be known as Charlevoix Pointe Condominium, Charlevoix County Subdivision Plan No. 184. Such architectural plans and specifications as may exist for the Condominium Project will be filed with the City of Charlevoix, Charlevoix County, Michigan. The improvements contained in the Condominium Project, including the number, boundaries, dimensions and area of each unit, are set forth in the Condominium Subdivision Plan attached hereto as Exhibit B. The Condominium Project contains individual units to be used as building sites for single-family dwellings and/or for rentals as allowed by the applicable zoning ordinance. Each unit has been designed and is intended for separate ownership and use, as evidenced by each unit having direct access to a common element of the Condominium Project. The foregoing notwithstanding, two or more residential units may be situated in a single structure, separated by a Party Wall. Each co-owner in the Condominium Project shall enjoy the exclusive right to occupy his unit and shall have undivided and inseparable rights to share with other co-owners the use and enjoyment of the general common elements.

2. Article V, Section B of the Master Deed is replaced as follows:

B. Limited Common Elements. The limited common elements are those common elements limited in use to the owners of the unit they abut or to which they appertain.

(1) Each parking space which is depicted on the Condominium Subdivision Plan as a “Limited Common Element” shall be a limited common element appurtenant to the unit it serves.

(2) The sidewalk running from Unit 7 to its parking spaces and the sidewalk running from Unit 8 to its parking spaces, each depicted on the Condominium Subdivision Plan as a “Limited Common Element” shall be a limited common element appurtenant to the unit it serves.

(3) Mailboxes located in a common location shall be designated as limited common elements, with one mailbox being appurtenant to each unit.

(4) Such other other elements of the Condominium Project as are designated “Limited Common Element” on the Condominium Subdivision Plan.

3. Article VI, Section B of the Master Deed is replaced as follows:

B. Percentages of Value. The total value of the project is 100 percent (100%). Each unit is hereby assigned a percentage of value which approximates the percentage derived by dividing that unit’s square footage by the total square footage of all units. The percentages of value are as follows:

Unit	Percentage of Value
1	7.143%
2	7.143%
3	7.143%
4	7.143%
5	7.143%
6	7.143%
7	7.143%
8	7.143%
9	7.143%
10	7.143%
11	7.143%
12	7.143%
13	7.143%
14	7.143%

The Developer may expand the Condominium Project by creating additional units in the Expansion Property (as defined in Article IX hereof). Such expansion will result in a change in the actual percentage of value attributable to each unit in Phase 1.

A unit's percentage of value shall determine its proportionate share of the common proceeds and Expenses of Administration, the value of its vote at certain meetings of the Association of co-owners and of its undivided interest in the common elements.

4. The first paragraph of Article IX, Section A of the Master Deed is replaced as follows:

A. Right to Expand. The Condominium Project is an expandable condominium project, as that term is defined in the Act. The first phase of the Condominium Project established pursuant to this initial Master Deed consists of 14 units. Other phases may be added later. The Condominium Project will contain in its entirety no more than 20 units.

5. Article IV, Section 2(m) of the Condominium Bylaws is renumbered Article IV, Section “2(n)”, and a new Article IV, Section 2(m) is added as follows:

(m) To designate an exclusive rental manager for the Condominium Project, which manager shall be engaged by any co-owner seeking to rent his or her unit for fewer than 30 consecutive days, and which manager shall have the authority to manage all aspects of such rentals, including but not limited to the advertising of the unit, the terms of the rental agreement, the cleaning and preparation of the unit for rental, the enforcement of rules and regulations and the rental agreement, and the collection and disbursement of deposits and rental payments.

6. Article VII, Section 1(B)(i) of the Condominium Bylaws is replaced as follows:

(i) *Residential or Rental Use.* All units shall be used for either single-family residential purposes or for rentals as allowed by the applicable zoning ordinance. No business, commercial, manufacturing, service or rental enterprise shall be conducted within any unit except for home occupations as part of a single-family residential use, or rentals as allowed by the applicable zoning ordinance. No garage, recreational vehicle, basement, tent, shack, storage barn or similar type structure shall be used at any time as a residence, temporarily or permanently.

7. Article VII, Section 1(B)(ii) of the Condominium Bylaws is replaced as follows:

(ii) *Home Occupations.* Home occupations will be considered part of a single-family residential use if, and only if, the home occupation is conducted entirely within the residence and participated in solely by members of the immediate family residing in the residence, which use is clearly incidental and secondary to the use of the residence for dwelling purposes and does not change the character thereof. To qualify as a home occupation, there must be (a) no sign or display that indicates from the exterior that the residence is being utilized in whole or in part for any purpose other than that of a dwelling; (b) no commodities sold within the unit; (c) no person employed other than a member of the immediate family residing within the unit; and (d) no mechanical or electrical equipment used, other than personal computers and other office-type equipment.

8. Article VII, Section 1(B)(vii) of the Condominium Bylaws is replaced as follows:

(vii) *Recreational and Commercial Vehicles.* No house trailers, commercial vehicles, boat trailers, boats, camping vehicles, camping trailers, motorcycles, all-terrain vehicles, snowmobile trailers or vehicles other than automobiles or vehicles used primarily for general personal transportation use may be parked or stored on the Condominium Premises. No inoperable vehicles of any type may be brought or stored on the Condominium Premises, either temporarily or permanently. Commercial vehicles shall not be parked on the Condominium Premises except while making deliveries or pick-ups in the normal course of business or for construction purposes. No commercial vehicles of any nature will be parked overnight on the Condominium Premises. Any truck over $\frac{3}{4}$ -ton and any vehicle with a company name or other advertising or commercial designation will be considered a commercial vehicle. No vehicle may be parked overnight on any road, except as permitted by the Association in accordance with any rules or regulations adopted by the Association.

9. Article VII, Section 1(B)(x) of the Condominium Bylaws is replaced as follows:

(x) *Furniture; Equipment.* No item of equipment, furniture or any other large movable item shall be kept within any unit outside a building, except lawn furniture or picnic tables, provided the same are kept in neat and good condition.

10. Article VII, Section 1(B)(xi) of the Condominium Bylaws is replaced as follows:

(xi) *Nuisances.* No owner or occupant of any unit will do or permit to be done any act or condition within his unit which may be or is or may become a nuisance. No unit will be used in whole or in part for the storage of rubbish of any character whatsoever (except normal household trash until the next trash collection day), nor for the storage of any property or thing that will cause the unit to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor will any substance, thing or material be kept within any unit that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding units or of neighboring properties outside the Condominium Project. No unsightly objects will be allowed to be placed or suffered to remain anywhere within a unit. If any owner of any unit fails or refuses to keep his unit free from refuse piles or other unsightly objects, then the Developer or the Association may enter the unit and remove the same and such entry will not be a trespass. The owner of the unit will reimburse the Developer or Association for all costs of such removal.

11. Article VIII of the Condominium Bylaws is replaced as follows:

*ARTICLE VIII
LEASES*

Section 1. Notice of Intent to Lease. A co-owner, including the Developer, desiring to rent or lease a Condominium unit for a period of longer than thirty (30) consecutive days, shall disclose that fact in writing to the Association at least ten (10) days before presenting a lease form to a potential lessee, and at the same time, shall supply the Association with a

copy of the exact lease form for its review for its compliance with the Condominium Documents. If Developer proposes to rent any Condominium unit before the transitional control date, Developer shall notify either the advisory committee or each co-owner in writing. For security purposes, all non-co-owner occupants shall register their presence with the Association prior to taking occupancy and shall notify the Association upon departure.

Section 2. Rentals. A co-owner, including the Developer, desiring to rent or lease a Condominium unit for a period less than thirty (30) consecutive days shall engage the manager designated by the Association for the purpose of managing such rentals within the Condominium Project. No rentals within the Condominium Project for a period of fewer than 30 consecutive days shall be allowed except under the control of such manager.

Section 3. Conduct of Tenants. All tenants and non-co-owner occupants shall comply with all of the terms and conditions of the Condominium Documents and the provisions of the Act. If the Association determines that a tenant or non-co-owner occupant has failed to comply with the conditions of the Condominium Documents or the provisions of the Act, the Association may advise the appropriate member by certified mail of the alleged violation by a person occupying his unit. The member shall have fifteen (15) days after receipt of the notice to investigate and correct the alleged breach or advise the Association that a violation has not occurred. If after fifteen (15) days the Association believes that the alleged breach has not been cured or may be repeated, it may institute on its behalf, or the members may institute, derivatively on behalf of the Association if it is under the control of the Developer, an action for eviction against the tenant or non-co-owner occupant and, simultaneously, for money damages against the member and tenant or non-co-owner occupant for the breach of the conditions of the Condominium Documents or of the Act. The relief set forth in this section may be by any appropriate proceeding. The Association may hold both the tenant or non-co-owner occupant and the member liable for the damages caused to the Condominium.

12. *Exhibit B* to the Master Deed is replaced by *Exhibit B* hereto, being Replat #1 of the Condominium Subdivision Plan.

IN WITNESS WHEREOF, the undersigned has executed this First Amendment to Master Deed as of the date first written above.

Charlevoix Pointe, L.L.C.

By: Timothy K. Burden
Its: Member

STATE OF MICHIGAN)
)
) SS.
COUNTY OF GRAND TRAVERSE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Timothy K. Burden, the Member of Charlevoix Pointe, L.L.C., a Michigan limited liability company, on behalf of said company.

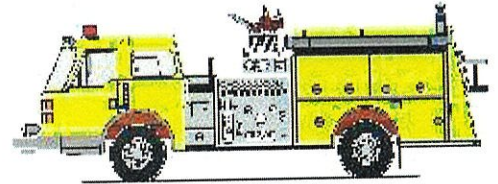
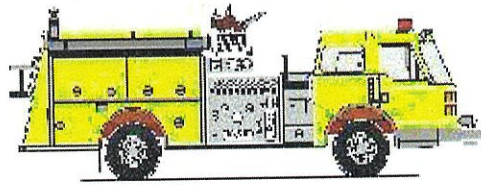
Notary Public
Grand Traverse County, Michigan

My commission expires:

THIS MASTER DEED WAS PREPARED BY:

Kurt M. Bowden (P35936)
Bowerman, Bowden, Ford, Clulo & Luyt, P.C.
620-A Woodmere
Traverse City, Michigan 49686
231-941-8048

WHEN RECORDED, RETURN TO PREPARER



CHARLEVOIX TOWNSHIP FIRE DEPT.

12491 Waller Road, CHARLEVOIX MI, 49720

Chief Dan Thorp 231-675-0416

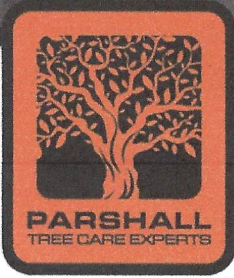
Assistant Chief Dave Christiansen 231-330-1095

Assistant Chief Greg Seese 231-675-5600

To whom it my concern,

Pine River lane development has met the fire departments requirements. But far as my personal concerns, since fire suspension system is not code it will be putting the neighboring residents and businesses at risk. Even with the required distance between buildings being met. There is to much fire load in such a small area, With the winds that come off lake Michigan. Thanks for your time. Any questions please call me at 231-675-0416.

Chief Dan Thorp



parshalltreecare.com | 231.409.1295 | info@parshalltreecare.com

To whom it may concern.

We have been retained by Midtown Development Inc for the Charlevoix Point project at 115 Pine River Lane.

Our role is to ensure the protection of the Maple tree, (previously identified as a Chestnut tree) that has been identified by the neighbors as being at some risk. Our role will be to work with the developer to protect the tree during excavation and the removal of other materials such as nearby stumps. In addition we will consult where there may be any risk to the tree from retaining walls and utilities runs.

If the city of Charlevoix would like our direct involvement we are available to meet with city staff and the developer to address any and all issues.

Thank You.

Corey C. Parshall

Corey C. Parshall

Updated: 8-12-2019

Phone (O) 231-409-1295

Phone (C) 231-499-3205

Email: corey@parshalltreecare.com

Website: parshalltreecare.com

SUMMARY OF QUALIFICATIONS

Current owner/partner of Parshall Tree Care Experts LLC. A firm employing 4 ISA Certified Arborists and 15 other staff members who offer general tree services and tree health care services to all of Northern Lower Peninsula.

- ISA Certified Arborist MI-4248A
- Current Board Member of the Arboriculture Society of Michigan
- Licensed Commercial Pesticide Applicator in Ornamental and Turf landscapes.
- Proctored multiple educational training classes held by the Arboriculture Society of Michigan.
- Attended a 2-year Landscape Management program - Michigan State University 2015-2016.

PROFESSIONAL EXPERIENCE

12 years of experience in the Urban Forest landscape setting in Northern Lower Michigan.

Positions held:

- Parshall Tree Care Experts - Groundsman
- Parshall Tree Care Experts - Production Foreman
- Parshall Tree Care Experts - Certified Plant Health Care Technician
- Parshall Tree Care Experts - Urban Forest Sales Arborist

PROFESSIONAL AFFILIATIONS

- Member of the International Society of Arboriculture (2013-current)
- Member of the Arboriculture Society of Michigan (2013-current)
- Member of the Tree Care Industry Association (2013-current)

- Forwarded Message -----

From: "EDWARD SHAW" <shawedwardr@prodigy.net>
To: "City of Charlevoix Planner" <planner@charlevoixmi.gov>
Cc: "EDWARD SHAW" <shawedwardr@prodigy.net>
Sent: Thursday, November 21, 2019 4:36:22 PM
Subject: Case 2019-2 SP, 115 Pine River Lane – Fire Safety

Jonathan D. Scheel, Since my last email, a letter from the Fire Department Chief has been posted to the Planning Commission Website. Because of this, I am providing additional details about that letter, and how it is addressed under 'parking lots' in the statutes. Please forward this letter and two attachments to the appropriate Members of the Planning Commission, City Council, and Fire Department. I cannot attend the meeting, but I believe the technical nature of my concerns need to be understood by all. Please study figure 8.

I hope this helps. Sincerely yours.

Edward R Shaw Retired Geophysicist 119 Pine River Lane #1 281-687-7191 (cell) 281-516-9662 (Texas home)

Edward R Shaw	
Primary/Winter address	Summer address
75 West Cove View Trail	119 Pine River Lane #1
The Woodlands, TX 77389	Charlevoix, MI 49720

Office of Planning and Zoning
210 State Street
Charlevoix, MI 49720
planner@charlevoixmi.gov
Phone: 231-547-3265
Fax: 231-237-0329

RE: Case 2019-2 SP, 115 Pine River Lane – Fire Safety

Members of the Planning Commission and City Council,

The Planning Commission Website now includes a letter from the Fire Department Chief that expresses fire concerns because of the high winds off Lake Michigan and the high density of units. His letter is shown below. I agree with Chief Thorp because I have experienced firsthand, the intense winds. Charlevoix has had a number of fires over the last few years, and unfortunately, they were hard to control because of these two factors. We need to honor the Chief's concerns and not make a mistake. Additionally, this situation is covered by the Parking Lot Statutes. The current Site Plan does not meet the requirements of the Parking Lot Statutes.

Chief Thorp thinks the area between units currently meets requirements, but not so if the areas in between duplex units are parking lots which are filled with flammable gasoline powered vehicles. Statute: 153.189 (E)(3) -- requires 7' of buffer space between a parking lot and the duplexes. My guess is that is why the 7' buffer area is required in the statute. When the Fire Chief better understands this statute, he will

understand that this is a statute that is meant to keep the parking lots away from the duplexes by 7' and, if met, would satisfy his concern. Statute 153.189 (E)(3) needs to be enforced. The Fire Chief's letter is attached below.

I have put together a picture (figure 8) that helps the Planning Commission, the City Planner, the Zoning Administrator, and the Fire Department Chief better understand this issue. It merges the concepts of 153.189 (E)(3) -- the requirement of 7' of buffer space between a parking lot and the duplexes -- and the concerns of fire, caused by the high winds off Lake Michigan and high density of units, that were expressed by the Fire Department Chief. It shows all the Developer's dimensions in black, and our comments in Red. It also shows that the Developer only uses a 1' buffer. So, the Developer's Site Plan does not meet requirements. 153.189 (E)(3) was not considered at the last Planning Commission meeting, but with the Fire Chief's help, I think the Planning Commission should honor that statute and reject the Developer's current Site Plan.

References for Parking and Parking Lot Statutes.

The revised site plan provides for seven duplexes separated by common parking areas. A parking area between two buildings is intended to service both buildings. The parking configuration is a side-by-side "stacked" arrangement. As such, each parking area is intended to serve four vehicles. Consequently, the parking areas are "Parking Lots" as defined by Section 153.005 of the zoning ordinance.

As a Parking Lot, the ordinance requires that an open space of at least 7 feet be maintained between the parking area & the nearby buildings, Section 153.189(E)(3). The space is also required to be landscaped in accordance with the requirements of Section 153.189(H) of the Ordinance. The open space requirement is not merely for aesthetics; public health & safety require an open area between buildings to provide minimization of fire hazards, & the deadly emissions from gasoline powered vehicles.

The Fire Chief has expressed fire concerns because of the high winds off Lake Michigan & the high density of units. 153.189 (E) (3) requires 7' of buffer to prevent a fire hazard. This ordinance needs to be enforced to meet requirements & the concerns expressed by the Fire Department Chief. The current site plan shows a 1' buffer & does not meet the 7' requirement.

In summary, while my goal is not to eliminate development at 115 Pine River Lane, I would ask the Members of the Commission require the developer to submit new plans and reports that better address this fire hazard and meet the 7' parking lot buffer requirement in the statute.

Thank you.
A concerned neighbor,

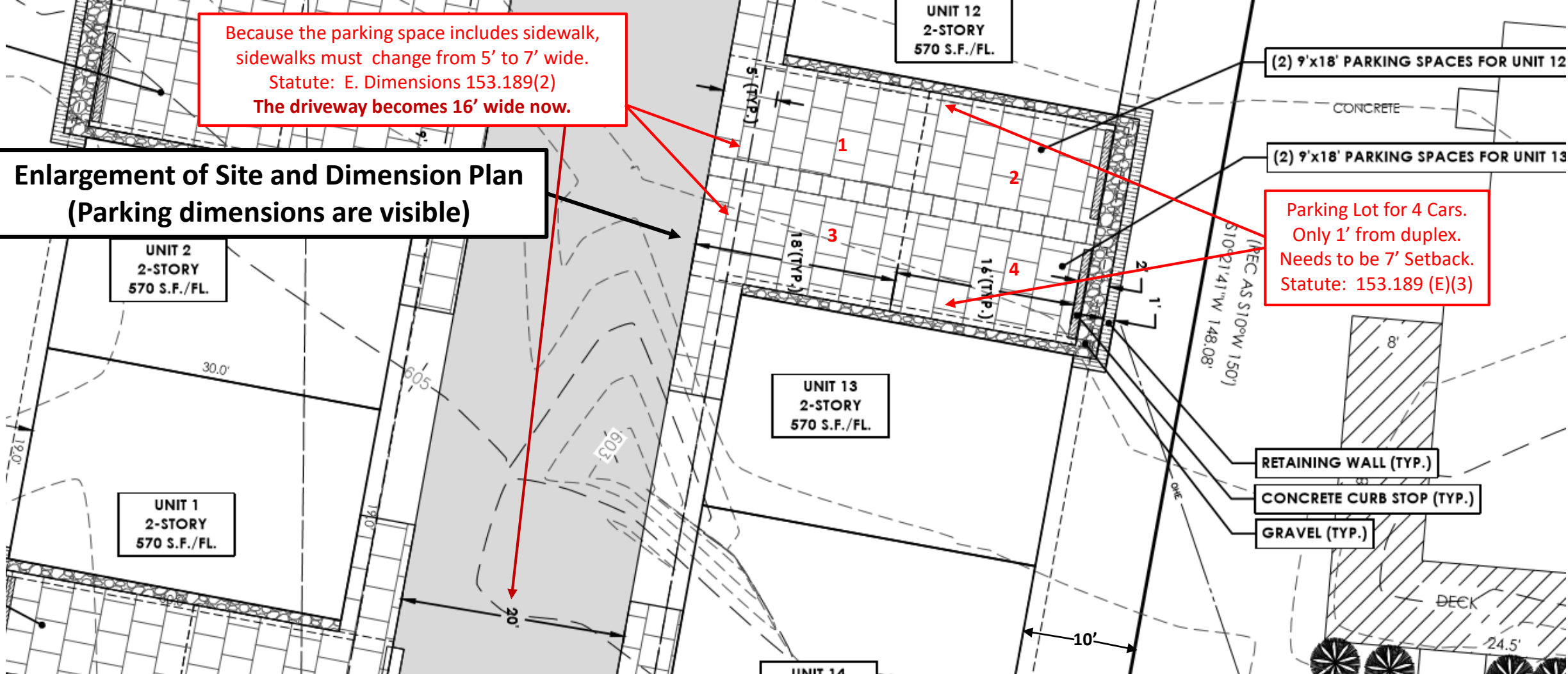
Edward R Shaw
75 West Cove View Trail
The Woodlands, Texas 77389
shawedwardr@prodigy.net
281-516-9662 (home phone)
281-687-7191 (cell)

Enclosures:

Figure 8 Enlarged Site & Dimension Plan with Parking Lot Details.
Fire Chief's Letter about the dangers of fire.

Because the parking space includes sidewalk, sidewalks must change from 5' to 7' wide.
Statute: E. Dimensions 153.189(2)
The driveway becomes 16' wide now.

Enlargement of Site and Dimension Plan (Parking dimensions are visible)



The revised site plan provides for seven duplexes separated by common parking areas. A parking area between two buildings is intended to service both buildings. The parking configuration is a side-by-side “stacked” arrangement. As such, each parking area is intended to serve four vehicles. Consequently, the parking areas are “Parking Lots” as defined by Section 153.005 of the zoning ordinance.

As a Parking Lot, the ordinance requires that an open space of at least 7 feet be maintained between the parking area & the nearby buildings, Section 153.189(E)(3). The space is also required to be landscaped in accordance with the requirements of Section 153.189(H) of the Ordinance. The open space requirement is not merely for aesthetics; public health & safety require an open area between buildings to provide minimization of fire hazards, & the deadly emissions from gasoline powered vehicles.

The Fire Chief has expressed fire concerns because of the high winds off Lake Michigan & the high density of units. 153.189 (E) (3) requires 7' of buffer to prevent a fire hazard. This ordinance needs to be enforced to meet requirements & the concerns expressed by the Fire Department Chief. The current site plans show a 1' buffer & do not meet the 7' requirement.

Edward R Shaw

Primary/Winter address

75 West Cove View Trail

The Woodlands, TX 77389

Summer address

119 Pine River Lane #1

Charlevoix, MI 49720

Office of Planning and Zoning

210 State Street

Charlevoix, MI 49720

planner@charlevoixmi.gov

Phone: 231-547-3265

Fax: 231-237-0329

RE: Case 2019-2 SP, 115 Pine River Lane – New December Site Plans & Arborist Report

Members of the Planning Commission and City Council,

The Planning Commission Website now includes a new Developer Site Plan and a Developer's Arborist Report. This letter addresses these new plans and arborist report that will be discussed in the December 9, 2019 Planning Commission Meeting.

Again, I am the co-owner of unit 1 at the Lakehouse condominium. I am retired now, but worked 45+ years as a geophysicist, where I made and studied maps on a routine basis.

I have carefully reviewed the December site plans which show the Lakehouse Tree approximately 15' from the property line. However, the November site plans show it as 1'. This past Sunday, Norbert Scharenbroch, the Lakehouse caretaker, used the two marked boundary-line stakes to do a line of sight determination and found that the tree is about 1' from the lot line. I also did this same determination a few years ago and found it to be 1'. I am confident that the earlier November 11 determination of the tree's location is correct (1' from lot-line) and that the December 9 determination of the tree's location is incorrect (15' from lot-line).

Background:

Yesterday, Norbert Scharenbroch used the two marked boundary-line stakes (figure 13), and by line-of-sight determined the relationship between the Lakehouse Maple Tree and the Lakehouse / New Development lot-line. Figure 14 shows the Lakehouse Boundary Stake that is 25 feet northeast of our dumpster. The only other Lakehouse Boundary Stake is 10 feet East of our driveway at Pine River Lane. He was able to stand right at the stake (figure 14) to sight correctly and get a good measurement. He found that the tree is less than one foot from the lot-line. I found the same relationship a few years back.

He also pointed out that the utility lines and retaining wall at the lot line would cut half the root system and probably kill the tree. Furthermore, the tree would become unstable and fall

westward onto the Lakehouse garage (i.e. the root system being cut on the east-side of the tree would make it fall westward.)

This means the Developer's revised site plans (December 9) are incorrect and misleading. The Developer's Arborist Report that used these incorrect measurements is therefore false and misleading. The retaining wall at the property lot line, the excavation for utilities, and removal of a nearby tree will destabilize the Lakehouse tree root system and likely kill it. The destabilization will probably make it fall westward onto the Lakehouse garage because of damage to half its root system.

Simply put, the November position to the Lakehouse Tree was correct, and the new December location is incorrect. This has led the Developer and the Developer's Arborist to make wrong assumptions and incorrect site designs. The Developer's Plans cannot be approved with these errors.

Therefore, it is my recommendation that the Developer's Arborist's Report should be rejected since it is based on a distance of 15' from the lot-line, and that the Developer's Site Plan should be rejected until this is fixed also.

Thank you.

A concerned neighbor,

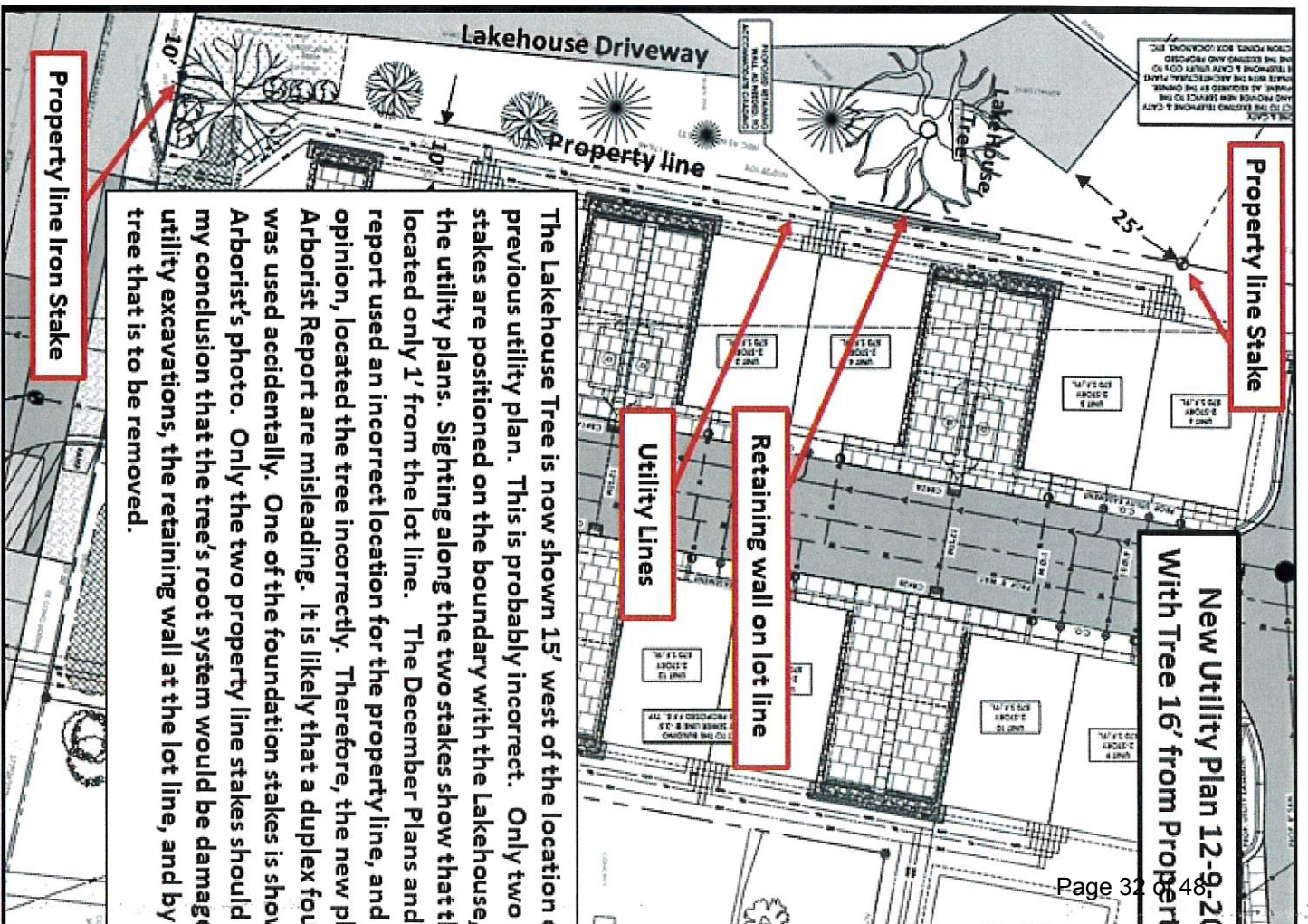
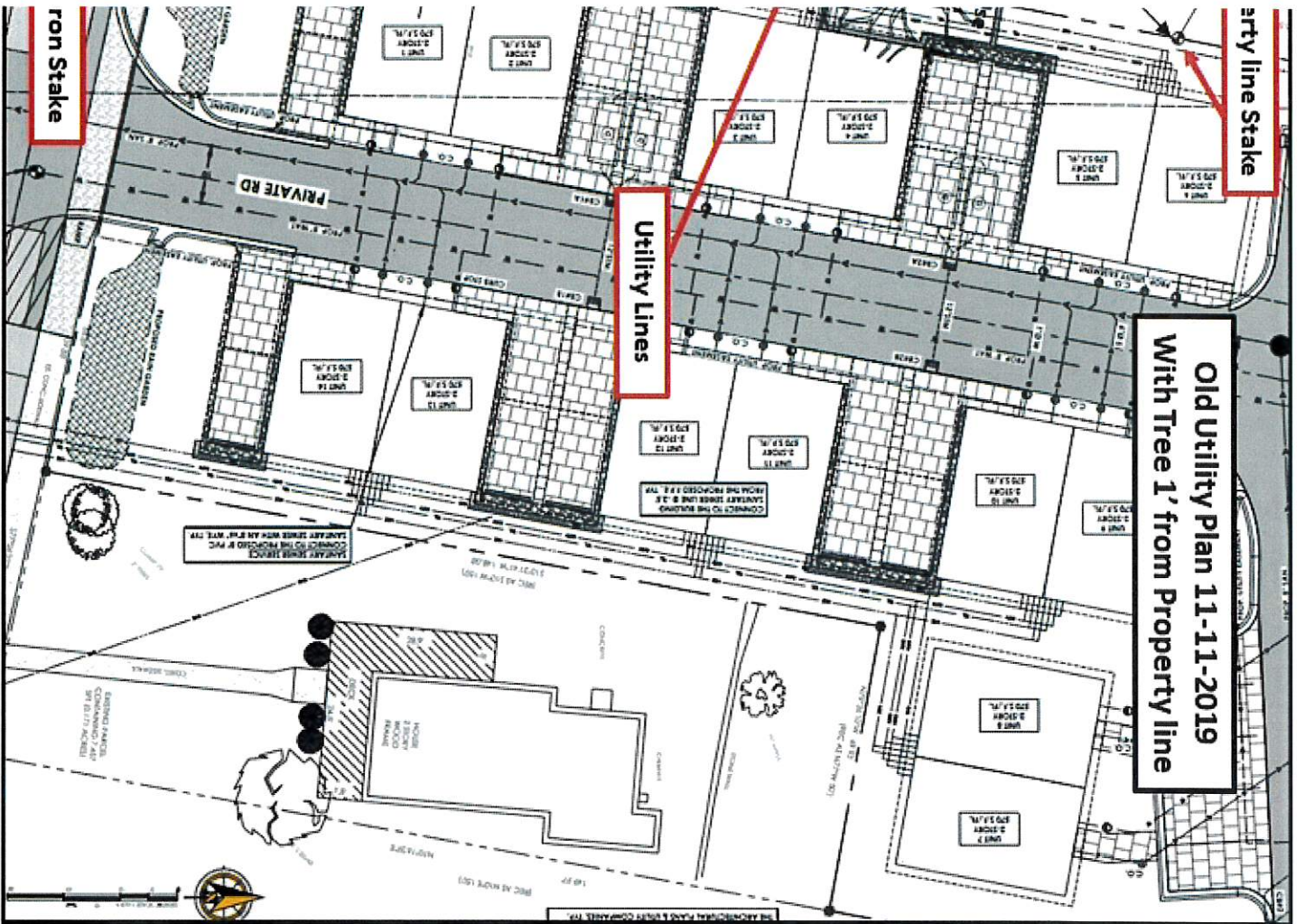
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shawedwardr@prodigy.net
281-516-9662 (home phone)
281-687-7191 (cell)

Enclosures:

Figure 13 UtilitySitePlanComparisonwithTreePositionChangedFromNovembertoDecember.JPG

Figure 14 LotLineStake25FeetFromLakehouseDumpster.JPG





The Lakehouse Tree is now shown 15' west of the location of the previous utility plan. This is probably incorrect. Only two stakes are positioned on the boundary with the Lakehouse, the utility plans. Sighting along the two stakes show that it located only 1' from the lot line. The December Plans and report used an incorrect location for the property line, and opinion, located the tree incorrectly. Therefore, the new plan Arborist Report are misleading. It is likely that a duplex for was used accidentally. One of the foundation stakes is shown my conclusion that the tree's root system would be damaged utility excavations, the retaining wall at the lot line, and by tree that is to be removed.

Frank Bell

Primary/Winter address
1814 Alta Vista Ave
Austin, TX 78704
December 8, 2019

Summer address
119 Pine River Ln #406
Charlevoix, MI 49720

Office of Planning and Zoning
210 State Street
Charlevoix, MI 49720

RE: Case 2019-2 SP, 115 Pine River Lane

Dear Members of the Planning Commission and City Council,

I am the owner of unit 5 of the Lakehouse condominium.

Location of the Lakehouse's tree

Without explanation, the latest site plan shows the tree approximately 15' from the property line, earlier site plans show it as 1'. This past Sunday, Norbert Scharenbroch, the Lakehouse caretaker, used the two marked boundary-line stakes to do a line of sight determination that the tree is about 1' from the lot line. I believe this is correct. Ed Shaw, a neighbor of mine at the Lakehouse, also did this same determination a few years ago and found it to be 1'.

If developer believes 15' is correct then he should present evidence supporting that claim, preferably from a licensed surveyor. If 1' is correct then:

- 1) the arborist's report should be rejected since it is based on a distance of 15'.
- 2) the developer's plan should be rejected until this is fixed.

I find the sudden, unexplained change in the tree's location difficult to understand. Perhaps it is a careless mistake, but developer has a long history with this property and I would have expected him to be very familiar with the property line. My understanding is the developer was there when the arborist made his determination. Imagining a lot line 15' from the tree would have had me scratching my head and asking how I could have been so mistaken about the location of the property line for so long. 15' from the tree is a significant section of land.

Sincerely yours,

Frank Bell

----- Forwarded Message -----

From: "Sandy Hermanoff" <SandyH@hermanoff.net>

To: "City of Charlevoix Planner" <planner@charlevoixmi.gov>

Sent: Monday, December 9, 2019 4:06:37 PM

Subject: RE: Case 2019-2 SP, 115 Pine River Lane – New December Site Plans & Arborist Report

December 9, 2019

Office of Planning and Zoning

210 State Street

Charlevoix, MI 49720

Office of Planning and Zoning

RE: Case 2019-2 SP, 115 Pine River Lane – New December Site Plans & Arborist Report
Members of the Planning Commission and City Council,

We are Lakehouse owners of unit 2 and we are very concerned about the following:

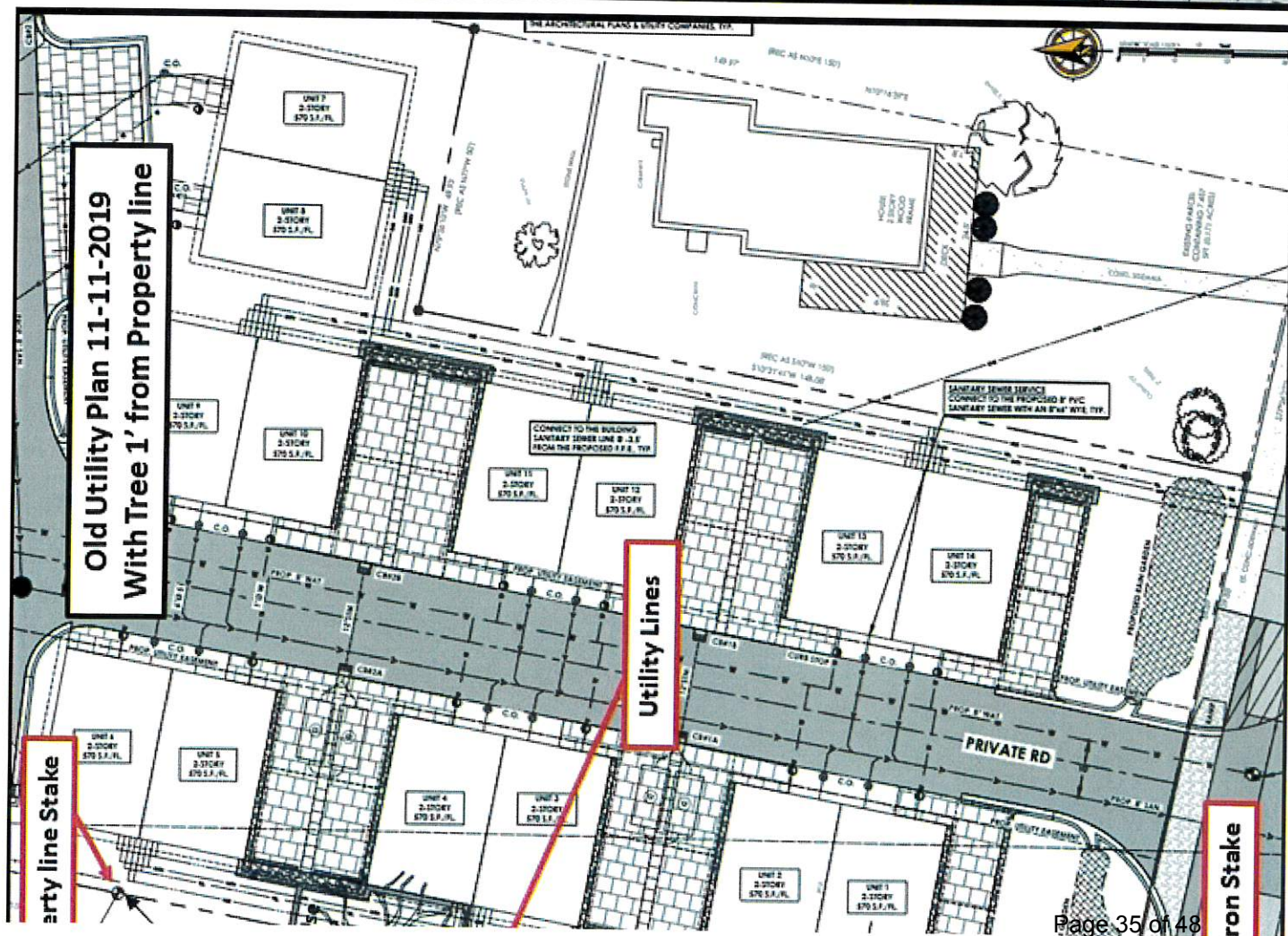
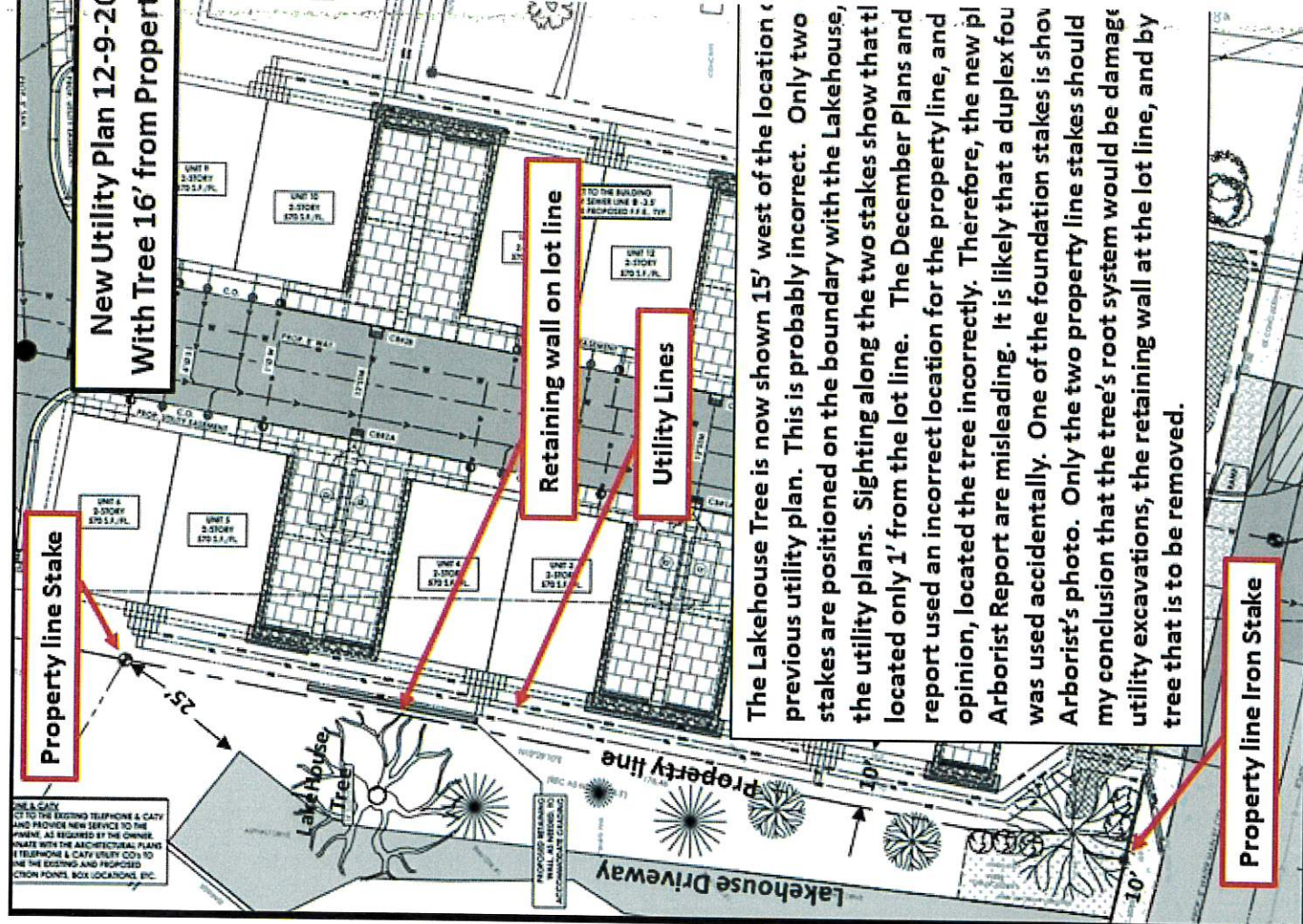
A few days ago, revised December Developer Site Plans and an Arborist Report were posted on the Planning Commission website. Those December site plans show the Lakehouse tree approximately 15' from the property line. However, the November site plans show it as 1'. This past Sunday, Norbert Scharenbroch, the Lakehouse caretaker, used the two marked boundary-line stakes to do a line of sight determination and found that the tree is about 1' from the lot line. Another owner in the Lakehouse also did this same determination a few years ago and found it to be 1'. I am confident that the earlier November 11 determination of the tree's location is correct (1' from lot-line) and that the December 9 determination of the tree's location is incorrect (15' from lot-line). Unfortunately, the Developer's Arborist used the false positioning of the Lakehouse tree to make his report. It is incorrect and needs to be corrected. It draws false conclusions.

In this case, both the Lakehouse Maple tree and the Lakehouse Garage are affected, and are likely to be damaged. 153.235 (C) states that the site must be designed to minimize hazards to adjacent property. Clearly, that does not seem to be the case here. We thought that the Planning Commission needs to be made aware of this change (figure 13). Please do not allow further excavation that will damage our tree and led to damage to our garage.

Please forward this letter and two attachments to the appropriate Members of the Planning Commission and City Council.

Yours most sincerely,

Sandy and Michael Hermanoff
23537 Shagwood Drive
Bingham Farms, Michigan 48025
248.330.7829





HARRY K. GOLSKI
Attorney at Law
203 Mason Street
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Facsimile (231) 547-6399
E-mail: hgolski@cvxlaw.com

November 20, 2019

Jonathan D Scheel and
City of Charlevoix Planning Commission

Re: Case Number: 2019-2 SP
Applicant: Midtown Development Inc.
Subject Property: 115 Pine River Lane

Dear Mr. Scheel and Commissioners:

This letter is written on behalf of Lake House Association. It is intended to supplement comments to the Commission made at its October 14, 2019 and November 11 meetings and a letter dated November 11, 2019.

In spite of the following clear violations of the ordinance, the Planning Commission appears prepared to approve the project with certain conditions. However, the plan clearly does not conform with the Zoning Ordinance and approval will constitute clear legal error.

Parking. The revised site plan provides for seven duplexes separated by common parking areas. A parking area between two buildings is intended to service both buildings. The parking configuration is a side-by side "stacked" arrangement. As such, each parking area is intended to serve four vehicles.

The zoning ordinance provides for only two types of parking areas; "Parking Space(s)" and "Parking Lot(s)" as defined by Section 153.005. Because the parking areas are intended to serve more than one vehicle and more than one residence, they are, by definition, "Parking Lots".

As a parking lot, the ordinance requires an open space of at least 7 feet between the parking area and the nearby buildings, Section 153.189(E)(3). Attached to this letter is a drawing showing the required 7-foot setback superimposed on the Applicant's plan. The violation of the Ordinance is clear and unmistakable.

Additionally, parking areas are required to comply with the appropriate setback requirements. In this zoning district, the parking areas must be at least 15-feet from the rear yard lot lines. The plan provides for only 10 feet of setback from the lot line.

Parking and Fire Safety. The open space parking requirement is not merely for aesthetics; public health and safety require an open area between buildings and the deadly emissions and fire risk from gasoline powered internal combustion engines. It appears that the Fire Chief was not aware of the nonconformity with the required setbacks when he drafted his letter to the Commission. It is imperative that the potential fire danger occasioned by the proximity of vehicles to the structures be addressed by the Fire Chief as a fire safety issue.

Setback. According to the Zoning Ordinance, each site condominium is a “LOT”,¹ so that each unit has a front lot line, rear lot line and side lot line(s). The updated site plan shows a 10’ setback from the rear of the duplexes to the property lines. Because the buildings face the central access road, the front of the buildings determine the front lot line.² Consequently, the rear of the buildings determine the rear lot line. Pursuant to the clear language of the Zoning Ordinance,³ the placement and orientation of the building creates the necessary setback, not the shape of the overall parcel which is legally irrelevant to the creating of the appropriate set back.

Section 153.072(e) requires two-family dwellings in an R-4 development to be set back 25’ from the rear lot line. In the mistaken belief that the rear of the building creates a side yard, the project proposes a 10-foot set back from the rear of the duplexes instead of the required 25-feet. Attached to this letter is a drawing showing the required 25-foot setback superimposed on the Applicant’s plan. The violation of the Ordinance is clear and unmistakable.

Buffering. Section 153.235 (D)(3) of the ordinance allows the Planning Commission to require buffering between the subject property and its adjoining properties, even though the Lake House is also zoned R-4. The landscape plan contained in the revised Site Plan contains absolutely no landscape buffering on the Lake House boundary.

Protection of Existing 36” Tree. It is requested that any approval be conditioned on adequate safeguards for the protection of the existing tree TOGETHER WITH adequate safeguards to replace if it fails to survive due to disruption of its root system and water source. It is necessary that a condition be placed on any approval that a certified arborist be retained at Applicant’s expense to:

¹ **LOT.** A parcel of land intended for individual ownership and use, separately described on a deed or other instrument recorded in the office of the Register of Deeds, whether by metes and bounds, as part of a platted subdivision or a site condominium. (emphasis added)

² **LOT LINES.**

(a) **FRONT LOT LINE.** In the case of an interior lot, the line separating the lot from the street right-of-way or road easement.

(b) **REAR LOT LINE.** The lot line opposite and most distant from the front lot line.

(c) **SIDE LOT LINE.** A lot line that is neither a front lot line, nor a rear lot line.

³ **SET BACK.** The minimum required horizontal distance measured from the lot lines to a building or structure as designated for a zoning district. (emphasis added)

- Propose a mandatory plan for preservation of the existing tree
- Provide the type and size of a replacement tree if the tree fails to survive the rigors of the project
- Estimate the cost of removal and appropriate replacement of the tree and require the Applicant to place 1.5 that amount in escrow for a period of five years, or such other time as it found to be appropriate by the arborist.

Protection from Usage as Multiple Rental Units. It is necessary that suitable guarantees as determined by the City Attorney be required to insure that the units are not designed or altered to provide for a separate second floor unit capable of being separately rented. The commission has indicated that such an arrangement would, in effect, turn the 14 proposed units into 28 units with the consequent overburdening of the parking areas. It is not sufficient that the Condominium Master Deed contain these prohibitions for two reasons. First, Master Deeds can, and usually are, amended by a vote of the ownership. It is not reasonable to require the City or the adjoining landowners to monitor the existence and scope of any future amendments to the Master Deed or other Condominium documents. Second, the City, or the adjoining property owners may not have legal standing to enforce the documents because they are not condominium owners. The Association strongly suggests that the City Attorney determine how and by whom the restrictions can be enforced.

For the above reasons, the plan does not comply with the requirements of the Planning and Zoning Ordinance and cannot be approved in its present configuration.

Respectfully submitted,

Lake House Association

By: 
Harry K. Golski, its attorney

HKG:jms

cc: Mark Heydlauff, City Manager
Lake House Association

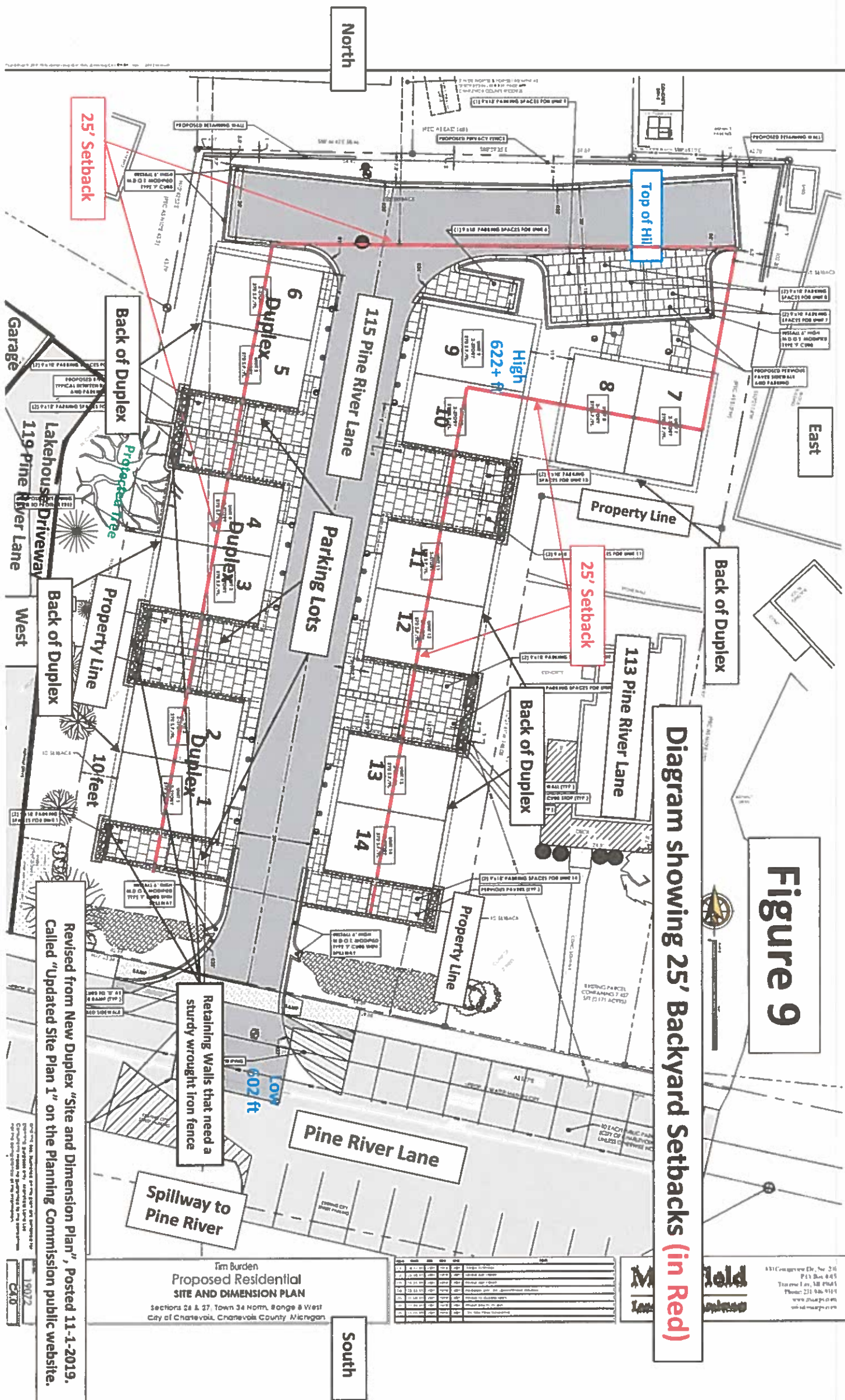


Figure 9

Diagram showing 25' Backyard Setbacks (in Red)

Revised from New Duplex "Site and Dimension Plan", Posted 11-1-2019.
 Called "Updated Site Plan 1" on the Planning Commission public website.

Tim Burden
 Proposed Residential
 SITE AND DIMENSION PLAN
 Sections 24 & 27, Town 34 North, Range 8 West
 City of Chateaufort, Chateaufort County Michigan

831 Congress Dr., Ste. 206
 P.O. Box 445
 Chateaufort, MI 49811
 Phone: 231.946.9111
 www.chateaufortmi.com
 info@chateaufortmi.com

CITY OF CHARLEVOIX

Old Business

TO: Planning Commission

FROM: Kathy Egan

SUBJECT: Rooftop Usage Discussion

DATE: December 9, 2019

BACKGROUND

Attached is a memo to guide the continued discussion that was postponed from the November meeting.

ATTACHMENTS:

▣ Rooftop Usage Memo

To: Charlevoix Planning Commission
From: Kathy Egan, Community Development Director
Jennifer Neal, Community Planner
Date: 11/11/2019
Re: Rooftop Uses Discussion

PREVIOUS DISCUSSION

The topic of rooftop uses was discussed at the Planning Commission meeting on September 9, 2019. Commissioners were given a Rooftop Use Chart to guide discussion including the types of buildings, building standards, and uses that should be permitted on rooftops. Today, we wish to address several items from the previous discussion as well as expand the discussion to include examples of rooftop uses.

ONGOING DISCUSSION

Recreation Uses
Compatibility with surrounding buildings
 Noise
 Height
 Design Guidelines (permanent/temporary structures, railings, etc)
Visual impact from the street (screening)

VISUAL PREFERENCE

We have prepared a selection of images of existing uses which portray various rooftop uses to be used as a discussion tool for visual preferences.

1 The Franklin, 160 E. Front St., Traverse City, Bar and Restaurant



- ☐ Commercial use: Bar and restaurant
- ☐ Two stories
- ☐ Rooftop used for outdoor dining
- ☐ Rooftop adjacent to second floor indoor dining room
- ☐ Perimeter columns integrated with design of the building
- ☐ Structure's height is even with roofline



2 Hotel Indigo, 263 W. Grandview Pkwy., Traverse City, Bar and Restaurant



- ☐ Commercial use: Bar and restaurant
- ☐ Five stories
- ☐ (Seasonal) Rooftop used for
 - Outdoor dining
 - Bar service
 - Scenic viewing
- ☐ Rooftop adjacent to indoor dining room
- ☐ Perimeter railing allows for easy scenic viewing
- ☐ Architectural features extend above height of outdoor uses





3 Riverfront and Cityside Townhomes, Uptown Development TC, LLC, Traverse City



- ☐ Seasonal residential use
- ☐ Four stories
- ☐ Rooftop used for
 - Outdoor dining / Gathering
 - Private greenspace
 - Landscaping / Water collection
- ☐ Architectural features extend above height of outdoor uses
- ☐ Perimeter railing allows for easy scenic viewing
- ☐ Passive green space acts and



Source: Google Maps, Uptown Traverse City <https://uptowntraversecity.com/photo-galleries/gallery/#jp-carousel-1123>

NEXT STEPS

Based on the comments and direction by the Commission, staff may provide any additional information the Planning Commission requires such as a review of compatibility with the Master Plan and Zoning Ordinance.

CITY OF CHARLEVOIX

Staff Updates

TO: Planning Commission

FROM: Jonathan Scheel

SUBJECT: ZBA Meetings Report

DATE: December 9, 2019