

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

MONDAY, OCTOBER 12, 2020 AT 6:00 PM in the Depot Beach, 307 Chicago Avenue

- A. Call to Order/Pledge of Allegiance At Depot Beach Park 307 Chicago Ave. Charlevoix, MI
- B. Roll Call
- C. Inquiry into Potential Conflicts of Interest
- D. Approval of Agenda
- E. Approval of the Minutes
 - 1. September 14, 2020 Meeting Minutes
- F. Call for Public Comment Not Related to Agenda Items
- G. New Business
 - 1. Level B Site Plan Review Amendment 2019-3 SPA: Pine River Lane Site Condominium
 - 2. International Property Management Code Introduction (Jonathan Scheel)
 - 3. Sidewalk Inventory (Dean Martin)
- H. Old Business
- I. Staff Updates
- 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: September 14, 2020 Meeting Minutes

DATE: October 12, 2020

ATTACHMENTS:

- ▣ September 14, 2020 Draft Minutes

**CITY OF CHARLEVOIX
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS, CITY HALL, 210 STATE STREET
Monday, September 14, 2020 - 6:00 p.m.**

A. Call to Order

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

B. Roll Call

Chair	RJ Waddell
Vice Chair:	Dennis Halverson
Members Present:	Sherm Chamberlain, Toni Felter, Brian Gelb, David Gray, Jennifer Muladore
Members Absent:	Philip Parr
Staff Present:	Kathy Egan, Community Development Director; Jonathan Scheel, Zoning Administrator, Dean Martin, Community Development Fellow

C. Inquiry into Potential Conflicts of Interest

Member Chamberlain stated he had a conflict of interest in Item G.1.

D. Approval of Agenda

Motion by Member Gray, second by Member Halverson to approve the agenda as presented. Motion passed by unanimous voice vote.

E. Approval of the Minutes

1. August 10, 2020 Meeting Minutes

Motion by Member Gelb, second by Member Felter to approve the minutes of August 10, 2020 as presented. Motion passed by unanimous voice vote.

F. Call for Public Comment Not Related to Agenda Items

Shirley Gibson requested that the Planning Commission review the R-2, Accessory Dwelling Ordinance. She felt 308 May Street was an example of the unintended consequences of this ordinance.

G. New Business

1. Level B Site Plan Review Amendment 2019-3-SPA: Pine River Lane Site Condominium

Member Chamberlain recused himself. Zoning Administrator Scheel stated that the applicant was requesting approval to add six roof decks to the project. He felt there was potential impact on the neighboring properties which is why he decided to bring forth a Level B Site Plan review to the Commission.

Timothy Burden, President of Midtown Development Inc., stated that potential buyers requested more outside space and he would not consider roof decks on the smaller buildings.

Member Halverson stated that this change had potential substantial impact especially to the neighbors. He would have much preferred to have the roof deck as a part of the original site plan. He stated multiple concerns about increased traffic due to the decks, pedestrian safety, and noise. Member Felter expressed concern about allowing barbecues with open flames on a rooftop deck. Mr. Burden stated that the deck would be 12' x 19' or so less the stairwell/door area. Chair Waddell also expressed concerns about any type of cooking grill on a roof, and he also felt that the Fire Marshal should review the request. Mr. Burden stated that the stairway to the roof would be internal.

The public hearing was opened.

Shirley Gibson, 209 E. Upright, questioned when the original site plan was approved, and Mr. Burden responded January.

Ed Shaw, 119 Pine River Lane, reviewed the four items he outlined in his letter to the Planning Commission and asked that the Commission require the developer to submit his mitigations to these issues.

Kristin Jones, 113 Pine River Lane, urged the Commission to consider "respectful honoring of the neighborhood". She stated that the development was proposed, designed, presented and approved as a reasonable, high density R-4 subdivision, and it felt like a hospitality development. She felt this was a very critical time for the project's fire safety, pedestrian safety, courtesy to the neighborhood and to the City.

Dan Beyers, stated that he represented 100 W. Dixon and the adjoining property to the east, and that he felt the request was being rushed for no real demand. He was most concerned with the proposed decks on units 5 & 6. He stated that noise is a concern and the decks being above them is a concern. He recommended that this process be slowed down a bit.

Dan Wausmann, 110 W. Dixon, stated that Mr. Beyers spoke for all of his group.

Anne Marie & Joe Ardens stated they were also part of 100 W. Dixon, and that people have chimineas and fire pits on decks and emphasized that units 5 & 6 are very high over the cottage and garage next door.

The public hearing was closed.

Member Gelb stated that he did not understand the layout of the area well enough to appreciate exactly to what degree these decks will be staring into the face of neighbors or down upon them. He recalled when the Commission approved the plan originally they considered how it was impacting neighbors.

Zoning Administrator Scheel stated that when talking about decks "I stand by 100% my measurements of the 360' sq. ft." and if you subtract out the staircases and another amendments that the developer did verbalize tonight the decks are not 12' x 30' they are substantially smaller so he believed that his report is accurate in the square footage of the decks being asked for.

Motion by Member Halverson, second by Member Gray to deny the site plan for Project 2019-3 SPA. Member Felter stated she wondered if they should have the Fire Department look at the proposal. Motion passed with a unanimous roll call vote (Member Chamberlain abstaining.)

2. Downtown Design Guidelines Presentation – Lindsey Dotson

Member Chamberlain returned to the meeting. DDA Director Dotson presented the final adopted Downtown Design Guidelines to the Planning Commission which had been four years in the making. She explained the Guidelines in detail, the function of the buildings and the intention of how the buildings were originally developed and how they have evolved. Community Development Director Egan stated that going forward this is a resource for the Planning Commission as it considers new language for any district in the City.

3. Walkability Study/SBEI Update – Dean Martin

Dean Martin stated that the new SBEI Study application was submitted that day. The core focuses of the application included:

- sidewalk and parking configuration downtown, balancing the need for ample parking with the need for safe walkways and outdoor spaces for dining, retail businesses and recreation;
- expansion of street amenities such as bike racks, trash receptacles, and outdoor seating; and
- viability of an in-ground snow melting system for downtown sidewalks.

He stated that per Council's request they are also looking into the current under-utilized SBEI Study and what changes can be made to corridors and alleys and this report should be complete mid-October.

Mr. Martin stated the City Manager's letter had some recommendations that the Planning Commission may want to consider which were more programmatic elements of the SBEI Study including:

- consideration of a complete streets ordinance,
- amending the Zoning Ordinance to allow for special licensing for outdoor dining on sidewalks,
- updating the Zoning Ordinance dumpster screen section to include more prescriptive requirements,
- updating the ordinance to include the intent of trees and vegetation in the Central Business District;
- updating the ordinance to specific alleys including safety and aesthetic features, and
- developing form-based code ordinances.

4. Tip of the Mitt Resiliency Master Plan Review

Director Egan stated that the Tip of the Mitt has the ability through a grant to assess our Master Plan "to identify what is working well, what is present but needs improvement, what is missing and what may need clarity" and this is all in regard to water, stormwater, high water levels, etc. This will be another good report and resource that the Commission can use going forward for the Master Plan and also for any other ordinance work.

H. Old Business

1. Setting Priorities for 2021

Director Egan stated that she added under High Effort/High Impact – Water Resource District TIF, and she also discussed with staff and created the idea for two sub-committees: a Technical Sub-Committee and an Infrastructure Sub-Committee.

Member Chamberlain suggested instead of a topic of “Tiny Homes” it should be “seasonal workforce housing”; and he felt that they should start working with the MDNR in regard to year-round campgrounds for seasonal workers. Chair Waddell suggested including Seasonal Workforce Housing/Tiny Homes. Member Halverson suggested including taking a Master Plan approach for the Ferry Beach area. The Commission concurred with the changes.

I. Staff Updates

Motion by Member Chamberlain, second by Member Halverson to thank Ben Edwards for his time as a member of the Planning Commission and that he should continue his public service with Charlevoix Township. Motion passed by unanimous voice vote. Chair Waddell stated that he would send Mr. Edwards an appreciation letter.

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

Director Egan stated that there was potential for some housekeeping updates for the Zoning Ordinance and a discussion on the International Property Management Code at the next meeting.

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

Motion by Member Chamberlain, second by Member Gelb to adjourn the meeting. Meeting adjourned at 7:57 p.m.

Joyce M. Golding/fgm

City Clerk

R.J. Waddell

Chair

CITY OF CHARLEVOIX

New Business

TO: Planning Commission

FROM: Kathy Egan

SUBJECT: Level B Site Plan Review Amendment 2019-3 SPA: Pine River Lane Site Condominium

DATE: October 12, 2020

BACKGROUND

The developer for Pine River has submitted a new application for rooftop decks. This is an amendment request to an approved site plan. The applicant's application materials and the Zoning Administrator's report are attached.

ATTACHMENTS:

- ▣ Application for site plan review
- ▣ Zoning Administrator Report
- ▣ Public Comment #1
- ▣ Public Comment #2
- ▣ Public Comment #3
- ▣ Public Comment #4
- ▣ Public Comment #5
- ▣ Public Comment #5-1



CITY OF CHARLEVOIX

LEVEL B SITE PLAN APPLICATION

MIOTOWN DEVELOPMENT INC

Applicant

115 Pine River Lane

Address of subject property

138 Fairway Hills Dr. Traverse City, MI 49684

Address (City/State/Zip)

Charlevoix Pointe LLC

Property Owner Name (If different than applicant)

Same

Property Owner Address (City/State/Zip) (If different than address of subject property)

Property Owner Phone

(231) 212-4983

Email

Trunkburden@gmail.com

Agent Phone

() - - - -

Email

Zoning of subject property: High Density Residential Tax ID: 15-052- 127 - 002 - 00

Current use of property (example: single family, apartments, commercial, industrial, etc.):

Vacant

Proposed use: Housing

Dimensions of parcel: L shaped - see site plan Parcel size: 30,213 69 Acres
Square feet Acres

Please describe the type of construction (example: 20' x 20' addition to the rear of the building for storage.):

Deck - 180 sq feet. 3rd floor - wood tile, or pvc deck - sided + glass walls.
Deck option offered to 8 units. Some will decline this change. Units 1-8
180 x 8 = Total Highest 1,440 sqft.

UNITS 1,2,3,4,5 - UNIT 6 privacy wall on north to interrupt visual
from guest house. 7-8 3 ft privacy wall to obstruct view from
residence below - 45 feet separation - 30 foot elevation change ground to Deck
Dimensions of proposed construction, excluding eaves: 120 ft pr. unit possible 8 units surface
Total square footage of proposed construction: 1,442 sq. ft
Height of proposed construction to the top of the roof: Decks at 20 feet
Height of proposed construction to the midpoint of the roof, for gabled roof: 27'
Roof type (example: gable, hip, flat, etc.): Flat + Gabled
Square footage of all impervious surfaces (please show all on site plan: paved driveways,
sidewalks, patios, etc.): 15,094
Requested date to begin construction if known: Nov 1st

AFFIDAVIT

I the undersigned, do hereby make application to the City of Charlevoix for approval of the attached Site Plan which has been drawn in accordance with the City of Charlevoix Zoning Ordinance. I certify that the property owner has authorized the proposed work, and that I have been empowered by the owner to make this application as his/her selected agent. I agree the statements made in the above application and associated documents are true, and if found not to be true, the approval of the site plan may be void. I also agree to comply with the conditions and regulations required by the approved development plan. Further, I agree that if the site plan is approved, it is approved with the understanding that the individual(s) or organization(s) applying for that site plan (or those individual(s) or organization(s) represented by the applicant) will comply with all applicable sections of the City of Charlevoix Zoning Ordinance. For purposes of site inspection, I also agree to notify the City of Charlevoix Zoning Administrator when locations of lot lines and proposed structures are located and staked on the ground. I also agree to give permission for officials of the City of Charlevoix, the County, and the State of Michigan to enter the property subject to this permit application for purposes of inspection. I understand that the City may impose conditions of approval and that the conditions must be met by the specific times as defined in the Decision and Order. Finally, I understand that this is a site plan application, and if approved, cannot be implemented until applicant has applied for and the City has issued a zoning permit.

Property Owner Signature or Authorized Agent: E. B.

Date: 9/27/2020

THIS SECTION FOR OFFICE USE ONLY

Zoning District: _____

Tax ID: 052-_____-_____-_____

Receipt Number: _____

Date Inspected: _____

Approved: ☐

Denied: ☐

If variance was required: Project # _____

Lot Coverage Calculations:

Existing: _____

Proposed: _____

Total: _____

Lot Size: _____ Percentage: _____

Staff findings or notes: _____

Zoning Administrator Signature: _____

Date: _____



RIVERWALK COTTAGES



September 27, 2020

City of Charlevoix
Planning Commission
210 State Street
Charlevoix Mi, 49720

RE: Level B Site Plan Application
Riverwalk Cottages, 115 Pine River Lane – 3rd floor decks

Dear Commissioners;

I am applying once again, in an effort to have a fair and thorough review of the findings of fact. The request is for 3rd floor decks at the Riverwalk Cottages. The zoning allows what I am asking for, in fact most of the neighboring properties have decks, and all of Charlevoix has decks. I was disappointed that in denying the last application the commission did not go through the detailed information for this application. We are not asking to increase the density, only to provide this amenity to buyers.

The attached Charlevoix County News article exacerbates any reasonable expectation of the potential use of these residential, small, and rather intimate decks. I would further like to respond to the idea that somehow these decks would be unsafe. We will comply with the State of Michigan construction code for deck construction, and they will be safe.

Thank you for your time and input approving this request.

Sincerely,

A handwritten signature in black ink, appearing to read "T Burden", is written over the word "Sincerely,".

Timothy K Burden
President
Midtown Development Inc

CITY OF CHARLEVOIX PLANNING COMMISSION MEETING, SEPTEMBER 14, 2020

No "Party Decks" for new duplex development

CHARLEVOIX — A duplex development along the Pine River Channel was recently ceased from adding potential roof top decks to some of its units by the Charlevoix Planning Commission.

A unanimous vote by the commission during its Monday, Sept. 14 meeting halted Midtown Development Inc. and the project developer Tim Burden from adding additional decks to some of the units already being built.

Burden explained to the board that his proposal to add potential decks to the units came from potential tenants who had voiced their

desire for additional space to meet with friends and family.

"Potential buyers have come to me and said they'd really like some more outside space," he said.

"These are single residential family homes and these people would like to improve their properties. They are looking to invest more to have a nicer home and a place to barbecues or sit around outside with their friends. Right now, the only space they'd really have is on their front porches or on the sidewalk."

However, most commissioners were not thrilled with

the plans presented.

"I appreciate the observation that this is a substantial change and I would have much preferred these to have been included in the original site plan," said commission vice chair Dennis Halverson.

The original site plans — approved in January of this year — called for the development of eight two-bedroom units and six one-bedroom units at 115 Pine River Lane near the Weatherwano Restaurant. Each of the two-bedroom units would be approximately 1,200 square feet with the single bedroom units at approximately 600

square feet.

The proposed decks would have added an approximate 200 square feet to each receiving unit.

Commissioners and the general public were wary of adding more space to the units for a multitude of reasons with Halverson going as far to call them "party decks."

"I would ask that we really look at how this would impact neighbors," he said. "This looks less like a deck than it is a party platform 20 feet in the air. I would be reluctant to allow this."

A handful of neighbors

weighed in during public comment on the topic weighing different concerns including fire hazards, noise concerns and privacy.

The largest concern of the board though was safety.

"The fact that we had a fire marshal look at the original plans and we haven't had one look at this worries me. I don't know if we can even proceed on this," said commission board chairman R.J. Waddell.

"I really feel uncomfortable allowing this and for barbecues, space heaters and heat producing things to be on a roof top deck," he said.

Halverson made the motion to deny allowing additional roof top decks to be added to the units with commissioner David Gray seconding.

The commission voted unanimously to deny the request. Commissioner Sherm Chamberlain withheld his vote for conflict of interest as he had previously done surveying for the site.

Charlevoix Planning Commission meetings take place the second Monday of the month with agendas and minutes posted online at www.cityofcharlevoix.org.

FIRE AND GENERAL SAFETAY ISSUES

We will enforce the rule of no open flame grills or heaters on the decks.

We would require that deck furniture be secured when not in use.

We do not feel we have any serious issues with wind, certainly no more than other decks in residential use. These decks will have at least 2 walls between 6 feet tall and the higher truss system to block the wind. The railing system will also help to block the wind. The predominate wind is from the North and this property is buffered by the Hill and the buildings and trees around it.

Please see the wind report for Charlevoix which is attached. Higher winds occur in the winter months when deck usage would be virtually nonexistent.

Please see the Fire Chief's letter dated September 15, 2020, which is attached.

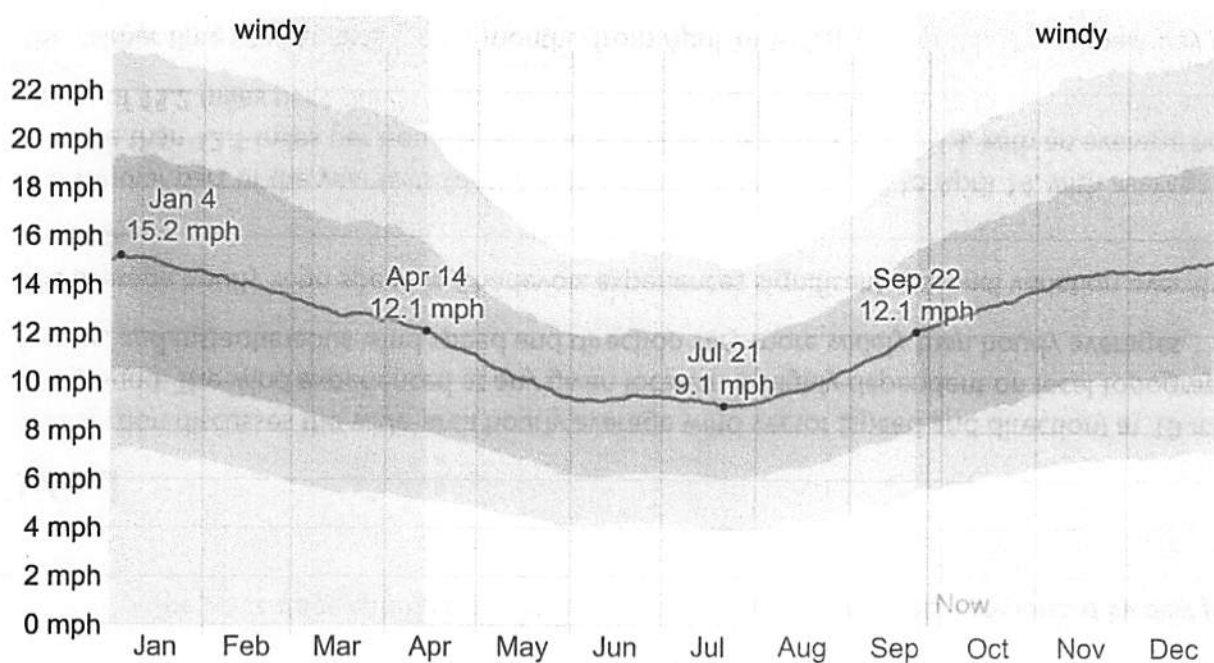
Wind

This section discusses the wide-area hourly average wind vector (speed and direction) at 10 meters above the ground. The wind experienced at any given location is highly dependent on local topography and other factors, and instantaneous wind speed and direction vary more widely than hourly averages.

The average hourly wind speed in Charlevoix experiences significant seasonal variation over the course of the year.

The windier part of the year lasts for 6.7 months, from September 22 to April 14, with average wind speeds of more than 12.1 miles per hour. The windiest day of the year is January 4, with an average hourly wind speed of 15.2 miles per hour.

The calmer time of year lasts for 5.3 months, from April 14 to September 22. The calmest day of the year is July 21, with an average hourly wind speed of 9.1 miles per hour.



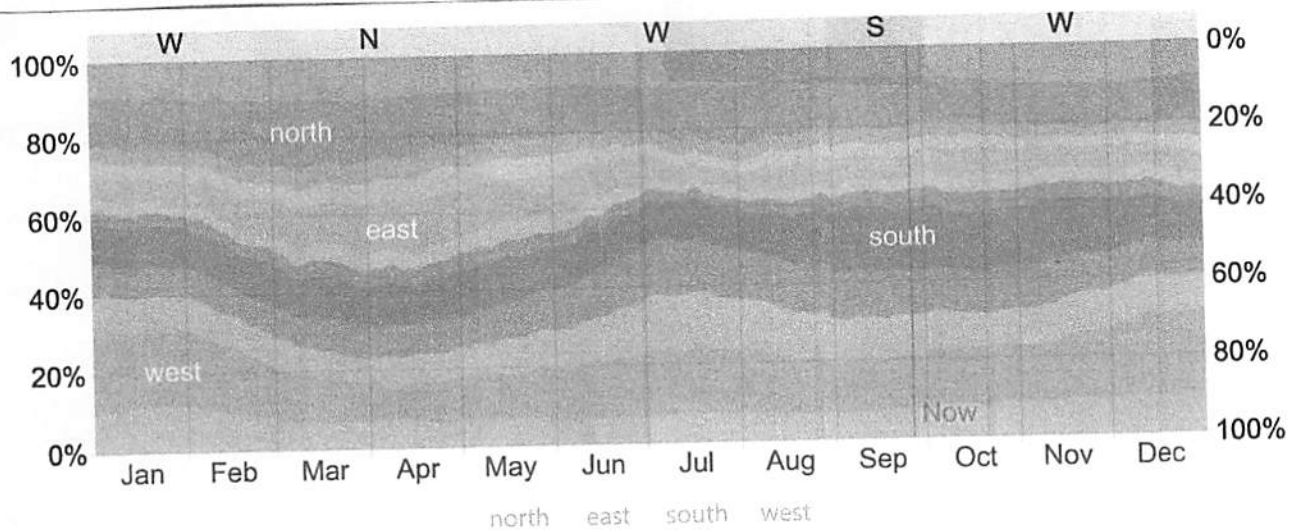
The average of mean hourly wind speeds (dark gray line), with 25th to 75th and 10th to 90th percentile bands.

The predominant average hourly wind direction in Charlevoix varies throughout the year.

The wind is most often from the north for 2.6 months, from February 24 to May 11, with a peak percentage of 34% on March 7. The wind is most often from the west for 3.6 months, from May 11 to August 31 and for 4.8 months, from October 2 to February 24, with a peak percentage of 39% on July 17. The wind is most often from the south for 1.1 months, from August 31 to October 2, with a peak percentage of 33% on September 26.

Wind Direction

Wind Direction



The percentage of hours in which the mean wind direction is from each of the four cardinal wind directions, excluding hours in which the mean wind speed is less than 1.0 mph. The lightly tinted areas at the boundaries are the percentage of hours spent in the implied intermediate directions (northeast, southeast, southwest, and northwest).

FIRE CHIEFS LETTER

September 15, 2020

**Charlevoix Planning Commission
210 State Street
Charlevoix MI, 49720**

**RE: 115 Pine River Lane
Roof Decks**

Dear Planning Commissioners,

I have been asked to provide a written response to the desire to add roof decks to the homes in the Riverwalk Cottages development on Pine River Lane. It is my observation that the developer has done everything that has been asked of him to satisfy the commissions concerns and fire related concerns. He has reduced the size of the project by 20%, widened the roadway and added sidewalks.

I am responding to the desire of individual owners interested in adding roof decks their homes. They are requesting this to accommodate outside gatherings including cooking with grills.

I have no fire related issues with these additions or with cooking taking place on the decks. This will lower the overall height of the buildings in these areas and not cause issues for the fire department.

Sincerely Yours.



**Dan Thorp
Charlevoix Fire Department**

231-675-0416

CONCERNS ABOUT INFRINGEMENT ON NEIGHBORING HOMES

In the study provided by 2017 US Houzz Landscape Trends Study, the average time spent in outside space is 6.9 hours in warm weather and 2.4 hours in cold weather. This limited use does not seem as though it would cause hardship on neighbors. On average total outside activities are less than one hour per day.

We propose a sided parapet wall to shield view from close neighbors. Units 7 - 8 facing South towards the Jones residence. This would be a sided wall approximately 3 feet tall.

Unit 6 closest to the Beyer Garage and Granny Suite, we propose a 6-foot privacy wall.

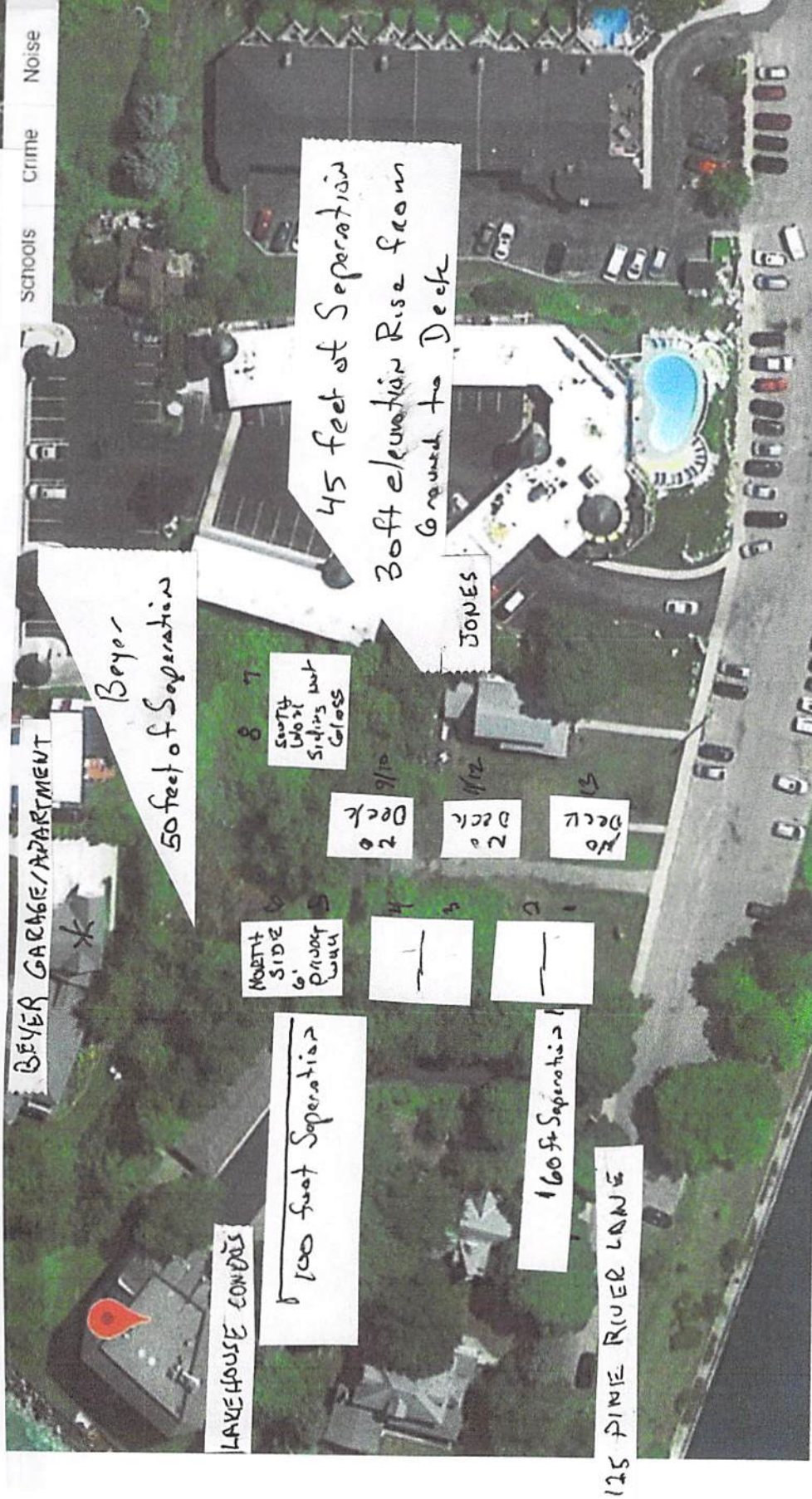
There will be 6 ft privacy wall between owners of units should both parties elect to build decks.

Remaining 3rd floor decks I would propose without the need for privacy walls. The Lakehouse condos and 125 Pine River Lane have good separation and trees that buffer the view.

There will be no decks on the three homes east of the Jones residence.

AERIAL SITE MAP WITH DETAILS

Please view the site aerial view site plan with notes for a better visual reference.



Spend the Summer in Style...2017 Patio & Deck Trends

With summer on the way as we approach the middle of May, many homeowners are ready to update their patios or decks in order to better enjoy spending more time outside. Whether planning for a graduation celebration, backyard wedding or simply relaxing with friends, now is the time to begin the outdoor remodeling projects!

According to the 2017 U.S. Houzz Landscape Trends Study, two-thirds of homeowners use their outdoor spaces for relaxing (69%), from gardening to entertaining to spending time with their family. In fact, we spend an average of 4.5 more hours weekly during the warmer seasons.

AVERAGE WEEKLY HOURS SPENT IN OUTDOOR SPACE*

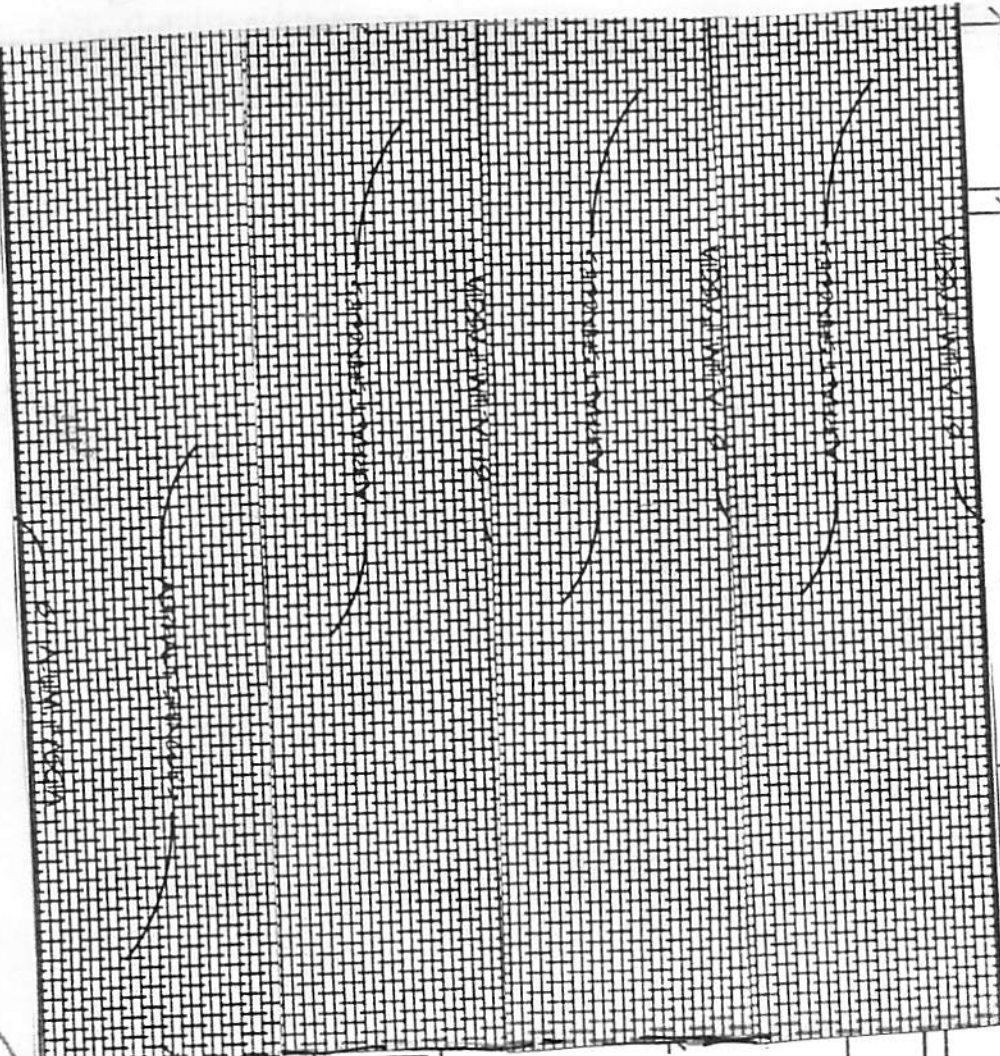
6.9	2.4
WARM SEASON	COLD SEASON

Looking Down From Above

Shingled Roof

Looking Down?

115400



PVC, wood or Tile Decks

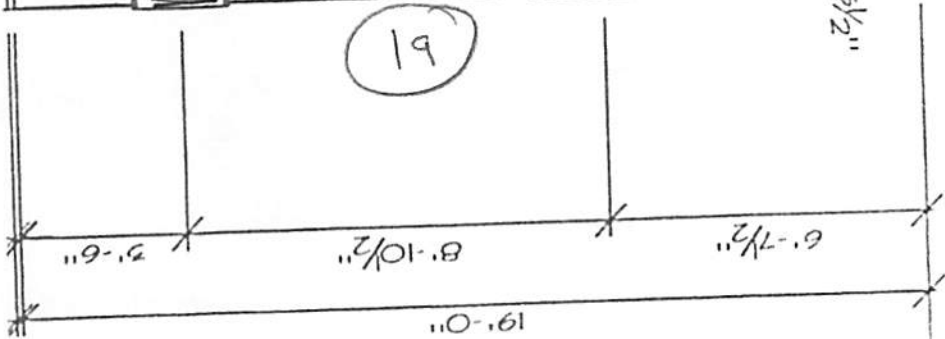
Deck Area
9.5 x 19

180 sq feet

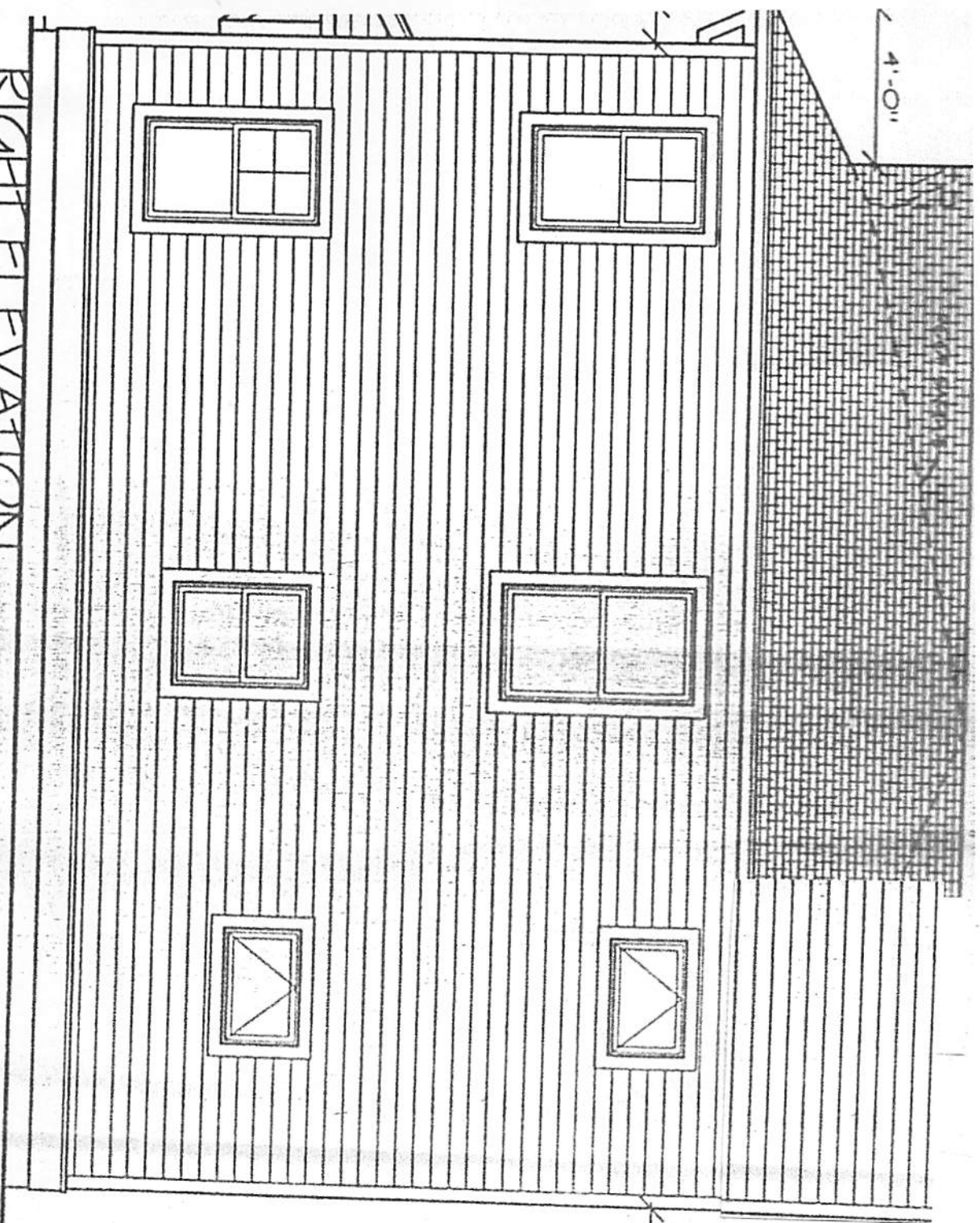
Door to Deck



19



RIGHT ELEVATION



Visual
Privacy
Wall
UNIT 6
Facing
North

Privacy

Wall

UNIT #6

Unit #5

Privacy Wall
between Units

HORIZ. VINYL SIDING

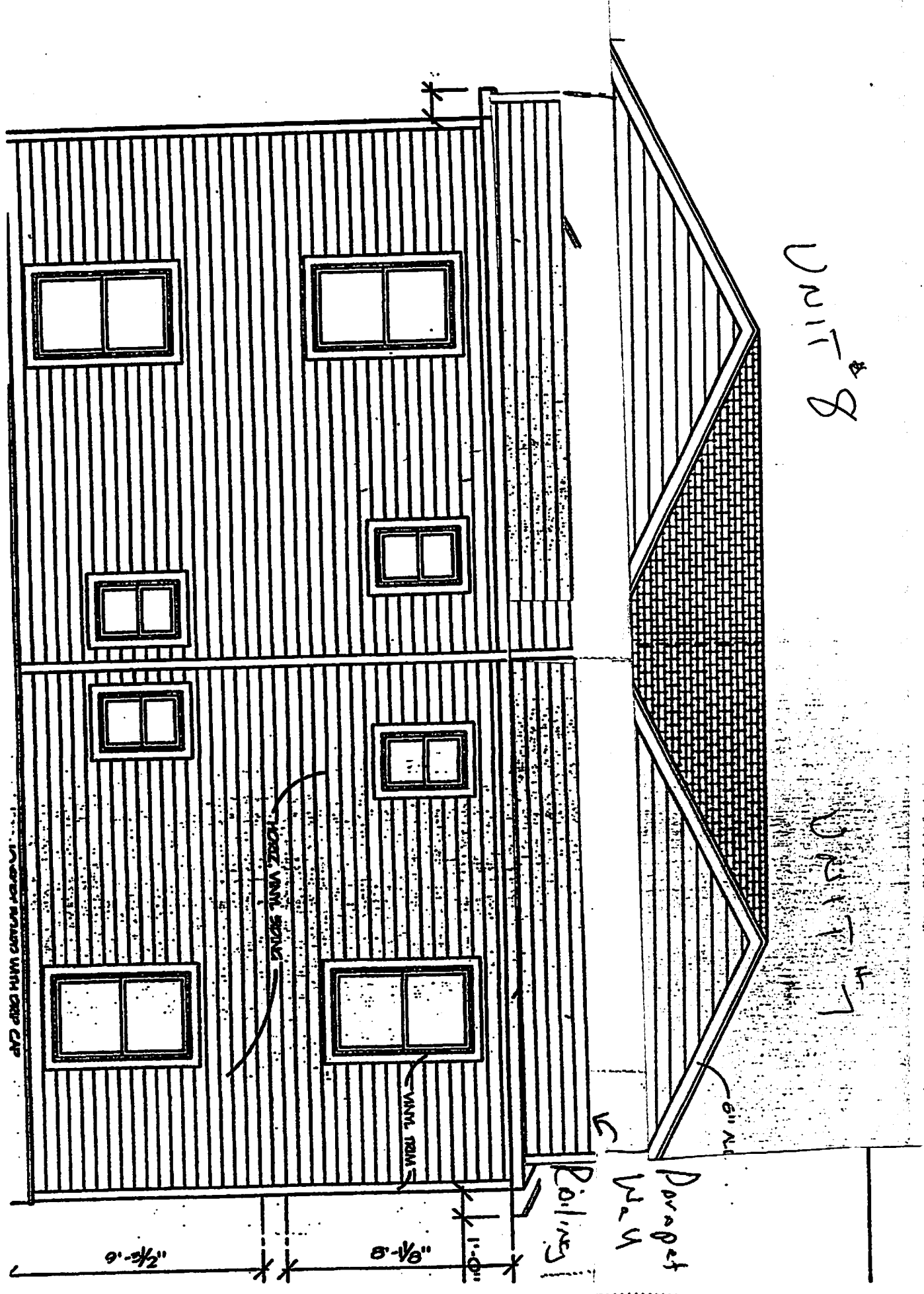
VINYL TRIM

5' ALUM. RAKE

12

6

10' H. LIFT BOARD WITH DRY CAN



UNIT 57

RELEVATION

SOUTH WALL

Parapet
wall

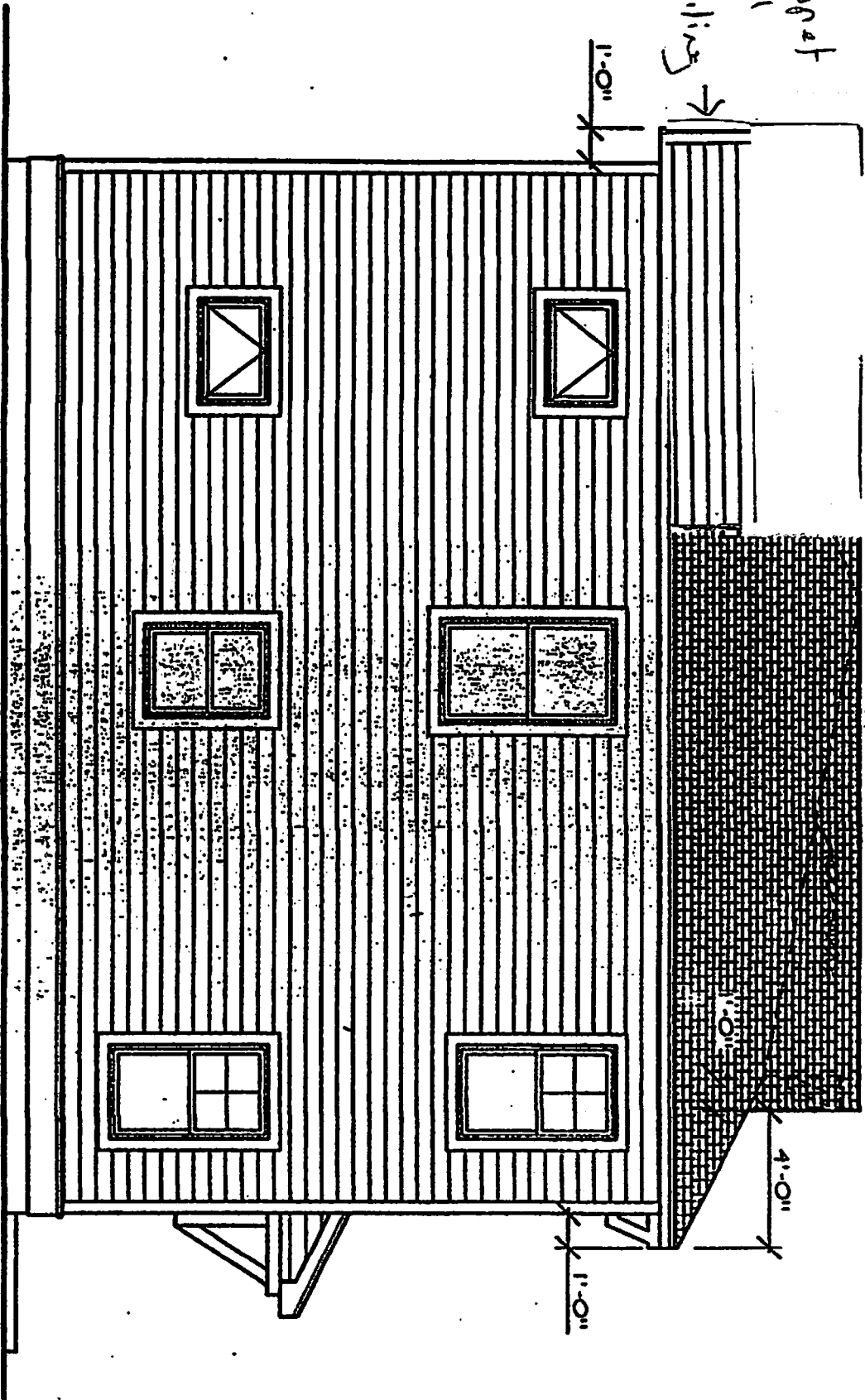
Railings →

1'-0"

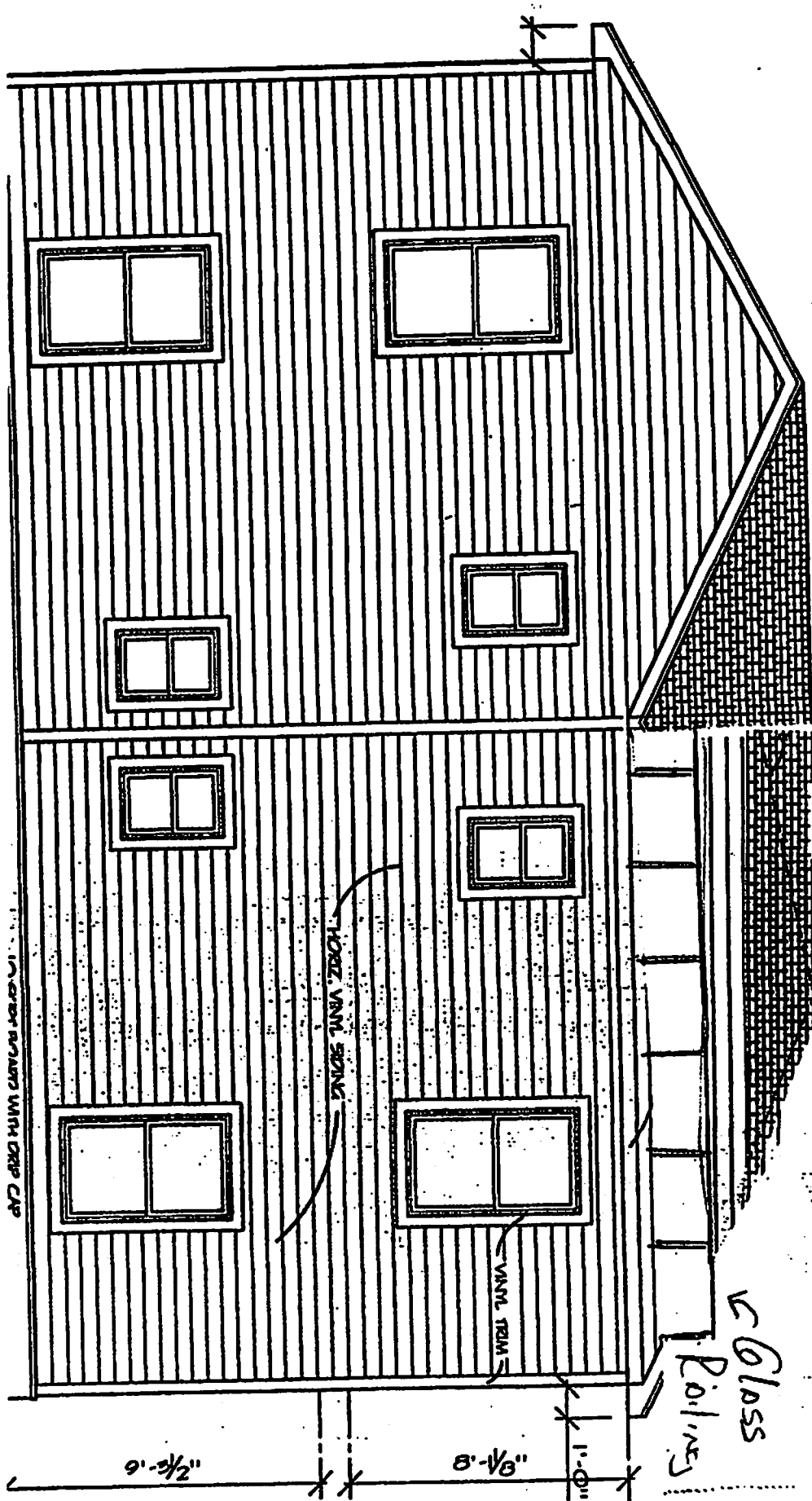
1'-0"

4'-0"

1'-0"



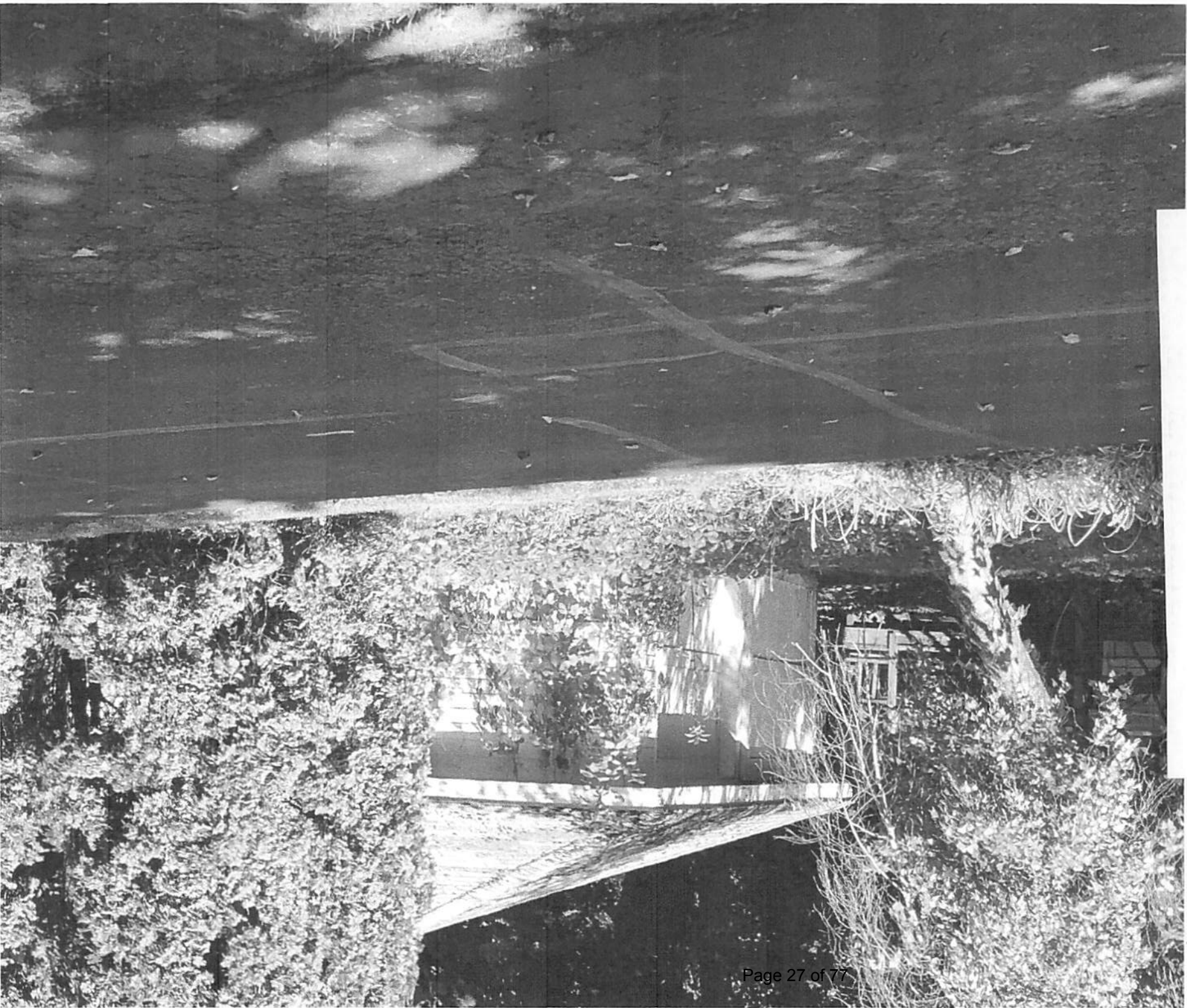
LEFT ELEVATION



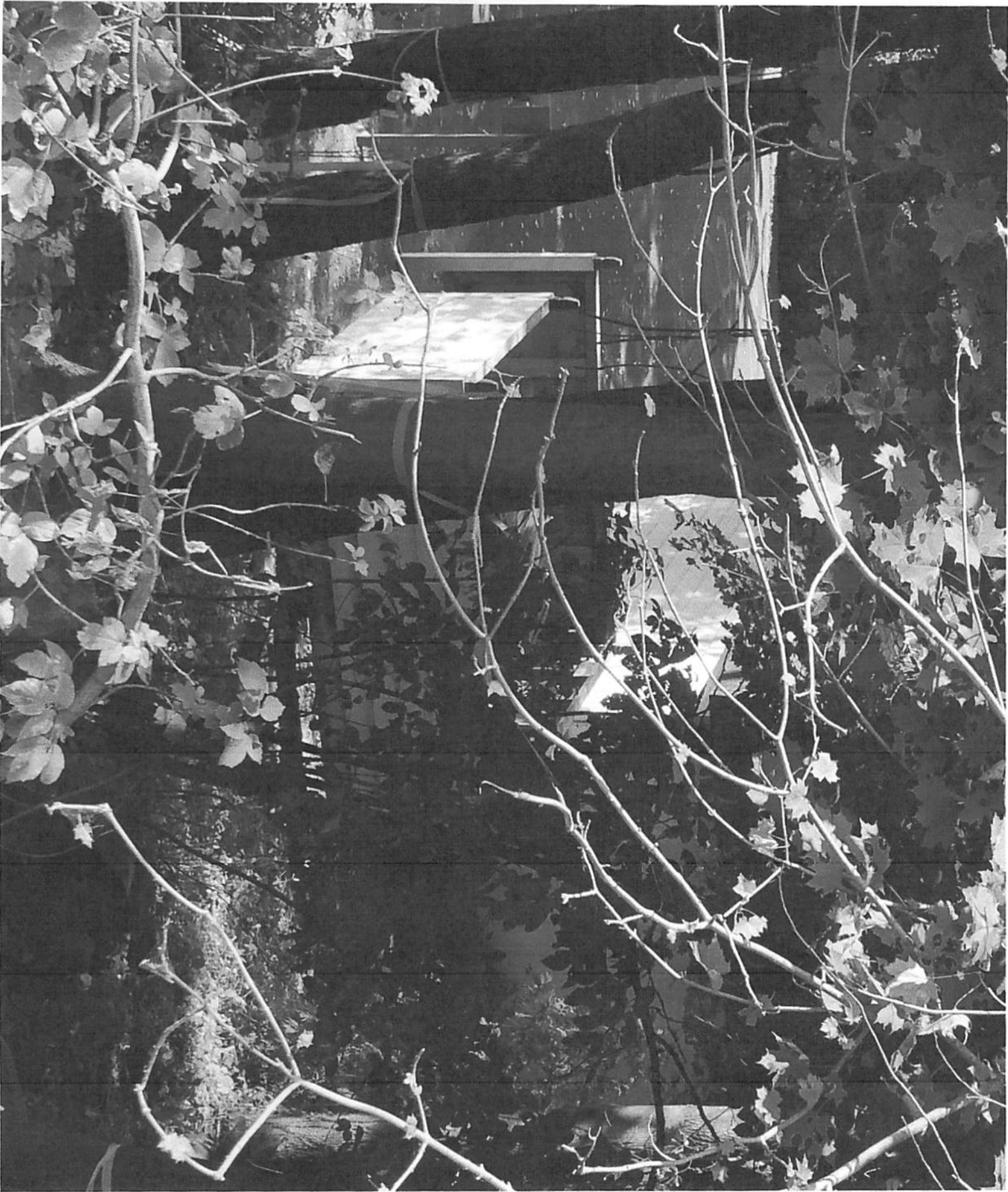
Example of Glass Railing



VIEWS FROM PROPERTY LINE LOOKING WEST



VIEW TOWNERS LAKEHOUSE GARAGE

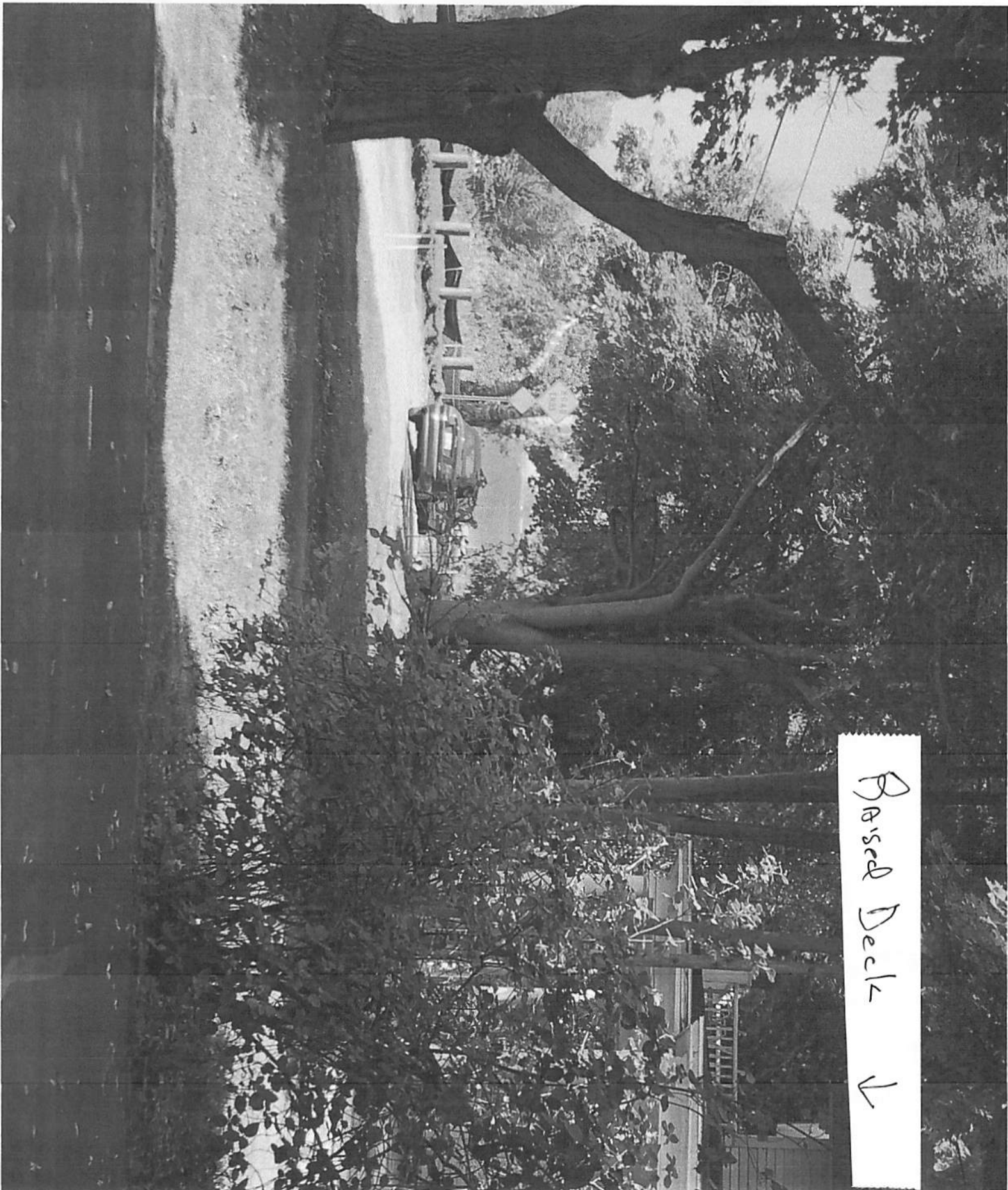


VIEW TOWARDS LAKE HOUSE UNIT 5



This is the Maple Tree - LAKEHOUSE COMBOS

Deck in Upper Right Corner ↘



Raised Deck



VIEW TOWARDS 127 PINE RIVER LANE FROM DRIVE



VIEW PAST MAPLE TREES - LAKE HOUSE CONDOS



JONES FRONT OF HOUSE



JUNKS - BACK OF HENSE

CHARLEVOIX IS FULL OF DECKS



Lake House condo's Decks

Across the Canal





Across the Canal



Dixon Lane Decks

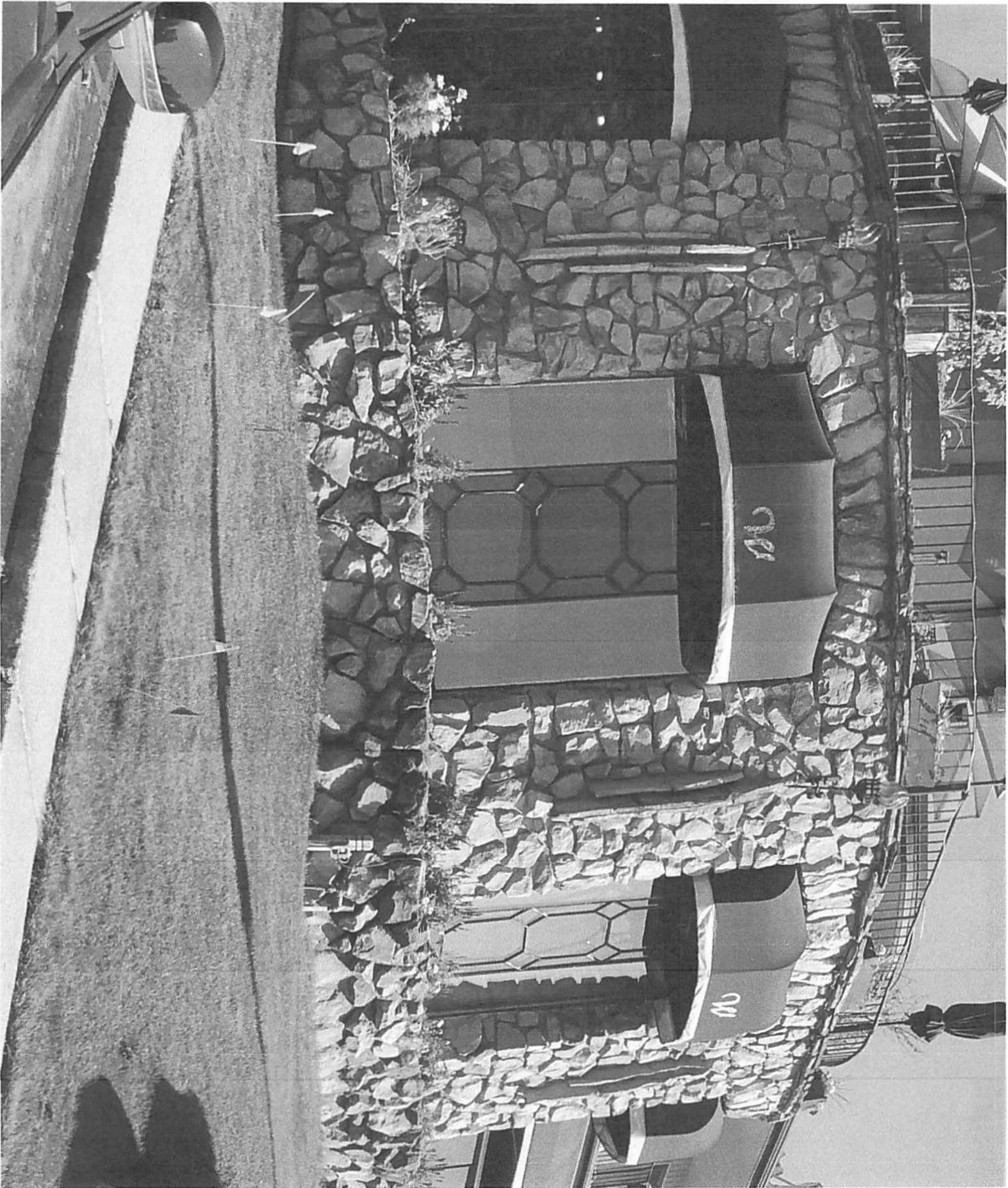


Dixon Lane

Weather Vane



WESTERLY WAVE







Roof Deck
Randy Loko



Dawn Tawn Chorkosin





Russ Loka



PLANNING COMMISSION AGENDA ITEM

AGENDA TITLE: Level B Site Plan Review Amendment 2019-4 SPA: Pine River Lane Site Condominium

PUBLIC MEETING DATE: **October 12, 2020** **6:00PM**

EXHIBITS:	1. Site Plan Review application. 2. Site Plan provided by applicant. 3. Letter from Fire Chief 4. City of Charlevoix Zoning Ordinance.
------------------	--

I. GENERAL INFORMATION:

Applicant: Midtown Development Inc.

Property Owner: Charlevoix Pointe LLC.
138 Fairway Hills Drive
Traverse City, MI 49684

Requested Action: Level B Site Plan Amendment Approval for Site Condominium

Zoning: Residential High-Density R-4

Project Location: 115 Pine River Lane Tax ID 052-127-002-00

Project Site Size: 30,000 Square feet

Existing Land Use: None

Adjacent Land Uses: The property to the north is a bed and breakfast with single family residential to the east and west. The property that is adjacent to the north east corner of the subject property is a hotel.

Adjacent Zoning: Residential High Density to the east and west, Single Family Residential to the north. The Channel is to the south

II. PROJECT DESCRIPTION/LOCATION:

The applicant is requesting a site plan approval for adding decks to 6 units of the previously approved 14-unit site condominium. Because of the potential impact on the neighboring properties, a Level B Site Plan Review is being used as the approval process. The applicant is proposing building up to eight 180 square foot roof decks replacing roof trusses at the rear of each of the six buildings. Decks would be approximately 20 feet above the ground with a 28-foot-high roof adjacent to (behind) the decks. No other changes to the approved plans have been suggested. The buildings would include units one through eight.

Aerial photo from 2016.



Source: Charlevoix County Website, property boundary lines are approximate.



Subject property photo taken 9/30/2018

III. MASTER PLAN CONSIDERATIONS: *Please note that Site Plan Review is not based on consistency with the City Master Plan, this section is included only for general reference.

The 2016 Land Use Master Plan identifies this area of Charlevoix as being Hospitality Commercial

IV. SITE PLAN REQUIREMENTS:

The Zoning Administrator has been granted the authority to waive portions of the information that is typically required in a site plan by the Zoning Ordinance. Table 153.234 below indicates what items are included on the site plan as submitted and what items the Zoning Administrator has waived. The key for the responses on the right hand side of Table 153.234 are noted below.

- X Information Provided on Site Plan
SA See Attached Information
PI Partial Information Provided on Site Plan
NA Not Applicable, Requirement Waived by Zoning Administrator
M Missing

Submittal Requirements

(1) Required Content. Each site plan submitted shall contain the information detailed in Table 153.234, as applicable:

Table 153.234: Required Site Plan Content

<u>Required Information</u>	<u>Level “B”</u>
------------------------------------	-------------------------

General Information

Date, north arrow and scale	X
Name and firm address of the professional individual responsible for preparing the site plan	X
Name and address of the property owner or petitioner	X
Location sketch	X
Legal description of the subject property	X
Size of subject property in acres or square feet	X
Boundary survey	X
Preparer’s professional seal	X
Revision block (month, day and year)	X

Existing Conditions

Existing zoning classification of subject property	X
Property lines and required setbacks (dimensioned)	X
Location, width and purpose of all existing easements	X
Location and dimension of all existing structures on the subject property	X
Location of all existing driveways, parking areas and total number of existing parking spaces on subject property	X
Abutting street right-of-way width	X
Location of all existing structures, driveways and parking areas Within three hundred (300) feet of the subject property’s boundary	PI
Existing water bodies (rivers, creeks, wetlands, etc.)	X
Existing landscaping and vegetation on the subject property	PI
Size and location of existing utilities	X
Location of all existing surface water drainage facilities	X

Proposed Development

Location and dimensions of all proposed buildings	X
Location of all proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, walls, fences, signs, exterior lighting, curbing, parking areas (including dimensions of a typical parking space and the total number of spaces to be provided) and unloading areas	X
Setbacks for all buildings and structures	X

<u>Recreation areas, common use areas, dedicated open space and areas to be conveyed for public use</u>	X
<u>Flood plain areas and basement and finished floor elevations of all buildings</u>	X
<u>Landscape plan (showing location of proposed materials, size and type)</u>	X
<u>Layout and typical dimensions of proposed parcels and lots</u>	X
<u>Number of proposed dwelling units (by type), including typical floor plans for each type of unit</u>	X
<u>Number and location (by code, if necessary) of efficiency and one, two and three or more bedroom units</u>	X
<u>All deed restrictions or covenants</u>	
<u>Brief narrative description of the project including proposed use, existing floor area (sq. ft.), size of proposed expansion (sq. ft.) and any change in the number of parking spaces</u>	X

Engineering

<u>Proposed method of handling sanitary sewage and providing potable Water</u>	X
<u>Location and size of proposed utilities, including connections to public sewer and water supply systems and/or size and location of on-site systems</u>	X
<u>Location and spacing of fire hydrants</u>	X
<u>Location and type of all proposed surface water drainage facilities</u>	X
<u>Grading plan at no more than two (2) foot contour intervals</u>	X
<u>Proposed streets (including pavement width, materials and easement or right-of-way dimensions)</u>	X

Building Details

<u>Typical elevation views of all sides of each building</u>	X
<u>Gross and usable floor area</u>	X
<u>Elevation views of building additions</u>	X
<u>Building height</u>	X

(1) Information Waiver. Specific requirements of either a Level “A” or “B” site plan may be waived by the Zoning Administrator where it is determined that such information is not applicable to the request.

(2) Additional Reports/Study: The Zoning Administrator or Planning Commission may require additional studies, reports or written opinions from qualified consultants to determine compliance with this ordinance or to ensure negative impacts to public health, safety and welfare are avoided or mitigated. These reports/studies may include, but are not limited to, traffic studies, transportation plans, geotechnical reports, flood hazard evaluations or environmental assessments. The Zoning Administrator or Planning Commission shall have the authority to choose the individual consultant, firm or company. The costs of additional study shall be paid for by the applicant.

The Zoning Administrator has asked for exterior lighting plans and surface water runoff changes related to the addition of the decks.

153.072 (D) R4 District; additional requirements for multiple-family dwellings.

(1) *Development standards.* The general plan for multiple-family dwellings shall include evidence and facts showing that it has considered and made provisions for and the development shall be executed in accordance with, the following essential conditions.

(a) The proposed development shall be constructed in accordance with an overall plan and shall be designed as the unified architectural unit (each building, excluding accessory structures, shall have consistent roof lines, roof pitch, architectural features and building materials) with appropriate landscaping meeting the requirements of ' 153.171 of this chapter.

Submitted plans show common and consistent design elements with all buildings including landscaping that meets 153.171 of the zoning ordinance.

(b) If the development of the R4 Zone is to be carried out in stages, each stage shall be so planned that the foregoing requirements and the intent of this subchapter shall be fully complied with at the completion of any stage and the development of each stage shall take place in sequential order as designated by the plan.

The development is not to be built in stages

(2) Development requirements.

(a) *Distance between buildings.*

(b) *Parking.*

(c) *Paving.* All areas provided for use by vehicles and all pedestrian walks shall be surfaced with bituminous asphalt, concrete or similar materials and be properly drained.

(e) *Access.* Provision shall be made for safe and efficient ingress and egress to the public streets and highways servicing the R4 Zone without undue congestion to, or interference with, normal traffic flow.

(f) *Utilities.* All buildings within the R4 Zone shall be serviced by a public sanitary sewer disposal system and public water supply system. All utility lines within the subject property including, but not limited to, power, water, sewer and telephone shall be placed underground by the developer for new developments. Each unit will be considered as a separate dwelling for the purpose of utility connections.

(g) *Open space.* The developer shall be required where possible to preserve or incorporate natural features such as wooded areas, streams and open space areas, which add to the overall cohesive development of the R4 Zone and overall community development.

(E) *Dimensional requirements, clustered housing.* Building height, setbacks, lot coverage and minimum floor area for single-family attached, single-family detached, two-family dwellings or any combination in an R4 District clustered housing development shall conform to the requirements of Table 153.072(e).

Maximum building height has stayed the same with a portion of the roof removed for the proposed deck.

153.117 Residential Uses

(A) Dwellings, single-family attached or detached (outside manufactured home communities). All dwelling units located outside a licensed manufactured home community shall comply with the following.

(1) A dwelling unit shall conform to the minimum floor area requirements of the district in which it is located.

Meets standard

(2) A dwelling unit shall have a minimum floor to ceiling height of seven feet, six inches; or, if a manufactured home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled Mobile Home Construction and Safety Standards, effective 6-15-1976, as amended.

Meets standard

(3) The minimum width of a single-family dwelling unit shall be 22 feet for at least 67% of its length, measured between the longest exterior walls.

Meets standard

(4) All dwelling units shall comply with the state's Construction Code as promulgated by the state's Construction Code Commission under provisions of Public Act 30 of 1972, as amended, being M.C.L.A. "125.1501 et seq. or the *Mobile Home Construction and Safety Standards*, as promulgated by the United States Department of Housing and Urban Development, being 24 C.F.R. part 3280, and as from time to time such standards may be amended.

Meets standard

(5) A dwelling unit shall be attached to a permanent foundation constructed in accordance with the State Construction Code and shall have the same perimeter dimensions as the dwelling. In the case of a manufactured home, it shall be installed per the manufacturer's set-up instructions and shall be secured to a foundation by an anchoring system or device complying with the rules and regulations of the states Manufactured Housing Commission or the states Construction Code, whichever is stricter.

(6) If provided, the wheels of a manufactured home shall be removed and the towing mechanism, undercarriage and chassis shall not be exposed.

(7) All dwellings shall be connected to city sanitary sewer and water utilities.

(8) Any addition to a dwelling shall meet all the requirements of this chapter.

Meets Standard

(9) A dwelling may have either a roof overhang of not less than six inches on all sides or, alternatively, a roof drainage system that concentrates water at collection points and discharges it away from the dwelling.

Meets standard

Area, Height and Placement Requirements

Maximum building height	30 feet	Proposed building roof is at 21.5 feet
Minimum Yard setbacks	front 25 feet	Proposed buildings is at 25 feet
Minimum Yard setbacks	side 10 feet	Proposed buildings is at 10 feet
Minimum Yard setbacks	rear 25 feet	Proposed buildings is at 25 feet
Lot Coverage	NA note 2	Submit grading and drainage plan

² Applicants are required to submit a grading and drainage plan, in accordance with the requirements of 153.230 through 153.239 of this chapter, demonstrating storm water can be contained and managed on the subject property if no municipal storm water system exists. If a municipal storm water system exists, the Director of Public Works, or consulting engineer representing the city, shall review the grading and drainage plan to determine if the existing infrastructure can adequately handle the storm water runoff. Applicants may be required to install storm water management features to mitigate impacts to the municipal storm water system.

Setbacks and height have not changed with the exception of the deck areas will be not as high as the original approved plan

V. SITE PLAN REVIEW:

The following section is taken directly from the Site Plan Review Section of the Zoning Ordinance. The Planning Commission must make findings of fact to determine if the proposal meets each of the following standards. The Planning Commission must find that this proposal meets all of the following standards based on findings of fact before considering a motion to approve or deny. Staff has written the following recommended findings of fact as a starting point. The Planning Commission may add, modify, or delete any of the following draft findings at the meeting. The draft findings are in *italics*.

153.235 Standards for Site Plan Approval: A site plan shall be approved only upon a finding of compliance with the following standards:

- A. The site plan must comply with all standards of this Article and all applicable requirements of this ordinance, as well as with all other applicable city, county, state and federal laws and regulations.

The Planning Commission finds that the site plan proposal complies with the Zoning Ordinance, which states that the parcel is zoned R4, Planned High Density Residential. This district allows for higher density developments such as condominiums, apartment buildings, site condominiums, townhouses and clustered housing units. The following findings of fact will show that the site plan meets all other applicable laws and regulations.

- B. The site must be designed in a manner that is harmonious, to the greatest extent possible, with the character of the surrounding area.

The Planning Commission finds that the amendment to the proposed development is harmonious with the character of the existing neighborhood. The use proposed is for dense single family residential units with added third floor decks. There are numerous condominiums with decks in the immediate area. This proposal is less dense then those properties.

- C. The site must be designed to minimize hazards to adjacent property and to reduce the negative effects of traffic, noise, smoke, fumes and glare to the greatest extent possible.

The Planning Commission finds adequate measures have been taken to limit hazards to adjacent properties. The proposed decks do not add to the criteria mentioned in this ordinance section.

- D. Unless a more specific design standard is required by the city through a different ordinance or regulation, all uses and structures subject to site plan review shall comply with the following design standards:

Traffic Circulation

The number, location and size of access and entry points, and internal vehicular and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, as well as circulation within the site. In reviewing traffic features, the number, spacing and alignment of existing and proposed access points shall be considered relative to their impact on traffic movement on abutting streets and adjacent properties.

Off-Street Parking, Loading, Access and Circulation.

Table 153.187(H) of the Zoning Ordinance addresses the number of Off-Street Parking spaces needed and access requirements. 1.5 spaces per dwelling unit.

Off Street Parking Facility Design

Section 153.189(A)(1) Off-Street Parking shall meet the side and yard setback requirements and not be closer than fifteen (15) feet to the rear lot line.

Section 153.189(A)(3)(a) Required off-street parking facilities for single and two-family dwellings shall be located on the same property as the premises they are intended to serve and shall consist of a driveway, a parking apron and/or a garage.

(C) Pavement Unless alternative materials are specifically permitted as provided in this division (C), all parking lots and vehicle and equipment storage areas shall be hard-surfaced using asphalt, concrete or concrete or brick pavers and shall be appropriately graded and drained. The Planning Commission may approve permeable paving for all or part of a parking lot.

(D) Curbs. A Parking lot shall be surrounded by a six (6) inch curb...

(E) Dimensions. Table 153.189 specifies applicable parking space and aisle dimension requirements.

(3) At least seven feet shall be maintained between a parking lot and building.

(4) All parking lots shall be striped and maintained showing individual parking bays in accordance with the following dimensions:

(G) Ingress and Egress. Clearly defined and limited driveways shall provide adequate vehicular access to a parking lot. Interior access and circulation aisles for all parking spaces shall be provided. A public street shall not be used as a maneuvering space for a vehicle to get into or out of an off-street parking space.

(H) Landscaping. Off-street parking areas shall be landscaped in accordance with the requirements of 153.171(H) of this chapter.

Stormwater

Storm water retention and drainage systems shall be designed so the removal of surface water will not adversely affect neighboring properties or public storm water drainage systems. Unless impractical, storm water shall be removed from all roofs, canopies and paved areas by an underground surface drainage system. Low impact design solutions such as rain gardens and green roofs are encouraged.

The Planning Commission finds that the addition of 1,800 square feet of decks does not change the amount or direction of water runoff. The applicant submitted an engineered stormwater plan. The addition of the decks does not change the storm water plan. This standard has been met.

Landscaping

(A). This section promotes the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscaping. Landscaping and landscaped buffers help protect and enhance land uses and the visual image of the community. They further preserve natural features, improve property values and can alleviate the impacts of noise, traffic and visual distractions. Landscaped buffers protect less intense uses from noise, lighting and other impacts associated with more intensive land uses. Specifically, the intent of these provisions is to:

(1) Improve the appearance of off-street parking and storage areas and property abutting public rights-of-way;

(2) Protect and preserve the appearance, character and value of the neighborhoods, which abut non-residential areas, parking lots and other potentially obtrusive uses;

(3) Reduce soil erosion and depletion;

(4) Increase soil water retention, thereby helping to prevent flooding, erosion and sedimentation and enhancing ground water recharge;

(5) Remove air pollutants and reduce, eliminate or control glare, reflection and heat island effects; and

(6) Assist in directing safe and efficient traffic flow and prevent vehicular and pedestrian circulation conflicts.

(B) *General requirements.* These regulations apply to all new uses and the expansion of existing uses requiring site plan approval.

(4) All plants shall be hardy per climatic conditions in the city.

(5) All landscaped areas shall be mulched and those not containing trees and shrubs must be planted with ground cover. Mulch of any type is not considered groundcover, nor is it a substitute for ground cover.

(6) The overall landscape plan shall not contain more than 25% of any one plant species.

(7) Trees and shrubs shall not be placed closer than four feet to a fence, wall or property line.

(10) Landscaping shall not obstruct sight distance, per ' 153.142 of this chapter.

(11) Landscaping plans are subject to Planning Commission review and approval.

(12) The Planning Commission may allow a deviation from the requirements of this section under any of the following circumstances:

(a) Existing vegetation or topographic features make compliance with requirements unnecessary or difficult to achieve;

(c) Modification of requirements will clearly result in a superior design that could not be otherwise achieved;

(e) Where the required landscaping may interfere with view corridors, such as developments along water bodies, the Planning Commission may require planting of specific species in locations where the height or canopy will not compromise view corridors; and

(13) The Planning Commission may impose conditions on landscaping as part of site plan review.

(15) Where landscaping requirements are based on a distance measured along a property line and result in a fractional requirement, the required landscaping for just that area shall be multiplied by the fraction. For example, when a fractional area is equal to 30% of the required distance the number of required plants shall be multiplied by 0.30. A fraction less than 25% may be disregarded.

(16) To ensure that all landscaping is installed, as a condition of approval a letter of credit or some other performance guarantee may be required in accordance with ' 153.237 of this chapter.

(17) Low impact design, such as use of native vegetation, rain gardens and vegetated swales is encouraged.

(C) Buffer areas.

(1) A buffer area may be required where any use in a business or industrial district is adjacent to residentially zoned land and where multiple-family residential land uses are adjacent to land in the R1, R2, R2A and R4 Districts.

This property is adjacent to R-4 on the west and R-1 on the north and northwest. Four of the units will have the proposed decks facing west, toward the R-4 property which has existing condominiums. The other two proposed decks will face south toward another R-4 property with a single-family home on it. Decks are traditionally looked at as a common use by right on single family homes. The planning commission must decide if there is a negative impact to these two adjoining properties more than other normal residential uses allowed in residential districts before the planning commission can require additional screening or buffers.

(3) A buffer area shall be parallel to and follow the property line tangent to the qualifying zoning district.

(4) A buffer area shall be required even when the adjacent property is undeveloped.

(5) Except for access drives or private streets determined by the Planning Commission to be necessary to provide safe access to a property, a building, structure or parking lot shall not encroach within a required buffer area.

(9) Buffer Area Alternatives

(c) A screen wall or fence, located within a buffer area, may be used in lieu of some landscaping.

1. A screen wall or fence shall be six feet tall and constructed of architectural block, brick, wood, vinyl or textured concrete.
2. A screen wall or fence shall be located at least two feet from a property line.
3. To maximize the effectiveness of screening, openings shall not exceed 20% of the surface of a wall or fence.
4. When a screen wall or fence has both a finished and unfinished side, the finished side shall face either outward from the development site or to the side most visible to the general public, as determined by the Planning Commission.
5. Landscaping requirements may be reduced by 75% when a screen wall is constructed in a buffer area.

(E) Residential development.

(1) For each dwelling unit in a residential subdivision, land division or site condominium.

(a) One canopy tree shall be planted between the right-of-way line and the street.

(b) Trees shall be evenly spaced, except where site conditions warrant otherwise.

(5) In the R4 Zone, the Planning Commission may require berms, fencing or vegetative screening (or any combination thereof) along property lines for reasons including, but not limited to, protection of public safety, preservation of neighborhood character or the creation of privacy buffers for single-family zones.

(J) Landscape site plan requirements.

(1) Proposed landscaping shall be shown on a separate drawing at the same scale as the site plan. To ensure that landscaping is not affected by, nor interferes with utilities, the plan shall indicate any existing or proposed utilities and easements.

(2) Planting plans shall show all landscaped areas and plants listed in a table by common and botanic name and show quantities, size at planting and anticipated mature height and spread. Anticipated mature height and spread shall be shown with circles indicating anticipated plant size at maturity.

(3) Text shall accompany the landscape plan, providing calculations for the proposed landscaping and describing how the plan successfully complies with the regulations of this section.

(4) Existing natural and human-made landscape features and proposed buildings and structures, as required for the overall site plan, shall be clearly indicated

(5) Contours shall be shown at intervals no greater than two feet.

(6) Irrigation systems shall be shown.

(7) All other site development plan review standards, as set forth in " 153.230 through 153.239 of this chapter, shall be followed.

Lighting

The following lighting requirements shall apply to all uses requiring site plan review, as stated in 153.230 through 153.239 of this chapter.

(5) Lighting. Lighting shall be designed to minimize glare on adjacent properties and public streets. As a condition of site plan approval, reduction of lighting during non-business hours may be required.

Meets standards

Utility Service

Exterior uses

Trash Receptacles

Exterior Uses

Emergency Access

Water and Sewer

Signs

VI. CONDITIONS OF APPROVAL

The following section is taken directly from the Section 153.236 of the Zoning Ordinance. The PC may impose conditions of approval on the site plan based on the following criteria.

5.121. Conditions of Site Plan Approval.

Conditions which are designed to ensure compliance with the intent of this ordinance and other regulations of the City of Charlevoix may be imposed on site plan approval.

Conditions imposed shall be based on the following criteria:

- (1) Ensure that public services and facilities affected by the proposed land use and site plan will not be adversely affected.
- (2) Ensure that the Use is compatible with adjacent land uses and activities.
- (3) Protect natural resources, the health, safety, welfare and social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- (4) Ensure compatibility between the proposed use or activity and the rights of the city to perform its governmental functions.
- (5) Meet the intent and purpose of the zoning ordinance, be related to the regulations and standards established in the ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.
- (6) Ensure compliance with the intent of other city ordinances that are applicable to the site plan.
- (7) Ensure compatibility with other uses of land in the vicinity.

Planning Commission Recommendation to City Council: (choose one)

- A. **Approve** Project 2019-4 SPA **without conditions**, based on specific findings of fact that prove the project does meet the review standards in Section 153.235
- B. **Approve** Project 2019-4 SPA **with conditions**, based on specific findings of fact that prove the project does meet the review standards in Section 153.235
- C. **Deny** Project 2019-4 SPA based on specific findings of fact that prove the project does not meet the review standards in Section 153.235

- D. **Table** the decision on Project 2019-4 SPA. (Usually this option is only used when additional information is needed to assist the Planning Commission in making the decision.

DRAFT

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

October 9, 2020

RE: Level B Site Plan Amendment Review / Case 2019-3 SPA-Revised,

115 Pine River Lane – Rooftop Decks

Members of the Planning Commission and City Council,

The Planning Commission Website now includes an amendment request to the Developer Site Plan that will allow building rooftop decks. The item was rejected last month, but this revised new application details further mitigation to a number of concerns that were expressed last month by Commission Members and Residents. This letter addresses these revised new plans that will be discussed in the October 12, 2020 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 amended site plans which show the rooftop deck designs. They are being considered for units #1, #2, #3, #4, #5, and #6 on the west side. And also, #7 and #8 on the hill at the northside. After careful consideration, I have noted the following technical issues with the proposed rooftop decks as they are related to the rooftop ordinance. The rooftop ordinance reads: (D) Roof top decks: The following provisions are intended to regulate roof top deck use, permanent or temporary, in all districts to reduce safety concerns, noise and other nuisances, and visual impact on neighboring properties and on the community generally.

The following two issues were not addressed in the October revised amendment to the developer's site plans.

1. Units 1-8 may change from single family units to dominantly rental units with the addition of rooftop decks. The reason I say this is the upstairs units could be advertised as having a roof top decks. The less expensive units have been advertised as possible rental units

already. This increase in renting ability concerns me because renters don't take the time to learn Condominium Bylaws or Rules and Regulations. For example, I am uncomfortable with enforcement of fire safety violations. I don't understand how the Developer will enforce the "no open flame grilling, no heating, or furniture tie down provisions on the decks" as promised. Renters will not understand Condominium Bylaws or Rules and Regulations.

2. Noise on an elevated deck is easily carried a long distance. I'm worried that the neighborhood will lose its peaceful setting. While amplified musical instruments and other amplified sounds (radios, speakers, etc.) are prohibited, ordinary sounds will carry more than normal in the elevated setting. Because of this, it is recommended that consideration be given to restricted use on such elevated decks in a residential area. For example, night time gatherings would be much louder than normal gatherings at ground level and would be noticed by people passing by on Pine River Lane. The increase in rental population, will aggravate the noise problem further. The commission should consider the elevated noise level risk real and add restrictions.

Generally, the increase in people on site due to renting and partying, the increase in noise, and the increase in safety issues concern me. Simply put, we will lose the peaceful setting we currently enjoy in the neighborhood.

In summary, while my goal is not to prevent the amendment to the plan at 115 Pine River Lane, I would ask the Members of the Commission to require the developer to submit his mitigations to these issues.

Edward R Shaw
Retired Geophysicist
Lakehouse Secretary
281-516-9662 (home)
281-687-7191 (cell)
shawedwardr@prodigy.net

Dan Beyers <dbeyers59@gmail.com>

Sun, Oct 11, 12:05
AM (1 day ago)

to Kathy.egan@networksnorthwest.org, Ann, Barbara, Dan, Joe, Kathy, Mike

It is my understanding that Mr. Tim Burton will be asking the City of Charlevoix Planning Commission to consider (reconsider) a material change to the project at 115 Pine River as approved; the proposed changes are the addition of 6 roof top decks to the townhomes. I am an owner of the adjacent property at 110 W. Dixon Avenue and was included via Zoom in the previous meeting of September 14th.

I have a number of comments to be made regarding the question of adding the rooftop decks to the project at 115 Pine River:

1. Mr. Burton is asking again for what appears to be significant externally-impactful changes to an already approved plan. I wonder what precedent there is for allowing changes of this magnitude to be implemented without being subject to the full review normally given a new project? I understand Mr. Burton has obtained an opinion from the Fire Department, are there no other city departments similarly impacted? Is the planning commission concerned about creating a precedent for this type of situation? If Mr. Burton were asking to add a third story to these units I would hope that the request would be denied outright without the project going back for a complete review; at what point do post-approval change requests rise to this level? The commission may desire to be sensitive to the potential of future gaming of the process in this manner and err toward the side of allowing smaller changes than those being proposed to be approved without full review.

2. During the discussion of this item at the September 14th meeting, planning commission members remarked that they had not been to the site and the adjacent properties to visually inspect the complicated situation. I would strongly suggest that commission members do so prior to making any final decision regarding this matter. We believe these building to be the closest living quarters to this project, with the possible exception of Ms. Jones' property. In regard to this point, the developer has mislabeled 2 buildings on our property on materials submitted to the commission; they are labelled as garages when in fact they are living quarters. To be fair one of these is living quarters over a garage, however if the commissions decision is to be based on a complete set of facts and the best information, there is no substitute for a visit to adjacent properties to get accurate and detailed information. My family will do our best to accommodate such a visit, FaceTime phone call tour, etc. This

3.

Thank you.

Dan Beyers
110 West Dixon
918 625 2568

From: "Frank Bell" <fbell50x@gmail.com>
To: "City of Charlevoix Planner" <planner@charlevoixmi.gov>
Sent: Sunday, October 11, 2020 10:43:53 PM
Subject: Letter of concern re 115 Pine River Ln rooftop decks

Hi Jonathan,
Please add the letter of concern below to the agenda for Monday's meeting.

Thanks,

Frank Bell	
Primary/Winter address	Summer address
1814 Alta Vista Ave	119 Pine River Ln #406
Austin, TX 78704	Charlevoix, MI 49720

December 8, 2019

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

RE: Case 2019-3 SPA-Revised, 115 Pine River Lane – Rooftop Decks

Dear Members of the Planning Commission and City Council,

I am the owner of unit 6 of the Lakehouse condominium. I have the following concerns about the proposed rooftop decks:

1) Increased noise. The back half of Pine River Lane is a relatively quiet area. If these do become the party decks some people fear our peace and quiet will be history.

2) Safety. I understand the fire chief has written a letter saying he has no concerns. I do. I live in the 3rd story top south unit of the Lakehouse. The wind can be quite strong at this height. While 115 is not on the lake, it is still our immediate neighbor to the east. The developer has promised there will be "no open flame grilling, no heating" but I do not see how this will be enforced. These are designed to be rental units. Many renters will have little motivation to follow these rules, assuming they even bother to read them.

I do not see any way to mitigate these concerns and ask you to once again deny this request.

Sincerely yours,

Frank Bell

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

From: Karen Schuiling <kmacschuiling@aol.com>

To: "planner@charlevoix.gov" <planner@charlevoix.gov>

Cc: "kathy.egan@networksnortheast.org" <kathy.egan@networksnortheast.org>

Sent: Monday, October 12, 2020, 11:18:13 AM CDT

Subject: Rooftop decks on Pine River

Dear Jonathan Scheel, Zoning Administrator:

As condo owners in Lake House condo building (Unit 5), this correspondence is to inform you that we are in agreement with the October 9, 2020 letter from Ed Shaw, our condo neighbor.

The rooftop decks will impact the quality of life for all surrounding neighbors. The visual annoyance and noise from the decks will alter and disrupt the historic and neighborhood atmosphere on this point of land that overlooks the historic lighthouse and pier. The overall design and especially the proposed rooftop decks are not in keeping with the historic "organic" rolling rooflines of Earl Young as seen on the Weathervane Terrace and the Weathervane Restaurant and on his unique residences in town. Many a tourist dollar flows into Charlevoix because of his one of a kind architecture. We should respect it. In addition, rooftop decks pose a fire and safety hazard and could pose snow removal and damage problems and windy days could blow many an item down to the street.

They will create additional long term noisy events— not just the commotion of patrons coming and going to restaurants, etc.

We are of the opinion that it will affect the privacy and view of our condo units and perhaps impact the property value. We are all longtime residents not short term renters but the occupants of this new building will be transient "party" throwers.

Please take our views into consideration not just the developer.

Thank you...

Mr and Mrs William E. Schuiling

(Karen MacArthur Schuiling)

Sent from my iPhone

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

October 12, 2020

RE: Level B Site Plan Amendment Review / Case 2019-3 SPA-Revised,
115 Pine River Lane – Rooftop Decks,
Recent Article and Commissioner Halverson's Comments

Members of the Planning Commission and City Council,

The Planning Commission Website now includes an amendment request to the Developer Site Plan that will allow building rooftop decks. The item was rejected last month, but this revised new application details further mitigation to a number of concerns that were expressed last month by Commission Members and Residents. **This letter addresses these revised new plans that will be discussed in the October 12, 2020 Planning Commission Meeting, and comments made by Commissioner Halverson and an article about the previous meeting. I wish to go on the record to say that Commissioner Halverson's Comments and the Article were accurate and urge you to study those comments carefully.**

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 amended site plans which show the rooftop deck designs. They are being considered for units #1, #2, #3, #4, #5, and #6 on the west side. And also, #7 and #8 on the hill at the northside. Note that the number of proposed decks has increased from 6 to 8 units from last month.

The public article describes the rooftop decks under consideration as "Party Decks" by one of the Planning Commission Members. The developer considers this article "negative and untrue". So, he posted this article on the Planning Commission Website calling it negative and untrue. See below:

News

ONLINE AT WWW.CHARLEVOIXCOUNTYNEWS.COM

CITY OF CHARLEVOIX PLANNING COMMISSION MEETING, SEPTEMBER 14, 2020

No "Party Decks" for new duplex development

CHARLEVOIX — A duplex development along the Pine River Channel was recently ceased from adding potential roof top decks to some of its units by the Charlevoix Planning Commission.

A unanimous vote by the commission during its Monday, Sept. 14 meeting halted Midtown Development Inc. and the project developer Tim Burden from adding additional decks to some of the units already being built.

Burden explained to the board that his proposal to add potential decks to the units came from potential tenants who had voiced their

desire for additional space to meet with friends and family.

"Potential buyers have come to me and said they'd really like some more outside space," he said.

"These are single residential family homes and these people would like to improve their properties. They are looking to invest more to have a nicer home and a place to barbecue or sit around outside with their friends. Right now, the only space they'd really have is on their front porches or on the sidewalk."

However, most commissioners were not thrilled with

the plans presented.

"I appreciate the observation that this is a substantial change and I would have much preferred these to have been included in the original site plan," said commission vice chair Dennis Halverson.

The original site plans — approved in January of this year — called for the development of eight two-bedroom units and six one-bedroom units at 115 Pine River Lane near the Weathervane Restaurant. Each of the two-bedroom units would be approximately 1,200 square feet with the single bedroom units at approximately 600

square feet.

The proposed decks would have added an approximate 200 square feet to each receiving unit.

Commissioners and the general public were wary of adding more space to the units for a multitude of reasons with Halverson going as far to call them "party decks."

"I would ask that we really look at how this would impact neighbors," he said.

"This looks less like a deck than it is a party platform 20 feet in the air. I would be reluctant to allow this."

A handful of neighbors

weighed in during public comment on the topic weighing different concerns including fire hazards, noise concerns and privacy.

The largest concern of the board though was safety.

"The fact that we had a fire marshal look at the original plans and we haven't had one look at this worries me. I don't know if we can even proceed on this," said commission board chairman R.J. Waddell.

"I really feel uncomfortable allowing this and for barbecues, space heaters and heat producing things to be on a roof top deck," he said.

Halverson made the motion to deny allowing additional roof top decks to be added to the units with commissioner David Gray seconding.

The commission voted unanimously to deny the request. Commissioner Sherm Chamberlain withheld his vote for conflict of interest as he had previously done surveying for the site.

Charlevoix Planning Commission meetings take place the second Monday of the month with agendas and minutes posted online at www.cityofcharlevoix.org.

Notice that Commissioner Halverson coins the phrase "Party Decks" and comments that the commission needs to consider how this amendment would affect the neighbors. He goes on to say, "I really feel uncomfortable allowing this and for barbecues, space heaters, and heat producing things to be on a roof top deck".

Since the last meeting and this article, the developer has made a few remedies. For example, he promises to enforce "no open flame barbecuing, no heaters and adding tie down of furniture on the decks". (I don't think this will be respected by renters). So, he has addressed safety issues, and now has a positive letter from the Fire Chief. He has added more privacy fencing, but not for us. Instead, he is attempting to preserve as much of the existing trees and bushes on the Lakehouse side as possible.

But he has failed to address Commissioner Halverson's issues about negative affect on the neighborhood adequately. Specifically, the idea of noisy party decks does not fit into the neighborhood. Notice that the developer has now included the rooftop deck option for all eight units (#1-8). I believe that the decks improve each new owner's rental possibilities of the deck and upstairs' units. He states that there could be eight 180 square foot decks or 1440 square feet in total. That a lot of rooftop decks. Our area could become "Party Central." So, I agree with Commissioner Halverson, and believe the article is accurate. Especially so, because renters won't notice and obey posted restrictions.

Generally, the increase in people on site due to renting and partying, the increase in noise, the increase to 8 units, and the increase in safety issues concern me. Simply put, we will lose the peaceful setting we currently enjoy in the neighborhood.

In summary, I am alarmed that the developer denies that the rooftop decks would create a problem/nuisance for the neighborhood. These are not ordinary decks. They are raised surfaces (20+ feet). So, I support Commissioner Halverson's comments about these decks having a negative impact on the neighborhood, especially noise.

Edward R Shaw
Retired Geophysicist
Lakehouse Secretary
281-516-9662 (home)
281-687-7191 (cell)
shawedwardr@prodigy.net

News

ONLINE AT WWW.CHARLEVOIXCOUNTYNEWS.COM

CITY OF CHARLEVOIX PLANNING COMMISSION MEETING, SEPTEMBER 14, 2020

No “Party Decks” for new duplex development

CHARLEVOIX — A duplex development along the Pine River Channel was recently ceased from adding potential roof top decks to some of its units by the Charlevoix Planning Commission.

A unanimous vote by the commission during its Monday, Sept. 14 meeting halted Midtown Development Inc. and the project developer Tim Burden from adding additional decks to some of the units already being built.

Burden explained to the board that his proposal to add potential decks to the units came from potential tenants who had voiced their

desire for additional space to meet with friends and family.

“Potential buyers have come to me and said they’d really like some more outside space,” he said.

“These are single residential family homes and these people would like to improve their properties. They are looking to invest more to have a nicer home and a place to barbecue or sit around outside with their friends. Right now, the only space they’d really have is on their front porches or on the sidewalk.”

However, most commissioners were not thrilled with

the plans presented.

“I appreciate the observation that this is a substantial change and I would have much preferred these to have been included in the original site plan,” said commission vice chair Dennis Halverson.

The original site plans — approved in January of this year — called for the development of eight two-bedroom units and six one-bedroom units at 115 Pine River Lane near the Weathervane Restaurant. Each of the two-bedroom units would be approximately 1,200 square feet with the single bedroom units at approximately 600

square feet.

The proposed decks would have added an approximate 200 square feet to each receiving unit.

Commissioners and the general public were wary of adding more space to the units for a multitude of reasons with Halverson going as far to call them “party decks.”

“I would ask that we really look at how this would impact neighbors,” he said. “This looks less like a deck than it is a party platform 20 feet in the air. I would be reluctant to allow this.”

A handful of neighbors

weighed in during public comment on the topic weighing different concerns including fire hazards, noise concerns and privacy.

The largest concern of the board though was safety.

“The fact that we had a fire marshal look at the original plans and we haven’t had one look at this worries me. I don’t know if we can even proceed on this,” said commission board chairman R.J. Waddell.

“I really feel uncomfortable allowing this and for barbecues, space heaters and heat producing things to be on a roof top deck,” he said.

Halverson made the motion to deny allowing additional roof top decks to be added to the units with commissioner David Gray seconding.

The commission voted unanimously to deny the request. Commissioner Sherm Chamberlain withheld his vote for conflict of interest as he had previously done surveying for the site.

Charlevoix Planning Commission meetings take place the second Monday of the month with agendas and minutes posted online at www.cityofcharlevoix.org.

CITY OF CHARLEVOIX

New Business

TO: Planning Commission

FROM: Jonathan Scheel

SUBJECT: International Property Management Code Introduction (Jonathan Scheel)

DATE: October 12, 2020

BACKGROUND

This will be an introductory discussion on the International Property management Code and how it can be adapted to be used for blight and safety considerations in the City.

Here is a link for more information:

<https://codes.iccsafe.org/content/IPMC2018>

Attached is an article, and a memo.

ATTACHMENTS:

- ▣ IPMC Memo
- ▣ IPMC Article

To: City of Charlevoix Planning Commission

From: Jonathan Scheel, Planning and Zoning Department

Date: October 6, 2020

Subject: International Property Maintenance Code

Background: Currently the City does not have any type of property maintenance code. The only tool the City has to address dilapidated structures is the City's Dangerous Building's Ordinance. To initiate an action using the Dangerous Building Ordinance a structure has to be significantly degraded or damaged, usually to the point that it is economically unfeasible to repair or restore the structure. The City goals, adopted by the City Council included the goal of "Increase Housing Availability". To help achieve that goal staff is asking the Planning Department to work on "developing a property maintenance standard ordinance to provide additional tools for improving substandard housing units." To accomplish this task the International Property Maintenance Code (IPMC) is being submitted to the Planning Commission for consideration for adoption. A link to the ordinance is can be found online here: <https://codes.iccsafe.org/content/IPMC2018/preface>.

Discussion: Given the experiences with dilapidated buildings over the past few of years, and the time and effort required to enforce the dangerous building ordinance, a property maintenance code could offer a more efficient and less time-consuming enforcement tool and advance the City's goal to increase housing availability. A property maintenance code would provide the City the ability to intervene to require deteriorating structures that have defects to be corrected prior to becoming unfixable issues. The IPMC is developed by the International Code Council (ICC). The ICC is a nonprofit member-based association that develops a wide variety of model codes. Historically, model codes were prepared by several different code bodies such as Building Officials Code Administrators International, Inc. (BOCA), Southern Building Code Congress International (SBCCI), and the International Conference of Building Officials (ICBO). With different bodies developing different codes the application of the varying standards across jurisdictions was very difficult for builders, architects, manufactures and other users of the codes. In 1999, the code bodies began to work together to prepare a unified code under the auspices of the ICC. The ICC is dedicated to developing a minimum set of standards to be used in the design, building and maintenance of safe, sustainable and affordable structures. The first set of ICC codes were published in 2000 and included the International Building Codes. ICC Codes have since been adopted in all 50 states and the IPMC has been adopted by many municipalities in Michigan and throughout the country. In Michigan the International Building Codes developed by the ICC were adopted by the State of Michigan and are now the State of Michigan Construction Code. The State Construction Code does reference the IPMC and it could be enforced by municipalities that have adopted the State Construction Code. In Charlevoix County the choice has been made not to enforce the IPMC so municipalities would need to adopt the code individually if the municipality wished to enforce it. In Charlevoix County the City of East Jordan has adopted the IPMC. Boyne City recently has adopted the code. Other northern Michigan city's that have adopted the code are Petoskey, Cheboygan and Alpena. In the cities of Petoskey and Cheboygan the code is enforced by the police departments, in the

City of Alpena they have their own building department that enforces the code, in City of East Jordan the enforcement is done by the zoning administrator. There are several benefits to simply adopting the IPMC by reference including the following:

- **Thoroughness** - The IPMC is drafted with input from code compliance officers, industry officials, and other interested parties. The codes are carefully formulated with input from specialists in the fields, municipal entities, and members of the public. As such, it is less likely that a particular issue will “slip through the cracks.”
- **Balance** – Because the code is created with the input of various perspectives, it tends to represent a balance between the needs of the industry, the concerns of the public, and the interests of code enforcement.
- **Readability** – as the IPMC has been in place for a significant time, its provisions have been honed over the years to eliminate ambiguity and improve clarity.
- **Ease of Enforcement** – The IPMC has gained acceptance as a definitive code in the industry and in the court system. This makes its enforcement less subject to challenge than an untested local code provision. Also, contractors are more likely to be familiar with (and therefore more likely to comply with) the code provisions of the IPMC than a tailored local code, lowering the overall number of potential violations. A licensed contractor should not be able to plead ignorance.
- **Ease of Adoption** – If the City adopts the IPMC by reference, it will not be burdened with creating its own property maintenance code. The IPMC is a copyrighted document (as are other codes), so a municipality that is copying and pasting code provisions from other sources runs the risk of unintentionally violating copyright laws. Adoption by reference avoids the risk and the burden of creating a new code.
- **Ease of Amendment** – If the City adopts the IPMC by reference and has the latest manual available for inspection and review by citizens, the City will not be burdened with frequent reviews of its property maintenance code to determine if an update is needed; it will simply be a matter of having the most recent version on file. One of the primary concerns that has been expressed with proposed adoption of the IPMC has been how it will be enforced. This is an understandable concern and all of the northern Michigan municipalities that have adopted the IPMC had similar concerns expressed during the adoption process. In all cases these concerns have not materialized. While it is staff’s position that would also be the case in Charlevoix, if the IPMC is adopted it is suggested that City Council also adopt an enforcement policy insure the ordinance is enforced as intended. A draft enforcement policy will be provided with the Ordinance for your consideration.

Recommendation: Adopt the International Property Maintenance Code and enforcement policy as proposed.

https://www.petoskeynews.com/featured-pnr/boyne-city-adopts-property-maintenance-code-on-split-vote/article_ab1c5866-2d33-5810-97b1-1aec07faeb8c.html

BOYNE CITY

Boyne City adopts property maintenance code on split vote

Steve Zucker (231) 439-9346 szucker@petoskeynews.com

Sep 9, 2020



This image, provided by City of Boyne City officials, shows a home that previously stood on Thompson Street and was deemed a "dangerous structure" last January under city ordinance. City officials gave the owner until Aug. 1 to make substantial repairs or demolish the building. City planner Scott McPherson said the owner recently tore the home down.

Courtesy image

BOYNE CITY — On a split vote, and over the objections of several members of the community, the Boyne City City Commission on Tuesday adopted the International Property Maintenance Code.

For several years, Boyne City officials have been discussing finding a means for the city to address buildings that have fallen into disrepair before the condition of the building becomes so bad demolition is the only viable option remaining.

Except for a few ordinances regarding weed and grass height and garbage accumulation, until now the city's only recourse was to wait until a building became so run-down it qualified as a "dangerous structure." Once deemed so,

following a hearing, the city could issue an order for the owner to demolish it, or the city would have it demolished at the owner's expense.

The most recent example came in January of this year when a home on Thompson Street was deemed a dangerous structure and the owner was given until August to either repair it or tear it down. City planning director Scott McPherson said the owner recently tore the home down.

Speaking to the city commission, both at Tuesday's scheduled second reading of the ordinance and at its first reading a month ago, McPherson told the commission after much discussion with experts and the city's attorneys it became clear for the city to attempt to come up with its own ordinance would be very time-consuming and costly.

"After reviewing the challenges and issues raised with the creation of a customized property maintenance code, it was determined that the most cost-effective way to adopt an ordinance was to adopt the IPMC by reference," McPherson said.

The code is one of many published by the International Code Council. It may be found online at <https://codes.iccsafe.org/content/IPMC2018>.

Several other Northern Michigan cities have also adopted the code including Petoskey, East Jordan, Cheboygan and Alpena.

City manager Michael Cain told the commission he sought out comments from a list-serve made up of city managers from around the state, seeking feedback from communities that have adopted the ordinance. He said, as of the start of the meeting, he had seen about 20 replies all with favorable reviews of their respective experiences with the ordinance.

"One of the primary concerns that has been expressed with proposed adoption of the IPMC has been how it will be enforced. This is an understandable concern and all of the Northern Michigan municipalities that have adopted the IPMC had similar concerns expressed during the adoption process. In all cases the these concerns have not materialized," McPherson said.

Similar to earlier city commission discussions on the topic on Tuesday, several members of the public commented they believe the code is too broad, an “over-reach” by the city and potentially over-burdensome on people who may be living on limited incomes.

Several of the commenters said the city should create its own ordinance tailored for its specific needs and not simply adopt a “one-size-fits-all” ordinance. Some even volunteered to serve on a committee to that end.

Another concern raised was that many homes or other buildings will immediately be out of compliance with some of the ordinance’s regulations. However, McPherson noted if a home was in compliance with the building codes at the time it was constructed, there would be no need to make any changes.

Several people also commented they have faith in the current commission that the city will only use the code for true “health and safety” concerns and not for minor infractions, but worried about what happens when the current commissioners are no longer on the commission and some, possibly over-zealous members are voted in.

City attorney Rhonda Stowers said she has been working with communities that have been using the International Property Maintenance Code for about 18 years. She said most times when a city takes action, it never gets to court, or if it does, the court is willing to work with the property owner as long as he or she is making a good-faith effort to take care of the problem.

During commission deliberations, commissioner Ron Grunch said he had concerns about passing the ordinance as presented and thought it would be better to wait, perhaps until after the COVID-19 restrictions have passed to take the matter up with a local committee. Commissioner Sally Page agreed.

Commissioner Dean Solomon said he understands the concerns expressed by members of the community, but added, “In the communities we’ve heard from, this has worked. This is the best shot that we have right now.” Solomon also added he is in favor of keeping an eye on issues that arise, working to help people understand the ordinance and being willing to revisit the ordinance if issues do come up.

Mayor Tom Neidhamer said during his years on the commission, he's had many conversations with residents who are frustrated because the city can't do more to address run-down buildings in their neighborhoods.

Ultimately, the motion to adopt the ordinance passed on a 3-2 vote with commissioners Hugh Conklin, Tom Neidhamer and Dean Solomon voting "yes" and commissioners Page and Grunch voting "no."

Cain suggested the planning department submit a report after six months to show how the application of the new ordinance is progressing. The ordinance will take effect 14 days after it is published in a newspaper.

Sponsored Content on Petoskey News



Michigan Drivers With No DUI's Getting A Pay Day on Thursday

BY COMPARISONS.ORG

Drivers With No Tickets In 3 Years Should Do This On September

CITY OF CHARLEVOIX

New Business

TO: Planning Commission

FROM: Kathy Egan

SUBJECT: Sidewalk Inventory (Dean Martin)

DATE: October 12, 2020

BACKGROUND

Dean will be updating the Planning Commission on the plans for a sidewalk inventory.