

# PENINSULA TOWNSHIP

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## SPECIAL JOINT TOWNSHIP BOARD & PLANNING COMMISSION MEETING

April 26, 2016

May 3, 2016

May 9, 2016

6:00 p.m. – 8:00 p.m.

Township Hall

AGENDA

1. Call to Order
2. Pledge
3. Roll Call
4. Approve Agenda
5. Brief Citizen Comments – for items not on the Agenda
6. Conflict of Interest
7. Business

1. Peninsula Township Zoning Ordinance DRAFT (Discussion)

8. Citizen Comments
9. Board Comments
10. Adjournment

Peninsula Township has several portable hearing devices available for audience members. If you would like to use one, please ask the Clerk.

  
\_\_\_\_\_  
Monica A. Hoffman CMMC/CMC  
Peninsula Township Clerk

  
\_\_\_\_\_  
Michelle Reardon  
Director, Planning & Zoning Department  
Posted: April 21, 2016

April 21, 2016

Township Board, Planning Commission,  
and Director of Planning & Zoning  
Peninsula Township  
13235 Center Rd.  
Traverse City, MI 49686

**Subject: Proposed Zoning Ordinance Articles 1 – 7: April 26, 2016 Meeting Items**

Members of the Township Board, Planning Commission, and Staff:

At the joint meeting of the Planning Commission and Township Board on April 18<sup>th</sup>, we started the review of Articles 1-7 of the Zoning Ordinance. Based on the amount of information to cover, the Planning Commission and Township Board agreed to hold 3 additional meetings to review Articles 1-7 and our corresponding transmittal letter (dated April 11, 2016). These meeting dates, and our suggested topics, are as follows:

- **April 26, 2016 (Tuesday), 6:00 p.m. to 8:00 p.m. – Shoreline Overlay (Section 3.113), Fences and Walls (Section 7.114), and Related Definitions.**
- **May 3, 2016 (Tuesday), 6:00 p.m. to 8:00 p.m. – Agricultural-Related Uses (Sections 6.103, 6.110, 6.123, 6.138, and 6.139), and Articles 3-5.**
- **May 9, 2016 (Monday), 6:00 p.m. to 8:00 p.m. – Land Uses (Remaining Sections in Article 6), General Provisions (Remaining Sections in Article 7), and Remaining Definitions (Article 2)**

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For the April 26, 2016 meeting, we recommend covering the following items related to Shoreline Overlay, Fences and Walls, and related definitions, although other items can be raised as they arise:

**1. Definition of “Building Height”**

**Location in Proposed Zoning Ordinance:** Section 2.102(A)(22) (page 2-3)

**Location in April 11, 2016 Transmittal Letter:** Page 2

At the April 18<sup>th</sup> meeting, it was the general consensus to measure building height to the top of the building, regardless of the roof pitch. Therefore, we will make this change. For waterfront lots, there was discussion regarding how to measure the building height on waterfront lots. Under the definition of the existing Zoning Ordinance, “Building Height” is measured at the front yard only, which means that a lot sloping down toward the water may far exceed 35 feet in height on the waterside. Although we discussed alternatives, the following 2 problems arise when the heights are averaged or when the height of the highest side is applied:

- Averaging Front Side and Waterfront Side Heights. If the maximum building height remains 35 feet, a building height of 25 feet on the front side would allow the building height on the waterfront side to be 45 feet. This height may be seen as excessive looking from the waterfront.
- Applying the Higher of the 2 Heights on the Front Side and Waterfront Side. If the maximum height remains at 35 feet, limiting the height on the waterside to 35 feet will prohibit many 2-story walkout homes and create many nonconformities.

We recommend the following options for addressing these problems:

- Option 1: Average the front side and waterfront side heights, with no side to exceed the maximum height by 5 feet. With a maximum height of 40 feet on the waterside (i.e., maximum height of 35 feet plus 5 additional feet), the waterside of the home would have sufficient space for a walk-out basement, 2 stories, and roof pitch, including an attic.
- Option 2: Require a 35-foot height requirement on the waterside of the building, but allow homes with a waterfront walk-out to exceed the maximum height by 5 feet on the waterfront side only if the walk-out was created because of the natural grade of the land and that the natural grade of the land provides a grade change of at least 5 feet within the footprint of the building. This would allow for an additional 5 feet of height on the waterside to compensate for a natural grade change. This option would also include adding a definition of "Grade, Natural," which would generally be defined as *"the elevation of the ground surface in its natural state, before manmade alteration."*

Please note that the height of buildings is also regulated by the maximum number of stories, which is currently 2.5. While we will work with staff to proposed a definition of "Half Story" based on how a half-story is interpreted, a simple definition of half-story is *"floor area located between the roof and uppermost full story, and having a floor area that is no greater than one-half of the floor area below."*

**2. Shoreline Overlay District**

**Location in Proposed Zoning Ordinance:** Section 3.113

**Location in April 11, 2016 Transmittal Letter:** Pages 3-4

The purpose of this overlay district is to consolidate existing waterfront regulations in the Zoning Ordinance, implement overlay regulations that were drafted by the Township in 2010 (but never adopted), and include additional provisions to reduce impervious surfaces and promote more vegetation near the waterfront.

**3. Fences and Walls**

**Location in Proposed Zoning Ordinance:** Section 7.114

**Location in April 11, 2016 Transmittal Letter:** Page 7

Many of the proposed regulations for fences and walls apply to the fences and walls located between the home and the water, so this will be a good transition from our discussion of the Shoreline Overlay District.

**4. Definitions ("Fence," "Impervious Surface," "Lot," "Lot Coverage," "Ordinary High Water Mark," "Structure," and "Wall")**

**Location in Proposed Zoning Ordinance:** Section 2.112(A)

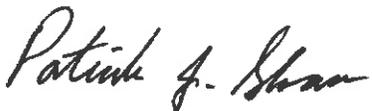
**Location in April 11, 2016 Transmittal Letter:** Pages 2-3

These definitions relate to the discussion we will have on the Waterfront Overlay District and Fences and Walls.

Again, if there are other items that arise during the course of our review on April 26<sup>th</sup>, we can address them at that time or at a future meeting.

Respectfully submitted,

**McKENNA ASSOCIATES**



Patrick J. Sloan, AICP  
Principal Planner

cc: Leslie Sickterman, AICP, PCP, CNU-A, Principal, Mission North, LLC

To: Peninsula Township Board & Peninsula Township Planning Commission

From: Michelle Reardon, <sup>MR</sup> Planning & Zoning Department

Re: Shoreline Overlay

Date: April 21, 2016

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In late 2011 into 2012 the Planning Commission and P& Z Staff did a significant amount of work related to the proposed Shoreline Overlay District. Attached to this memo you will find background information related to this work.

Please note, the proposed language incorporates Article S (proposed Shoreline Overlay District language as of 2012), current Zoning Ordinance regulatory language, and best practices as proposed by our professional planning consultant.

Feel free to contact me should you have any questions.



## MEMO

To: Peninsula Township Planning Commission

October 25, 2011

Re: Shoreline Overlay Discussion – Meeting hosted  
by the Grand Traverse Bay Watershed Center  
October 19<sup>th</sup>, 2011 (Summation)

The following is a brief summation of the ‘key’ points that were discussed by the public, the Watershed Center representation, and staff.

### **Existing Regulations.**

In its current form the Township’s Zoning Ordinance requirements for shoreline properties is spread over 4 to 5 different sections. Unless you are a person who reads this document every day, or is very familiar with it, it’s not likely that you will locate all of the pertinent standards alone. Both the Township Zoning Administrator and myself receive phone calls daily on issues related to physically being able to find a particular regulation with the existing text. Correcting this matter should be a rather simple fix as the zoning ordinance rewrite will combine the majority if not all shoreline related topics into a single (1) section of the ordinance.

### **Who governs what portion of the beach, shoreline, ordinary high watermark, & where are their boundaries...?**

Many shoreline violations begin with people simply not knowing what regulations exist over their property. Several members of the audience commented on the difficulties of becoming a shoreline property owner as they had no guidance from anyone explaining the various permitting processes and other agencies regulating the State of Michigan shorelines besides the Township. Furthermore; it was unclear to many in attendance where each one of the various agencies regulations started, ended, and switched from one department to another. Existing Ordinance language talks exclusively about Township related matters concerning land use, setbacks, structures, etc, but is silent to other agencies’ existing layers of regulation. Several ideas were tossed around by the public, Watershed Center, and Township staff to correct and mitigate new problems, but one simple idea seemed to stand out from the rest; Pictures. Rather than trying to craft new language and explain in great detail where one boundary starts and stops, a diagram could be created to both visually address locating shoreline items such as the ordinary high water mark, flood plain line, etc. and identify notations on said map where each of the various agencies regulations start and end. This does not necessarily mean that the new ordinance language will include each department’s separate regulations, but it could instead mention through reference the various agencies statutes and where they may be found via website links, statute numbers, etc. At least in this manner the general public has the ability to be informed of all the shoreline’s rules rather than just one entity’s.

### **Storm water runoff, Shoreline Cover & how much should be maintained.**

In general, this topic was probably the most debated portion of evening. Water quality of the bays themselves was another large reason for discussion of vegetation retention and other ways to mitigate storm water from running in to the lake unfiltered. To explain this subject several slides were shown to the audience of photos taken from the water looking landward toward the Township’s forty-two (42) miles of shoreline. Examples included beaches with hardened shorelines (seawalls or rock walls), some with heavy vegetation, and others with a blend of area covered by vegetation with other portions set aside for recreational use. Slide by slide the audience provided feedback on their likes and dislikes of each. Overall the general opinion of the group was that there should be a ‘balance’ of space utilized for recreation (deck area, boat dock, stairway, etc.) and natural vegetation. Currently, the Ordinance requires that of the area between the ordinary high water mark and thirty-five (35’) feet from it, no more than thirty (30%) percent of the vegetation can be removed in a linear area. Discussion followed as the majority of the audience, first of all did not know this regulation was in place, and also did not really understand what this meant. Could a landowner clear cut that 30% area? Could they not trim trees, remove dead trees, or alter vegetation in the other 70% area? So on and so forth. Again, it was decided that perhaps a suggestive diagram could help to clarify the ordinance’s intent and provide clarity to those members of the public who may wish to alter their shoreline.

Additional questions regarding enforcement of this ordinance and how best to monitor the shoreline brought forth ideas and mechanisms to address this issue. It was suggested that the Township could require a survey of vegetation on NEW parcels when they're being built on or existing parcels when they're being redeveloped through the land use permitting process. Annual monitoring via boat and regular communication with the Army Core of Engineers and the DEQ were also suggested to address those who may be in violation. Education was also part of the solution through communicating with local realtors, title insurance companies, and current owners of shoreline property to provide these regulations in a brochure, newsletter, and possibly at the time of purchase on any shoreline property for its new owner(s).

**Decks, locations, sizes, and other options.**

Deck issues seem to grace the Township's ZBA several times a year every year. Much of the shoreline throughout the Township offers a place where, according to the Ordinance, a deck can be constructed. However, those lots that do not possess the required area, or who may exceed setback requirements, or not fit within the parameters of any other portion of the Ordinance bring forth these variance requests. To date, the ZBA has fielded these kind of requests several times and with the majority of waterfront parcels being already developed, these remaining smaller more physically challenging parcels remain. As most landowners agree, if a person has committed the money to purchase a waterfront parcel, they should be able to utilize it. In an effort to both reduce the disturbance of those waterfront parcels with steep slopes and mitigate soil erosion the suggestion was made to allow those parcels physically limited parcels the ability to host a comparable sized 'temporary deck' attached to a dock structure within the lake itself. This would afford the land owner an opportunity to have a seating area without removing vegetation, being in conflict with ordinance setback requirements, etc.

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**Results & Action**

Overall this meeting was very helpful for both staff and the general public to hear discussion on many issues regarding the regulation of Peninsula Township's shorelines. Further development of these ideas into ordinance language will take place over the course of the upcoming year and again be presented to the general public for discussion. Eventually, the ideas taken from these meetings will become language amendments in the new Township Zoning Ordinance in an effort to complete the visions of the 2011 Master Plan.

Given the amount of discussion generated from the above referenced meeting, it would appear as if the existing language should be amended to better protect the shoreline and provide clarity to local residents. With the support of the commission, staff will review the existing ordinance language and prepare amendments addressing the above public concerns. Said language would then be brought back to the PC for their review and comment prior to an official public hearing process taking place.

Thank you again for the time to address the issues above. If there should there be any questions, concerns or comments regarding the issues at hand, please do not hesitate to contact staff at (231) 223-7314.

Sincerely,

Dan Leonard; Peninsula Township Planner

**PENINSULA TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING  
December 19, 2011**

Meeting called to order at 7:00 p.m.

**PRESENT:** Rosi; Householder; Serocki; Leak, Chair; Hosmer; Maguire; O'Keefe; and Shelly Leatherman, Recording Secretary.

**ABSENT:** Dan Leonard, Township Planner (Excused).

**REVIEW FOR CONFLICT OF INTEREST**

None.

**APPROVAL OF THE AGENDA**

Hosmer removed Old Business Item 1. Winery Ordinance Language, because it was tabled at the Planning Commission's (PC) Meeting on November 21, 2011.

**MOTION: Hosmer/Serocki** to approve the Agenda as amended.

**PASSED UNAN**

**APPROVAL OF MINUTES OF NOVEMBER 21, 2011 MEETING**

Serocki said that on Page 1, under Planner Update Item 3. Grand Traverse County Annual Awards Banquet, the County gave Dan Leonard, Township Planner, an award not the Township. The award was for the Master Plan and other Township issues.

**MOTION: Householder/Serocki** to approve the minutes as amended.

**PASSED UNAN**

**PLANNER UPDATE**

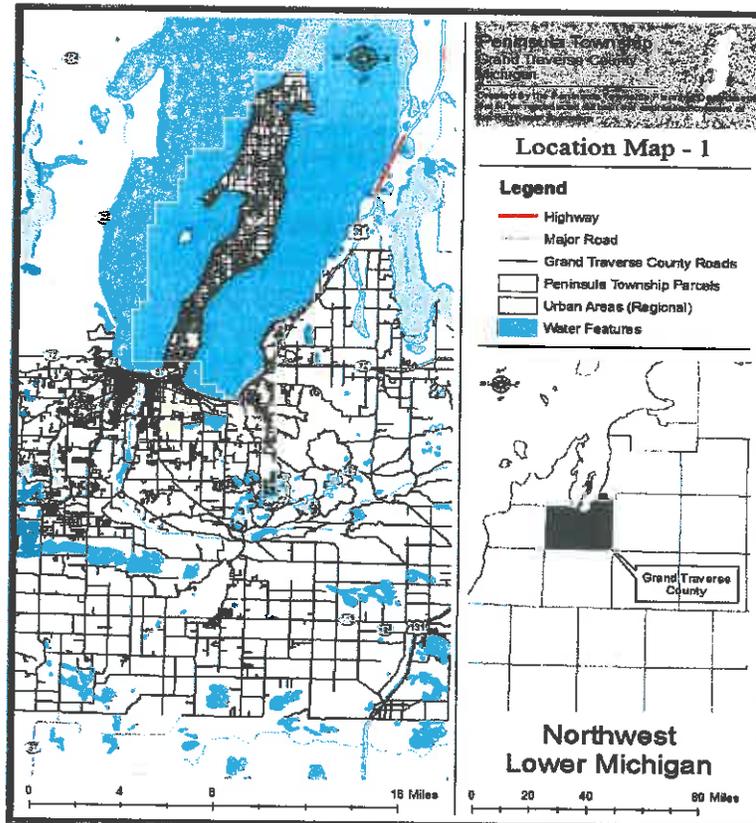
**1. Proposed Shoreline Zoning Regulations (Introduction from Chairman)**

Dan Leonard, Township Planner's, list of proposed revisions to the Zoning Ordinance specific to those properties with shoreline frontage drafted from members of the Grand Traverse Bay Watershed Center was received. Hosmer thinks it is unusual that direct reference to the Zoning Board of Appeals (ZBA) was included. Rosi agreed. Leak said that the ZBA deals with existing non-conforming parcel issues that cannot be resolved by landowners and Gordon Uecker, Zoning Administrator. Rosi said that the Ordinance should be written so that minimal issues will need to go to the ZBA. Leak said that the Ordinance deals with residential issues on the shoreline. In response to Householder's question regarding grandfathering vs. new developments, Leak and Hosmer said that if a resident wants to make changes (e.g., plantings, etc.), then a plan would likely need to be submitted to verify compliance with the Ordinance. Leak said that septic issues should be clarified (i.e., possible pumping requirement). Hosmer said that there should be a statement included regarding public access/use of road ends. She asked how many acres of overlay district/shoreline zone will be impacted by the Ordinance. Hosmer thinks the Ordinance addresses the Master Plan actions. There was PC consensus that the Ordinance needs to be more specific, informative and clear. Dan Leonard and Gordon Uecker will be reviewing the shoreline portion of the Ordinance. They will propose language. Leak suggested providing the draft Ordinance to the community when a majority of residents are in town (e.g., seasonal residents). He suggested May. PC members agreed. Rosi suggested including the information in the newsletter. Hosmer suggested making the information available electronically (i.e., on the Township website).

# PENINSULA TOWNSHIP WATER QUALITY ACTION PLAN

March 2012

Presented by the Watershed Center Grand Traverse Bay  
Funded by the Michigan Department of Environmental Quality



## **Purpose**

The Grand Traverse Bay watershed spans almost 1000 square miles, including major parts of Antrim, Grand Traverse, Kalkaska, and Leelanau counties. Peninsula Township extends 18 miles into the middle of Grand Traverse Bay in Grand Traverse County. All surface waters within the township flow directly into the bay. All groundwater are directly connected to the bay. Protecting the surface water and groundwater resources in the township is important to the quality of life of the residents and the economic vitality of the region.

The soils throughout this region are dominated by Kalkaska Sand that drains well and filters water very effectively. It is largely responsible for the remarkable water quality of lakes and rivers located in areas of the state where these soils are abundant such as northern lower Michigan. However, it is also highly erodible and low in

nutrients; once disturbed, it easily erodes into our surface water. In addition, excessive levels of nutrients and other pollutants are easily passed through to the near-surface groundwater that feeds our lakes and streams. In some cases, this excessive pollution passes into our groundwater aquifers, contaminating our drinking water.

Sediment – including sand – is the number one surface water pollutant in the Grand Traverse Bay watershed, as set out in the Grand Traverse Bay Watershed Protection Plan. Sediment and sand smothers the habitat that aquatic organisms need to survive and reproduce. Sediment and sand enter our surface waters through stormwater that washes from roads, parking lots, and driveways carrying with it nutrients and many other forms of pollution such as salt, oil, anti-freeze.

As a result, one of the best ways for local governments in the watershed to address water quality protection is to consider how they are managing stormwater in their communities. In this context, protecting water quality is directly related to reducing impervious surfaces and protecting natural areas and natural vegetation. Through a grant from the Michigan Department of Environmental Quality, the Watershed Center Grand Traverse Bay has reviewed the regulatory framework in place for Peninsula Township to develop recommendations that would provide additional protections of water quality. Under this same grant, the Watershed Center is assisting the township in development of a Shoreline Overlay District as recommended in the 2011 Master Plan.

## **Process**

The Watershed Center conducted an analysis of the township's regulatory structure addressing, including master plan language and ordinance language, and consultation with township staff as needed. Similar analyses were completed for townships in the Boardman River and Elk-River-Chain-of-Lakes subwatersheds in previous years.

The regulatory structure was compared with a set of General Water Quality Protection Principles and Targets based on work from the Center for Watershed Protection. In general, the more a local government can do to reduce impervious surfaces and increase the retention or restoration of native vegetation in riparian areas and in open spaces, the better for water quality. The suggested actions relate directly to the *General Water Quality Protection Principles and Targets* that accompany the plan. The principles and targets were based on the Better Site Design resources of the Center for Watershed Protection. The list of *Additional Resources* that accompanies this plan provides links to sample ordinances and information to support implementation of the suggested actions. Finally, we are including a copy of *A Natural Solution*, a guide to low-impact development methods to manage stormwater

For the purposes of this project and the emphasis on stormwater management, the Watershed Center staff has focused on three topics:

- Roads and parking lots,
- Lot design and development, and
- Protection of natural features.

The roads and parking lot discussion addresses management of most of the impervious surfaces found in a community. The lot development and design discussion considers open space ordinances, cluster ordinances, site plan review, on-site stormwater management, and septic system maintenance. The discussion of protection of natural features focuses on retention of native vegetation generally and around water resources specifically, tree conservation, management of land clearing and placement of septic systems near water bodies.

### **Water Resources in Peninsula Township**

Old Mission Peninsula includes 42 miles of shoreline on Grand Traverse Bay, the largest amount of bay shoreline of any jurisdiction in the watershed. There are several wetland areas in the township, most notably in the Pyatt Lake Preserve area, as well as two small lakes, Pyatt Lake and Prescott Lake. Several small unnamed surface water tributaries flow directly into the bay. As noted in the 2011 Master Plan,

Because the peninsula is relatively narrow, ranging from one (1) mile to three (3) miles wide, all the land uses on the peninsula have a direct and immediate relationship with the waters of Grand Traverse Bay. (2011 Master Plan at 6).

### **Suggested Actions for Consideration in Peninsula Township**

Peninsula Township's zoning ordinance and policies include some good protections for water resources. Perhaps most importantly, the township has implemented a farmland protection program based on the purchase of development rights. This program has resulted in agricultural lands remaining in production, limiting increases in impervious surfaces and decreases in vegetated cover from conversion to residential development. The township also recently adopted a donation of development rights ordinance that could result in non-agricultural open space protection.

The township's master plan was recently updated, and notes that maintaining a natural shoreline is an integral part of the community's character. The plan contemplates development of a Shoreline Overlay District. It calls for mapping of wetland areas and creation of an overlay district to protect environmentally sensitive areas, such as wetlands. It recommends mapping storm drains and water courses so as to facilitate monitoring of sediments and nutrients entering Grand Traverse Bay at these locations.

The current zoning ordinance includes provisions that restrict the removal of shore cover and vegetated areas on steep slopes; establish a 60-foot building setback on

shorelines; regulate decks in this setback area; allow open space development options; and limit some road surfaces. Requirements for landscaping of parking lots and planting street trees are good steps toward protecting water quality.

There are some areas that could be considered for further action, such as parking lot landscaping designed to improve stormwater quality before runoff enters surface waters or groundwater; adoption of impervious cover maximums; and adopting buffers for wetland areas.

### Roads and Parking Lots

The large majority of paved areas within a community are roads or parking lots. Most road design is significantly influenced by the county road commissions and local fire departments; however, townships can address the design of private roads. Limiting parking space numbers and space size can reduce paved areas. These savings may seem insignificant on a particular site, but across the township the reductions in paved area could be substantial. The reduction of parking spaces from 10 feet by 20 feet to 9 feet by 18 feet results in a 20 percent savings in impervious surface.

The township ordinance sets the parking space size of 9 feet by 20 feet as the minimum stall size. It also includes specific standards for parking space ratios. Reductions in parking requirements for shared parking must be approved by the Board of Appeals. While the text of the ordinance appears to limit private road widths to 18 feet and 20 feet, one of the diagrams shows 22 feet. Some of the parking ratios may result in larger than necessary parking lots. The drainage plans currently required for roads and other areas present a great opportunity to include landscaping requirements that improve stormwater quality.

**ACTION:** Consider limiting the paved width of private roads to 18-22 feet and ensure consistency throughout the ordinance with that limitation.

**ACTION:** Consider reducing parking ratios and parking space dimensions, and setting them as maximums.

**ACTION:** Consider allowing for approvals of some reductions in parking requirements.

**ACTION:** Consider allowing or requiring spillover parking areas to be pervious surface or planted in grass.

**ACTION:** Consider requiring perimeter and interior parking lot landscaping designed to help address pollutant removal from stormwater runoff; consider requiring islands of cul-de-sacs to be landscaped to address pollutant removal from stormwater runoff.

## Lot Design and Development

Lot design and general development provisions in zoning ordinances provide great opportunities to encourage alternatives to and reductions of impervious surfaces, such as shared driveways. Ordinances also can be crafted to address the overall development design to benefit water quality, such as providing incentives to protect natural vegetation throughout the development site.

Peninsula Township's zoning ordinance includes a planned unit development provision that protects 65 percent of the parcel in open space if it is retained in private ownership. The township requires management of excess stormwater runoff on site and has adopted the Storm Water Control Ordinance and Design Standards administered by the Grand Traverse County Drain Commissioner.

Part of the township is served by public sewer, but the large majority of the township is served by septic systems to manage waste water.

**ACTION:** Consider ways to encourage retention of native or natural vegetation in dedicated open spaces of PUDs.

**ACTION:** Consider limits on impervious cover as opposed to limits on lot area covered by structures. (E.g. section 8.10.2 Maximum lot coverage for hotel, motel and tourist courts).

**ACTION:** Consider adding review of stormwater best management practices and other water quality protections in the site plan review ordinance.

**ACTION:** Consider ways to encourage shorter driveways and shared driveways.

**ACTION:** Educate residents about proper septic system management and encourage residents to maintain septic systems on a regular basis.

**ACTION:** Consider adopting a septic maintenance ordinance or supporting a county septic maintenance ordinance.

## Protection of Natural Features

Protecting natural features throughout the watershed helps to trap sediments and treat stormwater by using nutrients in the stormwater to grow. Native vegetation in riparian areas also helps prevent erosion and protect wildlife habitat. In addition, the soils on sites that have not been cleared or graded remain capable of infiltrating larger amounts of stormwater.

The Peninsula Township ordinance currently includes a 35-foot vegetated buffer at the normal high water mark. Natural vegetation is to cover 70 percent of the frontage.

**ACTION:** Consider requiring a vegetated buffer around wetlands.

**ACTION:** Adopt a Shoreline Overlay District that encourages the restoration and preservation of a combination of herbaceous and woody plants near the shoreline.

**ACTION:** Consider adoption of approaches to preservation of natural vegetation on all new development sites.

**ACTION:** Review the site plan review ordinance to ensure protection of vegetated areas around water bodies and to limit clearing/grading of sites during development.

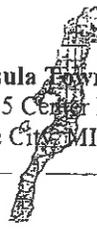
**ACTION:** Review building setbacks from water bodies and stormwater management for uses that could be detrimental to water quality, such as parking lots, incinerators, sanitary fills, and gas stations.

## **Next Steps**

Peninsula Township's character is directly related to and dependent on the surrounding waters of Grand Traverse Bay. The township's ordinances and master plan have implemented some very important water quality protections. Specific work on the recommendations set out above is at the discretion of the township and what the local officials and local residents view as priorities for the community. The list of additional resources accompanying the action plan is designed to support the township's consideration of implementation.

- *General Water Quality Protection Principles and Targets*
- *A Natural Solution*
- *Additional Resources* (Internet resources, including best management practices; Center for Watershed Protection resources; *Filling the Gaps*, a Michigan Department Natural Resources and Environment document with sample ordinances; and sample ordinances from within the Grand Traverse Bay watershed and other communities in Michigan.

The Watershed Center will assist as much as possible with work on these recommendations. The DEQ grant that is supporting this work includes time for Watershed Center staff to work with the township on any of these recommendations. We look forward to supporting your continued work to protect water quality.



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**MEMO**

To: Peninsula Township Planning Commission

March 15, 2012

Re: Shoreline Overlay District Regulations – (Part  
1 of 2) Language

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The information provided below has been issued to the PC members in past meetings. Although much of it remains the same, the purpose of this meeting is to discuss which direction the commission would like to take on each of the below regulation. In other words, is the provided ordinance language too restrictive, too lax, or overall fair in context with the desires of the community? Again, much of the language that is under review exists today, but is reiterated below in a format that may be easier to follow.

**Background Information**

Peninsula Township has 42 miles of shoreline, about 1/3 of the entire shoreline for Grand Traverse Bay. Surveys of township residents indicate their support for protecting water quality and a natural shoreline. The Grand Traverse Bay Watershed Protection Plan, approved by the US Environmental Protection Agency and the Michigan Department of Environmental Quality, identifies nutrients, invasive species, toxins, habitat loss, and pathogens as the most significant threats to the water quality of the Bay. It also identifies areas within 1000 feet of the bay as priority areas because they are the most sensitive to environmental impacts, the most likely to affect water quality, and the most likely to impact aquatic habitats.

The Michigan Department of Natural Resources recommends that shoreline property owners maintain a natural, vegetated shoreline on 75 percent of their frontage in order to protect water resources. Under the Soil Erosion and Sedimentation Control Act, soil disturbing activities that are within 500 feet of the Bay or that disturb more than 1 acre of land require a permit from the Grand Traverse County Drain Commissioner's office. Many activities below the natural ordinary high water mark require a permit from the Michigan Department of Environmental Quality and the US Army Corps of Engineers.

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*\*The majority of the above information will be relocated within the appendix of the Ordinance so as to allow the district's background information to exist without cluttering the actual regulations for shoreline areas.*

**Article "S"**  
**Shoreline Overlay Regulations**

**Section S01: Intent & Purpose**

The intent of the Shoreline Overlay District is to protect surface and groundwater quality, existing vegetated natural shoreline areas, wildlife habitats, and prevent erosion and sedimentation of the shoreline area. It is also the intent of this section to provide guidelines for recreational usage of private, shared, and public shoreline areas which promote the health, safety, and welfare of the general public. This section's purpose establishes regulations that apply in addition to those of the underlying zoning district which support land management practices that conserve and protect the Grand Traverse Bay shoreline throughout the Township. Where the provisions of this district conflict with those of the underlying zoning district, the provisions of this section shall supersede.

**Section S02: Establishment of Shoreline Overlay District & Zones**

For purposes within this section and throughout the Ordinance, the Shoreline Overlay District shall exist within two hundred (200') feet of the ordinary high water mark (OHWM). This unique physical and Township wide attribute is hereby divided into two (2) different zones as illustrated and defined within the following.

- A. Shoreline Zone Intent, Purpose, and Regulations. The shoreline zone's intent and purpose is to protect the natural vegetation in order to prevent erosion, improve stormwater

quality, limit invasive shoreline plants and the application of pesticides, herbicide, and fertilizers, while maintaining fish and wildlife habitats within areas of the Township where shorelines exist. Lands within this designated area shall adhere to the following regulations.

1. The shoreline zone shall extend inland fifty (50) feet from the Ordinary High Water Mark (OHWM).
    - a. If the fifty (50') foot boundary ends on a slope greater than nine (9%) percent, then the boundary of the shoreline zone shall extend to five (5') feet beyond the point at which the slope of the land is less than nine (9%) percent.
  2. Storage of leaves, grass clippings, and similar yard and garden waste is prohibited.
  3. Maintenance of vegetation shall be limited to removal of dead limbs and replacement of dead trees, shrubs, and vegetation. Planting of invasive species as defined by the Michigan Natural Features Inventory is prohibited.
  4. Septic tanks and septic systems filtration fields are prohibited from this zone.
  5. Storage of decks, boats, shore stations, and other water recreational items shall not take place within ten (10') feet of a side lot line.
  6. Dredging or filling, including the addition of beach sand, is prohibited below the OHWM except where permitted by State ~~or~~ Federal law.
    - a. Beach sanding above the OHWM requires the establishment or maintenance of a physical barrier to ensure that any sand placed above the OHWM will not be blown or eroded into the water body.
  7. Impervious cover such as decks, elevated walkways, and boat ramps must be reviewed and approved by the Township Zoning Administrator and other applicable reviewing agencies, prior to construction efforts taking place.
  8. Seventy (70%) percent of the shoreline zone shall be maintained in a vegetated buffer as defined by this Ordinance.
    - a. No impervious surface shall be permitted within the vegetative buffer portion of the shoreline zone.
- B. Upland Zone Intent, Purpose, and Regulations. The purpose of the upland zone is to manage impervious cover, improve stormwater quality, prevent soil erosion, and effectively retain tree canopy cover in areas near the shoreline which traditionally are host to residential land uses. Lands within this designated area shall adhere to the following regulations.
1. The upland zone shall be identified as the lands adjacent to the shoreline zone and exist within the area between fifty (50') feet from the OHWM and two hundred (200') feet from the OHWM.
  2. Thirty (30%) percent of the land area within the upland zone shall be maintained in tree canopy cover as defined by this Ordinance.
    - a. If a greater amount of vegetation than permitted is removed from the site during any phase of activity or construction, the site must be revegetated as approved by the Township Zoning Administrator.

**Section S03: Decks Established within the Shoreline Overlay District**

- A. Intent and Purpose. The intent of this section is to regulate the placement of decks and other structures within the shoreline overlay district so as not to cause undue harm upon the land while protecting the local resident's health, safety, and welfare.
- B. Regulations. The following regulations must be adhered to for the construction of a deck within the shoreline overlay district.
  - 1. Shall not be built within five (5) feet from the top of a slope with a grade greater than nine (9%) percent.
  - 2. The location must fit within all existing setbacks.
  - 3. The floor of the deck at any point shall not have a height of greater than thirty (30) inches above the finished grade of the site and no higher than the center of the traveled surface of any adjacent roadway.
  - 4. Any attached seating shall be no higher than 34 inches above the floor of the deck or 64 inches above finished grade, whichever is higher, provided that it is no higher than 34 inches above the center of the traveled surface of any adjacent highway.
  - 5. Enclosed storage shall be no higher than 34 inches above the floor of the deck or 64 inches above finished grade, whichever is higher, provided that it is no higher than 34 inches above the center of the traveled surface of any adjacent highway.
  - 6. There shall be no walls, roofs or other construction attached to the deck other than allowed seating, storage and railings required to meet the minimum requirements of any applicable construction codes.
  - 7. Unattached accessories are allowed.

**Section S04: Other Activities within the Shoreline Overlay District**

- A. The following rules shall apply to any filling, grading, or other earth movement within two hundred (200') feet of the OHWM.
  - 1. The smallest amount of bare ground shall be exposed for as short a time as feasible.
  - 2. Temporary ground cover such as mulch must be used as soon as possible and permanent cover, such as sod, should be planted.
  - 3. Diversions, silting basins, terraces and other methods must be used to trap any sediment.
  - 4. Fill must be stabilized according to accepted engineering practices using vegetation.

**Section S05: Administrative Site Plan Review**

For activities within the Shoreline Overlay District requiring a building permit or earth change permit; increasing the amount of impervious cover on the parcel; or reducing the amount of vegetated buffer or tree canopy cover, a site plan for the parcel must be presented to the Zoning Administrator for administrative review to ensure compliance with the provisions of the overlay district.

**Section S06: Road Ends**

There shall be no common dockage or restriction of access at public road ends within the Township.

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Thank you again for the time to address the issues above. If there should be any questions, concerns or comments regarding the issues at hand, please do not hesitate to contact staff at (231) 223-7314.

Sincerely,

Daniel Leonard; Peninsula Township Planner

## 2. Shoreline Zoning Regulations – (1<sup>st</sup> Presentation & Review)

Leonard provided memo dated March 15, 2012 titled Shoreline Overlay District Regulations – (Part 1 of 2) including Background Information, Article “S”, Section S01 through S06: Intent and Purpose, Establishment of Shoreline Overlay District & Zones, Decks Established within the Shoreline Overlay District, Other Activities within the Shoreline Overlay District Administrative Site Plan Review and Road Ends. On Page 2, under 6, Leak changed “of Federal law” to “or Federal law.” Leonard said that a survey of Township residents indicates their support for protecting water quality and a natural shoreline. The general public wants to see greater enforcement action on 70% of shoreline frontage being vegetatively buffered. If the frontage is currently bare, then foliage/trees will not need to be brought in. New regulations are not anticipated to be retroactive. However regarding vegetation removal for construction of a deck, the Township will have an opportunity to look closely at the retention of existing buffering. Bernie Soutar said that the regulations do not address shifting of waterline. Leonard said that Ellen Kohler of the Watershed Council said that the Township only has jurisdiction regarding sanding or vegetation above the high water mark. Leonard said that dead trees and shrubs cut down could be left to assist in erosion control where there is a slope. An appendix will likely be included to further address similar issues. The regulation prevents eradication of more than 30% of frontage. Leak said that the regulation does not prevent reasonable husbandry. Leonard said that located almost directly on the water and their right-of way would be exempt from the regulation. Rosi addressed the issue of deck construction and implications of the same to the PC. Leonard is concerned with enforcement of Section S04 A. 1. The smallest amount of bare ground shall be exposed for as short a time as feasible. Hosmer suggested removing the Section or included it in an appendix. Leonard will present Part 2 of 2 of the Regulations at the PC's next meeting scheduled for April 16, 2012. Leonard said that because not every lot can support a deck, they looked at the possibility of allowing a deck at the end of a dock as an option. Mr. Soutar, member of the Zoning Board of Appeals, said that no decks have been approved over the high water mark.

### OLD BUSINESS

None.

### TOWNSHIP BOARD REPORT

Rosi presented the report.

### ZONING BOARD OF APPEALS REPORT

Hosmer presented the report.

### 1. Discussion of Frontage Roads and Acreage Computations on New Parcels

Hosmer said that 20 acres could not be turned into four five-acre lots, because they would not meet the frontage road requirements. She wondered if including easement area of private road created to provide access in lot size should be considered. Leonard said that

## MEMO

To: Peninsula Township Planning Commission

Re: Shoreline Overlay District Regulations – (Part  
2 of 2) Proposed Language

April 11, 2012

The information provided below has been issued to the PC members in past meetings. Although much of it remains the same, the purpose of this meeting is to discuss which direction the commission would like to take on each of the below regulation. In other words, is the provided ordinance language too restrictive, too lax, or overall fair in context with the desires of the community? Again, much of the language that is under review exists today, but is reiterated below in a format that may be easier to follow.

### **Background Information**

Peninsula Township has 42 miles of shoreline, about 1/3 of the entire shoreline for Grand Traverse Bay. Surveys of township residents indicate their support for protecting water quality and a natural shoreline. The Grand Traverse Bay Watershed Protection Plan, approved by the US Environmental Protection Agency and the Michigan Department of Environmental Quality, identifies nutrients, invasive species, toxins, habitat loss, and pathogens as the most significant threats to the water quality of the Bay. It also identifies areas within 1000 feet of the bay as priority areas because they are the most sensitive to environmental impacts, the most likely to affect water quality, and the most likely to impact aquatic habitats.

The Michigan Department of Natural Resources recommends that shoreline property owners maintain a natural, vegetated shoreline on 75 percent of their frontage in order to protect water resources. Under the Soil Erosion and Sedimentation Control Act, soil disturbing activities that are within 500 feet of the Bay or that disturb more than 1 acre of land require a permit from the Grand Traverse County Drain Commissioner's office. Many activities below the natural ordinary high water mark require a permit from the Michigan Department of Environmental Quality and the US Army Corps of Engineers.

*\*The majority of the above information will be relocated within the appendix of the Ordinance so as to allow the district's background information to exist without cluttering the actual regulations for shoreline areas.*

## **Article "S" Shoreline Overlay Regulations (Part 2 of 2)**

### **Section S07: Shore Stations and Docks for Single-family dwellings**

- A. Every parcel is permitted no more than one (1) dock.
- B. No dock shall be wider than seven (7) feet and no longer than necessary to provide adequate water depth for the boat using the dock or shore station.
- C. Parcels shall be allocated shore stations based on their amount of linear shoreline measured at the OHWM with a ratio of one (1) shore station per fifty (50) feet of shoreline.
- D. Docks and shore stations are allowed on properties of insufficient size for a single-family dwelling provided the following conditions are met;
  1. The lot is recognized as a pre-existing lot of record.

2. A minimum of two (2) parking places must be provided off the adjacent road right-of-way.
  - a. In the event properties owned by the same party are separated by a thoroughfare, parking may be provided on the inland parcel and need not be in excess of that required for a single-family dwelling.

**Section S08: Shared Waterfront**

It is the intent of this section to reduce the conflicts that occur between residential single family use and shared waterfront use, such as a number of families using the beach, making noise, trespassing, temporarily storing boats, shore stations, and other equipment, and impacts to shoreline vegetation. Any waterfront land that is to be used by more than one family shall adhere to the following regulations:

- A. **Land Use Permit.** Where more than one family has shared ownership of waterfront property, a land use permit shall be obtained from the Zoning Administrator.
- B. **Application.** The application for land use permit shall indicate the number of families with access rights, the name and address of a principal family member for each family with taxable real property in Peninsula Township who shall receive the tax bill, and a site plan showing compliance with the minimum requirements of this Section.
  1. The Zoning Administrator shall be notified of any change in ownership.
- C. **Minimum Lot Widths and Vehicle Parking Space Requirements:**

Number of Families with Access Rights	Minimum Lot Width
Two Families	100' feet
Three Families	150' feet
Four Families	200' feet
Over Four Families	Five additional feet per family *

*\*Note, the above regulation regarding number of families permitted access to a waterfront parcel over four (4) did not represent any significant practices or portray any rationale. Staff would suggest this ratio be consistent with that representing the number of shore stations allowed on a parcel via one (1) / fifty (50') feet of shoreline.*

2. One parking space for each family shall be provided off the traveled portion of the road such that all portions of a parked vehicle are at least five (5) feet from the driving lane to provide safe egress from the vehicle.
3. Each parking space shall be a minimum of eighteen (18) feet in length.
  - a. The parking spaces may be paved or graveled.
- D. Group docking, shore stations hoist and other related facilities shall not exceed one dock per parcel and one shore station per fifty (50) feet of shore line, measured at the ordinary high water mark, and shall be located as near as possible to the center of the parcel.
- E. No dock shall be wider than seven (7) feet and no longer than necessary to provide adequate water depth for the boat using the dock or boat hoist.
- F. Structures on shared waterfront parcels are allowed with exception to dwelling units or clubhouses.

1. A portable toilet is allowed, provided that the township is notified of the placement and maintenance schedule for the toilet. The toilet shall not be placed within a road right-of-way or closer than thirty (30) feet from the water's edge. The toilet shall be screened from the nearest property line, the road and the water.

#### **SO9 Flood Plain Controls**

**Intent and Purposes:** The purpose of these regulations is to protect those areas of the Township which are subject to predictable flooding in the flood plain of the Great Lakes. All land included in the flood plain shall be subject to the requirements specified herein, in addition to the normal zoning district requirements in which said land is located.

- A. **Flood Plain Area Identification:** Flood plain shall be those areas falling below elevation 582.8 I.G.L.D. (elevation 582.8 - 1955 I.G.L.D. equals elevation 583.5 - 1985 I.G.L.D. or elevation 584 USGS). Such flood areas shall be restricted as to use, building encroachment, and occupancy, so that human life is protected and future flood damage is minimized.
  1. In the event of reasonable doubt as to the location of a flood plain, the Zoning Administrator may require the applicant to submit detailed engineering studies prepared by a registered professional engineer showing the extent and location of floodable areas.
- B. **Permitted Uses:** Notwithstanding any other provisions of this Ordinance, no uses shall be permitted to occur within a flood plain except yard and setback areas or other open space portions required for any District.
  1. Any structure where human habitation is contemplated either as a place of residence, places of public gathering or employment, shall be prohibited from locating in flood plain areas.

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Thank you again for the time to address the issues above. If there should be any questions, concerns or comments regarding the issues at hand, please do not hesitate to contact staff at (231) 223-7314.

Sincerely,



Daniel Leonard; Peninsula Township Planner

## COMMUNICATIONS

### 1. Oosterhouse Vineyards – (PDR Request for Interpretation)

Leonard said that Todd Oosterhouse wants to build a new winery structure in PDR conservation easement Township holds. 40 acres of which are owned by Mr. Oosterhouse. The other 40 acres are owned by the Edmonsons. Mr. Oosterhouse is looking at building in the southwest corner, but there is a significant ridgeline. Leonard researched definition of “No Buildings in Ridgelines in view.” Edmonsons requested property be recognized in view shed. Leonard does not think the structure will be allowed to be built in this location.

### 2. Planning Commission Per Diem Budget

Serocki said that the PC was under budget for per diems for Fiscal Year 2011–2012.

## NEW BUSINESS

### 1. Shoreline Zoning Regulations – (2nd Presentation & Review)

Leonard provided Part 2 of 2 Proposed Language dated April 11, 2012 including Section S07: Shore Stations and Docks for Single-family dwellings, Section S08: Shared Waterfront, S09 Flood Plain Controls. This will not affect parcels already developed. In Section S07, a minimum of two parking places must be provided off the adjacent road right-of-way. In the event properties owned by the same party are separated by a thoroughfare, parking may be provided on the inland parcel and need not be in excess of that required for a single-family dwelling. In Section S08, they are looking at ways of tightening regulations on number of families with access rights based on minimum lot width due to lack of adequate parking. Staff suggested the ratio for “Over Four Families” be consistent with that representing the number of shore stations allowed on a parcel via one family/50’ of shoreline. Hosmer and Rosi agreed. Discussion followed. There was PC consensus in Section S08, under C.2., “traveled portion of the road” should read “road right-of-way.” Leonard will work on rewording 3.a. “The parking spaces may be paved or graveled.” Regarding Section S09, Leonard said that finalized Federal Emergency Management Agency maps are not available to date. The purpose of the maps would be enable owners to obtain National Flood Insurance. Leonard will spell out the acronym “I.G.L.D.” In Section S08, F., Leonard provided Householder clarification and said that “structures” includes decks, docks, storage sheds, etc. They must meet setback requirements. Leonard will reword the sentence to make sure it is clear dwelling units and/or clubhouses are not allowed on shared waterfront parcels.

### 2. Agricultural Preservation & Development Standards – (1<sup>st</sup> Presentation and Review)

Leonard provided Background & Preliminary Review dated April 12, 2012 including Article W, Agricultural Preservation & Development Standards (e.g., Section APDS1: Intent, Section APDS2: Right to Farm, Section APDS3: Cottage Production Facility, Section APDS4: Local Food Production Facility and Value-Added Section APDS5: Cottage Processing Facility. Cover page outlines where we (e.g., PC, WOMP, Protect the Peninsula, etc.) are coming from as far as establishing agricultural preservation and development standards. Cottage Production