

Additions

Peninsula Township Invoice Approval Report

VENDOR	DESCRIPTION/DISTRIBUTION	AMOUNT
CLIA LABORATORY PROGRAM	CERTIFICATE FEE <i>206-000-958.000</i> <i>150.00</i>	\$150.00
CONSUMERS ENERGY	MAY 2016 BOWERS HARBOR PARK STREETLIGHT <i>208-751-926.000</i> <i>21.60</i>	\$21.60
CONSUMERS ENERGY	MAY 2016 TOWNHALL STREETLIGHT <i>101-265-926.000</i> <i>26.03</i>	\$26.03
CONSUMERS ENERGY	MAY 2016 4016 SWANEY STREETLIGHT <i>208-751-926.000</i> <i>19.05</i>	\$19.05
CONSUMERS ENERGY	MAY 2016 FD2 STREETLIGHT <i>206-000-926.000</i> <i>13.01</i>	\$13.01
CONSUMERS ENERGY	MAY 2016 STREETLIGHTS <i>101-000-226.010</i> <i>10.42</i> <i>101-265-926.000</i> <i>17.58</i> <i>101-265-926.000</i> <i>28.53</i> <i>101-000-226.000</i> <i>14.26</i> <i>101-000-226.075</i> <i>18.83</i> <i>206-000-926.000</i> <i>10.01</i> <i>101-265-926.000</i> <i>10.01</i> <i>208-751-926.000</i> <i>40.06</i> <i>101-000-226.030</i> <i>10.01</i> <i>101-000-226.040</i> <i>10.01</i> <i>101-000-226.060</i> <i>140.19</i> <i>101-000-226.070</i> <i>10.01</i> <i>206-000-926.000</i> <i>12.50</i> <i>101-265-926.000</i> <i>12.54</i>	\$344.96
CRYSTAL FLASH PETROLEUM	150 GALS REG NL <i>206-000-751.000</i> <i>310.23</i>	\$310.23
CRYSTAL FLASH PETROLEUM	225 GALS DIESEL <i>206-000-751.000</i> <i>458.57</i>	\$458.57
EAST BAY CHARTER TOWNSHIP	ELECTION SUPPLIES <i>101-191-726.000</i> <i>28.20</i>	\$28.20
GOURDIE-FRASER, INC	BRAEMAR <i>101-101-967.LHB</i> <i>240.00</i>	\$240.00
GOURDIE-FRASER, INC	ANSTED <i>701-000-255.STW</i> <i>600.00</i>	\$600.00
GOURDIE-FRASER, INC	THE 81 ON EAST BAY <i>101-400-818.000</i> <i>240.00</i>	\$240.00

VENDOR	DESCRIPTION/DISTRIBUTION	AMOUNT
GT COUNTY TREASURER	APRIL - JUNE 2016 SHERIFF PATROL <i>207-000-818.000</i> <i>19,604.25</i>	\$19,604.25
HOME DEPOT	TOILET SEATS FOR PARKS AND LIGHTHOUSE <i>508-000-930.000</i> <i>11.48</i> <i>208-751-930.000</i> <i>28.70</i>	\$40.18
PRINTING SYSTEMS	DUAL AV APPS AND ENVELOPES <i>101-191-726.000</i> <i>187.06</i>	\$187.06
STAPLES CREDIT PLAN	SUPPLIES <i>101-191-726.000</i> <i>130.39</i> <i>101-215-726.000</i> <i>130.39</i> <i>101-173-726.000</i> <i>17.79</i> <i>101-191-726.000</i> <i>11.69</i> <i>101-215-726.000</i> <i>11.69</i> <i>101-173-726.000</i> <i>3.77</i> <i>101-173-726.000</i> <i>117.95</i>	\$423.67
STEVEN H. SCHWARTZ	GENERAL MATTERS <i>206-000-801.000</i> <i>875.00</i>	\$875.00
T.C. RECORD EAGLE (PUBS)	APRIL 2016 PUBS <i>101-101-900.000</i> <i>160.50</i> <i>101-101-900.000</i> <i>73.50</i> <i>101-101-900.000</i> <i>73.50</i> <i>206-000-900.000</i> <i>110.80</i> <i>101-101-900.000</i> <i>97.75</i> <i>101-430-900.000</i> <i>140.00</i> <i>206-000-900.000</i> <i>58.40</i>	\$714.45
VERIZON WIRELESS	CELL PHONES (FD, DEPUTY, LIGHTHOUSE MANAGER & FD BROADBA <i>207-000-850.000</i> <i>55.36</i> <i>206-000-850.000</i> <i>222.56</i> <i>508-000-850.000</i> <i>18.86</i>	\$296.78
VERIZON WIRELESS	6 TABLETS <i>101-101-850.000</i> <i>40.02</i> <i>508-000-850.000</i> <i>13.40</i> <i>101-173-850.000</i> <i>13.35</i> <i>101-400-850.000</i> <i>13.35</i>	\$80.12
VERIZON WIRELESS	7 TABLETS <i>101-215-850.000</i> <i>12.88</i> <i>101-209-850.000</i> <i>12.88</i> <i>101-171-850.000</i> <i>12.88</i> <i>101-253-850.000</i> <i>12.88</i> <i>101-215-850.000</i> <i>12.88</i> <i>101-420-850.000</i> <i>12.87</i> <i>101-253-850.000</i> <i>12.87</i>	\$90.14
VERIZON WIRELESS	5 FIRE DEPARTMENT TRAINING TABLETS <i>206-000-850.000</i> <i>82.10</i>	\$82.10

VENDOR	DESCRIPTION/DISTRIBUTION	AMOUNT
WILKINSON ROBERT	MAINTENANCE MAY 15, 2016	\$3,316.00
	<i>101-265-818.000</i>	<i>896.47</i>
	<i>208-751-818.000</i>	<i>2,419.53</i>
YOUNG, GRAHAM, ELSENHEIMER	APRIL 2016	\$2,735.50
	<i>101-101-967.LHB</i>	<i>31.00</i>
	<i>206-000-801.000</i>	<i>62.00</i>
	<i>101-101-967.LHB</i>	<i>387.50</i>
	<i>101-101-801.000</i>	<i>62.00</i>
	<i>502-000-801.000</i>	<i>124.00</i>
	<i>101-420-801.000</i>	<i>565.00</i>
	<i>101-101-801.000</i>	<i>20.00</i>
	<i>101-400-801.000</i>	<i>20.00</i>
	<i>101-420-801.000</i>	<i>40.00</i>
	<i>206-000-801.000</i>	<i>20.00</i>
	<i>208-751-801.000</i>	<i>30.00</i>
	<i>297-000-801.000</i>	<i>10.00</i>
	<i>101-101-801.000</i>	<i>356.50</i>
	<i>101-101-801.000</i>	<i>883.50</i>
	<i>101-420-850.000</i>	<i>124.00</i>
YOUNG, GRAHAM, ELSENHEIMER	APRIL 2016	\$30.00
	<i>590-000-801.000</i>	<i>30.00</i>
YOUNG, GRAHAM, ELSENHEIMER	APRIL 2016	\$30.00
	<i>591-000-801.000</i>	<i>30.00</i>
Total:		\$30,956.90

05/10/2016

CASH SUMMARY BY FUND FOR PENINSULA TOWNSHIP

Fund	Description	Beginning Balance 03/31/2015	Ending Balance 04/30/2016
101	GENERAL FUND	651,142.26	689,389.21
206	Fire Fund	645,245.08	335,037.57
207	Police Fund	131,211.75	125,497.72
208	PARKS/HASSEROT/BHP/ARCHIE/BIG JON	255,091.27	93,249.72
211	Bata/Sr. Center	23,152.41	23,213.64
212	Pelizzari Natural Area	487,726.68	242,747.98
213	HESSLER LOG HOME	0.00	12,559.00
215	DOUGHERTY HOUSE	8,664.13	8,687.01
225	Summer Tax Collection	(5,131.70)	(103.03)
245	Roads	11,219.41	3,477.33
248	Building Fund	2,580.41	2,590.20
297	Purchase of Development Rights	1,432,583.78	1,599,471.16
298	Cable Council Fund	319,592.99	414,244.75
502	Tower Fund	451,712.22	482,655.23
508	Lighthouse Fund	53,515.35	15,328.00
509	LIGHTHOUSE GIFT SHOP	0.00	99,989.82
590	Sewer Fund	211,915.68	237,590.85
591	Water Fund	620,258.90	597,981.30
596	Compactor Station	26,035.66	26,080.83
701	Trust and Agency	46,266.14	41,363.69
703	Tax Collection	78,074.79	63,697.07
708	Library Trust and Agency Fund	504,764.92	501,502.13
	TOTAL - ALL FUNDS	5,955,622.13	5,616,251.18

Peninsula Township Planning & Zoning Department
13235 Center Road
Traverse City, MI 49686

**SPECIAL USE PERMIT
FINDINGS OF FACT**

SUP #123, The 81 on East Bay (Planned Unit Development Condominium Subdivision)

May 10, 2016

PENINSULA TOWNSHIP BOARD

DECISION AND ORDER

Applicant: The 81 Development Company, LLC
Kevin O'Grady, Owner
6978 Dixie Hwy, Suite A
Clarkston MI 48346

Hearing Date: May 18, 2015, June 15, 2015, July 14, 2015 and August 11, 2015

PROPERTY DESCRIPTION

Parcel ID#: 28-11-114-001-00; 28-11-114-002-00

RECONSIDERATION UPON REMAND

Per the decision and order (the Court Decision) of Judge Rodgers of the 13th Circuit Court for Grand Traverse County made on January 15, 2016 in case number 2015-31218-AA with respect to The 81 on East Bay Special Use Permit application and the application for Planned Unit Development (the Development), the Peninsula Township Board held a public hearing at a regular meeting on May 10, 2016 at 7:00 PM at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686 to reconsider those issues as specified in the Court Decision.

The Court Decision referred to two conditions set by the Township Board at the Board's August 11, 2015 hearing, which were condition (1) relating to the Development meeting adequate safety standards for fire protection subject to the Peninsula Township Fire Department review and approval including the provision of an additional egress for emergency purposes at either Trevor Rd or within the Development proper and condition (6) relating to the supplying of detailed grading plans for the review and approval of the Township Engineer.

On page 11 of the Decision regarding condition (1), the Court stated, "In this case, the location for the additional egress for emergency purposes was undecided at the time the Board voted to approve the SUP/PUD." Later, in the same paragraph the Court stated, "Similarly, the Board delegated approval of the grading plan to the Township Engineer." (also see footnote 46 regarding the remanding to the Board of not only the issue of the grading plan and its protection of environmental features, but also the issue of storm water control).

At the bottom of page 11, the Court stated, "Here, the Board did not "independently determine" that the proposed SUP/PUD met the ordinance requirements because it delegated authority to the Fire Department and the Township Engineer to provide approval on certain zoning standards. The Court finds that the Board improperly delegated authority to staff and remands this issue for further consideration consistent with this decision and order."

A new consideration of these matters involves consideration of the following standards under the Peninsula Township Zoning Ordinance: Section 8.1.3 (1) (c), Section 8.1.3 (3) (d), Section 8.1.3 (3) (e), Section 8.1.3 (3) (h), Section 8.1.3 (3) (i); Section 8.1.3 (3) (j), and Section 8.1.3 (3) (n).

Accordingly, the Board having reconsidered the matters, as ordered by the Court, a public hearing having been held on May 10, 2016 before the Township Board after giving due notice as required by law, the Board having heard the statements of the Applicant and agents, the Board after having considered letters submitted by members of the public and comments by members of the public, the Board having considered 11 Exhibits, and the Board having reached a decision on this matter, states as follows:

Section 8.1.3 (1) General Standards: The Town Board shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use on the proposed location will:

- Section 8.1.3 (1) (c): Be served adequately by essential facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.
- i. **The Board finds that the proposed PUD will incorporate private frontage roads. The engineering and design of these roads have been reviewed and approved by the Township Engineer, Brian Boals, of Gourdie Fraser with respect to grading, drainage patterns and pavement cross-sections. (Exhibits 1 & 11)**
 - ii. **The Board finds the development will be served in part by a community septic facility with other home sites being serving by private, individual septic systems. As with all such systems, review and approval must be obtained from the Grand Traverse County Health Department and, as applicable, for the community septic system, the Michigan Department of Environmental Quality. The Board further finds that Daniel Thorell, M.S., R.S., Environmental Sanitarian for the Grand Traverse County Health Department, has examined the soils within the project area, including soils in the proposed reserve septic field for the community dispersal field as well as for individual units and has determined that the soils are suitable for waste water dispersal. (Exhibit 2 & 13)**
 - iii. **The Board finds that the residential lots will be served by individual wells. The Grand Traverse County Health Department, by and through Daniel R. Thorell, M.S., R.S., Environmental Health Coordinator, examined a test well on the site and determined that based on the test well results approval will be granted for the use of individual wells for the development by the County Health Department. (Exhibit 3)**
 - iv. **The Board finds the development has been reviewed by Brian Boals of Gourdie Fraser engineers, being the Township Engineers, with respect to the requirements of the Peninsula Township Storm Water Control Ordinance determining that storm water calculations for the project have been found to be acceptable with respect to drainage patterns, storm sewer sizing and storm water retention. (Exhibits 1 & 11)**

- v. The Board finds that the County Sheriff has conducted a review of the submitted plans and offered comments. The Sheriff's Department, by and through Lt. Chris Barsheff, has determined that there is nothing objectionable in the submitted site plans within the areas of responsibility of the Sheriff's Department. (Exhibit 4)
- vi. The Board finds that the Peninsula Township Fire Department has conducted a review of the plan and approves the plan as submitted. (Exhibit 5)

This standard HAS/HAS NOT been met.

Section 8.1.3 (3) Specific Requirements: In reviewing an impact assessment and site plan, the Planning Commission and the Township Board shall consider the following standards:

- Section 8.1.3 (3) (d): That the plan meets the requirements of Peninsula Township for fire and police protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.
- i. The Board finds that the Peninsula Township Fire Department has conducted a review of the plan and approves the plan as submitted. (Exhibits 1 & 5)
 - ii. The Board finds that the County Sheriff has conducted a review of the submitted plans and offered comments. The Sheriff's Department, by and through Lt. Chris Barsheff, has determined that there is nothing objectionable in the submitted site plans within the areas of responsibility of the Sheriff's Department. (Exhibits 1 & 4)
 - iii. The Board finds the development has been reviewed by Brian Boals of Gourdie Fraser engineers, being the Township Engineers, with respect to the requirements of the Peninsula Township Storm Water Control Ordinance determining that storm water calculations for the project have been found to be acceptable with respect to drainage patterns, storm sewer sizing and storm water retention. (Exhibits 1 & 11)
 - iv. The Board finds that the Grand Traverse County Soil Erosion and Sedimentation Control Department has reviewed the project and has granted preliminary approval as well as reasonable assurance that the SESC permit will be issued if final drawings for construction are submitted that are consistent with the preliminary approval. (Exhibits 1 & 7)
 - v. The Board finds that the site plan shall meet all necessary requirements related to the Great Lakes waterfront as mandated by the Michigan Department of Environmental Quality and the Army Corps of Engineers. The applicant has submitted a letter from the Michigan Department of Environmental Quality dated March 5, 2015 showing no permit is required from this agency as it pertains to the dock structure. The applicant has submitted a letter from the Army Corps

of Engineers dated July 21, 2015 indicating the project has been reviewed and a permit has been offered. (Exhibits 8, 9 & 13)

- vii. The Board finds the development will be served in part by a community septic facility with other home sites being serving by private, individual septic systems. As with all such systems, review and approval must be obtained from the Grand Traverse County Health Department and, as applicable, for the community septic system, the Michigan Department of Environmental Quality. The Board further finds that Daniel Thorell, M.S., R.S., Environmental Sanitarian for the Grand Traverse County Health Department, has examined the soils within the project area, including soils in the proposed reserve septic field for the community dispersal field as well as for individual units and has determined that the soils are suitable for waste water dispersal. (Exhibits 2 & 13)
- viii. The Board finds that the residential lots will be served by individual wells. The Grand Traverse County Health Department, by and through Daniel R. Thorell, M.S., R.S., Environmental Health Coordinator, examined a test well on the site and determined that based on the test well results approval will be granted for the use of individual wells for the development by the County Health Department. (Exhibit 3)

This standard HAS/HAS NOT been met.

- Section 8.1.3 (3) (e): That the plan meets the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.
- i. The Board finds that the County Sheriff has conducted a review of the submitted plans and offered comments. The Sheriff's Department, by and through Lt. Chris Barsheff, has determined that there is nothing objectionable in the submitted site plans within the areas of responsibility of the Sheriff's Department. (Exhibits 1 & 4)
 - ii. The Board finds that the Peninsula Township Fire Department has conducted a review of the plan and approves the plan as submitted. (Exhibit 5)
 - iii. The Board finds that the residential lots will be served by individual wells. The Grand Traverse County Health Department, by and through Daniel R. Thorell, M.S., R.S., Environmental Health Coordinator, examined a test well on the site and determined that based on the test well results approval will be granted for the use of individual wells for the development by the County Health Department. (Exhibit 3)
 - iv. The Board finds the development will be served in part by a community septic facility with other home sites being serving by private, individual septic systems. As with all such systems, review and approval must be obtained from the Grand Traverse County Health Department and, as applicable, for the community septic system, the Michigan Department of

Environmental Quality. The Board further finds that Daniel Thorell, M.S., R.S., Environmental Sanitarian for the Grand Traverse County Health Department, has examined the soils within the project area, including soils in the proposed reserve septic field for the community dispersal field as well as for individual units and has determined that the soils are suitable for waste water dispersal. (Exhibits 2 & 13)

- v. The Board finds the development has been reviewed by Brian Boals of Gourdie Fraser engineers, being the Township Engineers, with respect to the requirements of the Peninsula Township Storm Water Control Ordinance determining that storm water calculations for the project have been found to be acceptable with respect to drainage patterns, storm sewer sizing and storm water retention. (Exhibits 1 & 11)
- vi. The Board finds that the site plan shall meet all necessary requirements related to the Great Lakes waterfront as mandated by the Michigan Department of Environmental Quality and the Army Corps of Engineers. The applicant has submitted a letter from the Michigan Department of Environmental Quality dated March 5, 2015 showing no permit is required from this agency as it pertains to the dock structure. The applicant has submitted a letter from the Army Corps of Engineers dated July 21, 2015 indicating the project has been reviewed and a permit has been offered. (Exhibits 8 & 9)

This standard HAS/HAS NOT been met.

Section 8.1.3 (3) (h): That the soil conditions are suitable for excavation and site preparation, and that organic, wet or other soils which are not suitable for development will either be undisturbed or modified in an acceptable manner.

- i. The Board finds that the Grand Traverse County Soil Erosion and Sedimentation Control Department has reviewed the project and has granted preliminary approval as well as reasonable assurance that the SESC permit will be issued if final drawings for construction are submitted that are consistent with the preliminary approval. (Exhibits 1 & 7)
- ii. The engineering and design of these roads have been reviewed and approved by the Township Engineer, Brian Boals, of Gourdie Fraser with respect to grading, drainage patterns and pavement cross-sections. (Exhibits 1 & 11)
- iii. The Board finds that the residential lots will be served by individual wells. The Grand Traverse County Health Department, by and through Daniel R. Thorell, M.S., R.S., Environmental Health Coordinator, examined a test well on the site and determined that based on the test well results approval will be granted for the use of individual wells for the development by the County Health Department. (Exhibit 3)

- iv. **The Board finds the development will be served in part by a community septic facility with other home sites being serving by private, individual septic systems. As with all such systems, review and approval must be obtained from the Grand Traverse County Health Department and, as applicable, for the community septic system, the Michigan Department of Environmental Quality. The Board further finds that Daniel Thorell, M.S., R.S., Environmental Sanitarian for the Grand Traverse County Health Department, has examined the soils within the project area, including soils in the proposed reserve septic field for the community dispersal field as well as for individual units and has determined that the soils are suitable for waste water dispersal. (Exhibits 2 & 13)**
- v. **The Board finds that the applicant has provided a comprehensive review of the site by a qualified environmental consultant, being GEI Consultants of Michigan, P.C. The Board further finds that the reports delineate wetlands which will not be developed and which shall be preserved within the development. (Exhibits 1 & 10)**

This standard HAS/HAS NOT been met.

Section 8.1.3 (3) (i): That the proposed development will not cause soil erosion or sedimentation problems.

- i. **The Board finds that the Grand Traverse County Soil Erosion and Sedimentation Control Department has reviewed the project and has granted preliminary approval as well as reasonable assurance that the SESC permit will be issued. (Exhibits 1 & 7)**
- ii. **The Board finds that the Township Engineer of Record has reviewed and approved the proposed grading plans. (Exhibits 1 & 11)**
- iii. **The Board finds that the applicant has provided a confirmation by a qualified consultant for the wetland delineation shown on the plans. (Exhibit 10)**
- iv. **The engineering and design of these roads have been reviewed and approved by the Township Engineer, Brian Boals, of Gourdie Fraser with respect to grading, drainage patterns and pavement cross-sections. (Exhibits 1 & 11)**

This standard HAS/HAS NOT been met.

Section 8.1.3 (3) (j): That the drainage plan for the proposed development is adequate to handle anticipated storm-water runoff, and will not cause undue runoff onto neighboring property or overloading of water courses in the area.

- i. **The engineering and design of these roads have been reviewed and approved by the Township Engineer, Brian Boals, of Gourdie Fraser with respect to grading, drainage patterns and pavement cross-sections. (Exhibits 1 & 11)**

This standard HAS/HAS NOT been met.

- Section 8.1.3 (3) (n): That the plan provides for the proper expansion of existing facilities such as public streets, drainage systems and water sewage facilities.
- i. **The engineering and design of these roads have been reviewed and approved by the Township Engineer, Brian Boals, of Gourdie Fraser with respect to grading, drainage patterns and pavement cross-sections. (Exhibits 1 & 11)**
 - ii. **The Board finds that the residential lots will be served by individual wells. The Grand Traverse County Health Department, by and through Daniel R. Thorell, M.S., R.S., Environmental Health Coordinator, examined a test well on the site determining that based on the test well results approval will be granted for the use of individual wells for the development. (Exhibit 3)**
 - iii. **The Board finds the development has been reviewed by Brian Boals of Gourdie Fraser engineers, being the Township Engineers, with respect to the requirements of the Peninsula Township Storm Water Control Ordinance determining that storm water calculations for the project have been found to be acceptable with respect to drainage patterns, storm sewer sizing and storm water retention. (Exhibits 1 & 11)**
 - iv. **The Board finds that the County Sheriff has conducted a review of the submitted plans and offered comments. The Sheriff's Department, by and through Lt. Chris Barsheff, has determined that there is nothing objectionable in the submitted site plans within the areas of responsibility of the Sheriff's Department. (Exhibits 1 & 4)**
 - v. **The Board finds that the Peninsula Township Fire Department has conducted a review of the plan and approves the plan as submitted. (Exhibits 1 & 5)**

This standard HAS/HAS NOT been met.

MOTION TO APPROVE/DENY

Motion made by _____, supported by _____ that based upon the specific findings of fact with respect to Sections 8.1.3(1)(c); 8.1.3(3)(d); 8.1.3(3)(e); 8.1.3(3)(h); 8.1.3(3)(i); 8.1.3(3)(j); and 8.1.3(3)(n) that the applicant has met these standards and in conjunction with the Township's previous approval of this project on August 11, 2015 along with these supplemental findings of fact made at the direction of Judge Rodgers in his Order dated January 15, 2016, all standards have been met and the applicant's request for Special Use Permit to a Planned Unit Development is hereby recommended to be approved.

Ayes:

Nays:

DECISION

Upon Motion, seconded and passed the Board RULED that the Applicant's variance request be ALLOWED / DENIED / TABLED.

TIME PERIOD FOR JUDICIAL REVIEW

MCL 125.3606 provides that any party aggrieved by a decision of the Township Board may appeal that decision to the Circuit Court within thirty (30) days after the Township Board issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the Township Board, if there is no chairperson, or within twenty-one (21) days after the Township Board approves the minutes at which the decision was made.

DATE DECISION AND ORDER ADOPTED

Date

Chairperson

Date

Vice Chairperson

Date

Secretary

May 10, 2016

Michelle L. Reardon
Director of Planning & Zoning
13235 Center Road
Traverse City, MI 49686
planner@peninsulatownship.com

RE: The 81 on East Bay
Open Space Calculation Review

Dear Michelle:

Open space calculations have been reviewed via electronic drawings provided by the Applicant's Consultant for the referenced project.

Based upon our review of the supplied data, we find the remaining open space exceeds the required 65% after subtracting all applicable "Non-Open Space" areas per the Township Zoning Ordinance, as well as the "Fire Truck Access Road" area. A summary of the calculations is attached for your reference.

Please do not hesitate to contact me with any questions regarding this review.

Respectfully Submitted,
GOURDIE-FRASER



Brian M. Boals, PE
Project Manager

**THE 81 ON EAST BAY - PUD
OPEN SPACE REVISION 2 REVIEW SUMMARY**

	Calculated Area from Review (SF)	Update #2 Mansfield Area (SF)	GFA Review (SF)
Overall Area	3,599,438	3,599,438	3,599,437.56
NON-OPEN SPACE AREAS			
Boursaw Road	10,666	10,666	10,666.39
Proposed Grass Beach Parking	6,615	6,615	6,615.00
**Proposed 81 Avenue & 81 East	184,117	185,800	200,808.42
Existing Asphalt Drive	1,331	1,331	1,331.26
Existing Gravel Drive	2,246	2,220	2,219.79
*Fire Truck Turn-a-Round	1,683	0	0
Water Tank	200	0	0
Units	1,030,601	1,030,601	1,030,601.03
Open Space Area:	2,361,979	2,362,205	2,347,195.67
ADDITIONAL POTENTIAL NON-OPEN SPACE AREAS			
Future Emergency Access	4,182	0	0
Total Open Space Area:	2,357,797	2,362,205	2,347,195.67
Percent Open Area w/o Additional Areas			
Percent Open Area w/o Additional Areas	65.62%	65.63%	65.21%
Percent Open Area w/ Additional Areas			
Percent Open Area w/ Additional Areas	65.50%	65.63%	65.21%

* "Fire Truck Turn Around" area included in Mansfield "Proposed 81 Avenue & 81 East" area

** "Fire Truck Access" road area & "asphalt water tank parking" area included in GFA "Proposed 81 Avenue & 81 East" area

SESC PERMIT

Under the provisions of PART 91, SOIL EROSION & SEDIMENTATION CONTROL ACT (SESC) (1994 PA 451 as amended) and/or GRAND TRAVERSE COUNTY SESC ORDINANCE, as amended.

GRAND TRAVERSE COUNTY
SOIL EROSION & SEDIMENTATION
2650 LAFRANIER RD
TRAVERSE CITY MI 49686
Phone # (231) 995-6042

Permit #: 24013
Sensitivity: 5
Type: RESIDENT
Issued: 5/09/2016
Expires: 5/09/2017
Fee: 3,967
Receipt #: 38459
Applied: 4/08/2016

Owner:
THE 81 DEVELOPMENT COMPANY, LLC
6978 DIXIE HWY
CLARKSTON MI 48346

Contractor/On-Site responsible person:
ALPERS EXCAVATING
16 S WEST SILVER LAKE RD
TRAVERSE CITY MI 49685

DEQ Permit #: NOC PENDING Issue Date:
Credit/Surety Amount: 80,000.00 Expires: 5/06/2017

Authority is hereby granted to make the following earth changes:

GRADING TO CONSTRUCT RESIDENTIAL PUD, ROADS, UTILITIES, STORM BASIN CLEARING

Located at: 15634 SMOKEY HOLLOW RD 15636 BLUFF RD
In PENINSULA Twp, Sect 14 Town 29N Range 10W Lot # Block
Sub: THE 81 ON EAST BAY
Property Tax #: 28 - 11 - 114 - 001 - 00

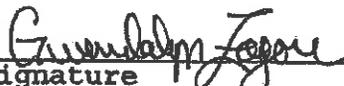
Permit Conditions:

1. The permitted activity shall be completed in accordance with the approved plans and specifications, and the following general conditions.
2. This permit does not waive the necessity for obtaining all other required federal, state, or local permits.
3. Permittee shall notify the permitting agency within one week after completing the permitted activity or one week prior to the permit expiration date, whichever comes first.

General Conditions:

In accordance with Rule 1709 promulgated under the authority of Part 91, Soil Erosion and Sedimentation Control, of the natural Resources and Environmental Protection act, 1994 PA 451, as amended, and in addition to the information on the attached plan(s) and special conditions, the following general conditions apply to the earth change authorized by this permit.

- Design, construct, and complete the earth change in a manner that limits the exposed area of disturbed land for the shortest period of time.


Signature

THIS PERMIT ALONG WITH THE SITE PLAN MUST BE POSTED AT THE PROJECT SITE
Continued on Next Page

Continued from Previous Page
SESC PERMIT

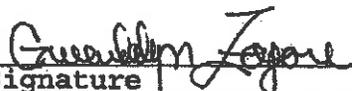
Permit 24013

- Remove sediment caused by accelerated soil erosion from runoff water before it leaves the site of the earth change.
- Temporary or permanent control measures shall be designed and installed to convey water around, through, or from the earth change at a non-erosive velocity.
- Install temporary soil erosion and sedimentation control measures before or upon commencement of the earth change activity and maintain the measures on a daily basis. Remove temporary soil erosion and sedimentation control measures after permanent soil erosion measures are in place and the area is stabilized. (Stabilized means the establishment of vegetation or the proper placement, grading, or covering of soil to ensure its resistance to soil erosion, sliding, or other earth movement.)
- Complete permanent soil erosion control measures for the earth change within five calendar days after final grading or upon completion of the final earth change. If it is not possible to permanently stabilize the earth change, then maintain temporary soil erosion and sedimentation control measures until permanent soil erosion control measures are in place and the area is stabilized.

Specific Conditions:

This permit is approved according to the site plan received on April 8, 2016 and revised on May 3, 2016 from Mansfield Land Use Consultants Job No:14016 with the following requirements:

1. Follow all prescribed Soil Erosion and Sedimentation Control measures on page C3.0 of the revised site plan.
2. Phasing must be followed according to the schedule. Each phase must be stabilized as described before moving to the next phase. Any change in the schedule must be approved by this office.
3. Install silt fence according to the site plan, properly trenched in 6 inches deep and end stakes wrapped. Double rows are required as specified. Silt fences must be inspected regularly. It is imperative to inspect all fences during and after spring snow melt.
4. Construct all storm ditches/swales with no greater than 3:1 slopes and stabilize as shown on page C1.2.
5. The storm water detention basin must be stabilized with erosion control blankets as indicated. All outlets must be stabilized with rock rip rap as shown in the engineered site plan.
6. Construct wooden stairs as shown. Stabilize all disturbed areas around the post holes with woody mulch or other non-erosive ground cover.
7. Any vegetation must be established and show significant growth in order to final this permit.
8. Construct stone construction entrance as shown.
Do not allow sediment to be tracked onto the street. If tracking does occur, sweep the street at the end of the work day.
9. Install a culvert in the road ditch under the entryway. The ends of the culvert must be stabilized so that erosion does not occur in the road ditch.
10. The storm water operator, licensed by the MI DEQ, must submit


Signature

THIS PERMIT ALONG WITH THE SITE PLAN MUST BE POSTED AT THE PROJECT SITE
Continued on Next Page

Continued from Previous Page
SESC PERMIT

Permit 24013

weekly reports to the County Enforcing Agent.

11. Submit a copy of the MI DEQ Notice of Coverage to this office.

12. The engineer of record must submit a letter of certification stating that the project is built according to the site plan in order to final this permit.

13. PERMIT, GREEN CARD & SITE PLAN MUST BE POSTED AT THE PROJECT SITE AT ALL TIMES UNTIL PERMIT HAS FINAL APPROVAL FROM THIS OFFICE


Signature

THIS PERMIT ALONG WITH THE SITE PLAN MUST BE POSTED AT THE PROJECT SITE



GRAND TRAVERSE COUNTY
SOIL EROSION & SEDIMENTATION

Receipt Number 38459

Date 4/12/2016
Received of MANSFIELD LAND USE CONSULTANTS
Notes SOIL PERMIT# 24013

Cash Amount Credit N
Check Amount 3967.00 Check/Doc# 1074

<u>Description</u>	<u>Amount</u>
SOIL EROSION PERMIT	3967.00
	=====
<u> </u> /KMCINTYR	Total 3967.00

Michelle Reardon

From: Randy Rittenhouse <randyr@peninsulatownship.com>
Sent: Monday, May 09, 2016 9:00 PM
To: Michelle Reardon; zoning@peninsulatownship.com
Subject: the 81

Michelle,

I have reviewed the plans submitted for The 81 on East Bay and Steve Ronk's previous approval and, Based on The 2012 International Fire Code, Appendix D – "Fire Apparatus Access Roads", find that the access road as proposed is acceptable to the Peninsula Fire Department. When an access road is not proposed to be paved, maintenance is crucial. I would suggest that the developer pave this area, but if it is to remain gravel only regular maintenance will have to be done and the Fire Department will be inspecting on a regular basis. Also, I would suggest that the developer install approved emergency access gates at both ends of the access road to reduce wear and tear on that section not proposed to be paved.

Randy Rittenhouse
Fire Chief/Medical Director
Peninsula Township Fire Department
14247 Center Road
Traverse City MI,49686
(231)223-4443

OLSON, BZDOK & HOWARD

May 10, 2016

Peninsula Township
Supervisor and Trustees
13235 Center Road
Traverse City, MI 49685

via Email to :
planner@peninsulatownship.org

ATTORNEYS

PARTNERS:

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envlaw.com

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PO Box 1782
Frankfort
Michigan 49635
231.352.4412

Re: Proposed Condominium Subdivision for
The 81 on East Bay
Our File N^o. 6079.00

Dear Supervisor Correia and Township Trustees:

This letter is to follow up on my July 14, 2015 correspondence. There were several items discussed at the Township Board meeting that further solidified the reasons why the proposed 81 on East Bay PUD should be denied.

The PUD Request Must Meet All of the Standards in the Ordinance

As a reminder, the Township should turn down a Planned Unit Development request that does not fit within the communities goals and values. The Michigan's Zoning Enabling Act explains that PUDs are to "encourage innovation in land use and variety in design, layout, and type of structures constructed, achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities, encourage useful open space."¹ A plan that is not consistent with the communities goals and values, as outlined in the PUD standards, can and should be rejected.

In this case the Circuit Court has remanded the PUD for further consideration and analysis by the Township. The remand is not a formality – it is a requirement that the Township evaluate the project in light of the new information that has been submitted, additional information provided during the public hearing, and in light of the specific standards within the Zoning Ordinance. If the Board concludes that the Developer has not met its burden and sufficiently justified the PUD, then the request should be denied.

¹ MCL 125.3503.

Peninsula Township
May 10, 2016
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As we have argued previously, the character, density and environmental impact of the proposed project is inconsistent with the standards of the Zoning Ordinance. While the Township Staff have only provided you with draft findings to approve the project, We want to be clear that it is clearly within your discretion to deny the proposed PUD. In fact, we believe the evidence submitted in the record, as supplemented on remand, clearly mandates a denial of the project. To that end, we submit this analysis on the remand, as well as our alternative recommended findings of fact supporting a denial of the project.

Soil Erosion, Grading and Storm Water

The project's extensive grading and tree removal highlights how much the development is inconsistent with the natural features on the property and the intent of the open space preservation provisions. Removal of vegetation and recontouring the natural ridge lines and steep slopes on the property are activities that violate the conditions for approval in the Ordinance.

One half of the existing trees on the property will be removed for the development. As Dr. Grobbel's report indicates, this has important negative impacts for soil stability and erosion. The development plans do not provide how the disrupted and graded soils will be stabilized after clearing and grading but before lots are sold and home are built. County soil erosion permits have not been obtained for the development and the project is lacking stabilization plans required for the County's final approval. As indicated by the County, there is a substantial chance of runoff on to neighboring properties if the grading activities are not done properly and without appropriate safeguards. Finally, there are significant questions about the soils and any residual pesticide contamination that could be spread through the grading activities. All of these items are reasons to deny the proposed PUD, or at least postpone a decision until more information is received by the Township.

One area that we believe the Township needs to pay particular attention to is the possibility of soil contamination on the property from historic pesticide application. You will be provided information at the public hearing about the historic farming activities on the property and the use of pesticides that contain things like lead and arsenic. The Developer has not presented the Township with any information or studies related to the condition of the soil on the property. Typically a developer of land does environmental due diligence studies on the property in conjunction with the property purchase. This includes Phase I and Phase II studies to identify any contaminants in the soil or groundwater, and the filing of a BEA with the state if contaminants are present on the property. It is not clear whether this developer did those studies, but we have not seen any information presented to the Township on this topic.

If contamination exceeding state criteria exists on the property, the developer has a "due care" responsibility not to increase the potential exposure of persons to the existing

Peninsula Township
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contamination. Often times there is a “due care plan” file with the state explaining the actions that will be taken to prevent exposure. Again, we are not aware of whether such a plan exists, and we do not believe the developer has shared a due care plan with the Township.

The reason why this all is important to the Township is that Section 8.3.1(3)(h) requires the township to conclude that “soils which are not suitable for development will either be undisturbed or modified in an acceptable manner.” Given the information about historic use of pesticides on the property, it is impossible to conclude that this standard will be met unless there is substantial environmental information shared with the Township. None of that has been presented up until this point. Moreover, the significant amount of grading and re-contouring of the property makes this extremely important. The Township needs to make sure the development plans do not ultimately increase exposure and potential contact with contaminants like lead and arsenic because of soil grading plans.

Emergency Access Road Concerns

The proposed emergency access road does not meet the standards for the International Fire Code. The code requires “two separate” access roads. The Fire Code states:

SECTION D107 ONE- OR TWO-FAMILY RESIDENTIAL DEVELOPMENTS

D107.1 One- or two-family dwelling residential developments.

Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with *two separate and approved fire apparatus access roads*, and shall meet the requirements of Section D104.3.¹

¹ D104.3 states “Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between accesses.”

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Exceptions:

1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 of the International Fire Code, access from two directions shall not be required.
2. The number of dwelling units on a single fire apparatus access road shall not be increased unless fire apparatus access roads will connect with future development, as determined by the fire code official.

While the fire department has reviewed the proposed alternative emergency access, it is not clear why the department approved an emergency road that loops back to the same main access point. The potential safety concern is obvious – if that main road is blocked, there will be no way to reach the home sites using either the main road or the emergency access.

In addition, the access road needs to be subtracted from the open space calculations. As the Board may recall, the materials submitted by the developer stated that the development had just enough open space to qualify (the ordinance requires 65%, and the development calculated right at 65%). However, the way that this calculation was arrived at is contrary to the ordinance. The developer took the entire property, removed the area to be occupied by the roads and building envelopes for the homes, then counted everything else as “open space.” This ignores the description of “qualified open space” in the Ordinance, and incorporates almost 6 acres of questionable open space. The questionable open space in the calculation includes:

- Storm sewer detention basin (+/- 125,231 SF)
- Community septic system (+/- 54,000 SF)
- A 16.5 foot gap between the gravel road edge and buildable envelope (+/- 65,142 SF) - (each unit's private driveway crosses this 16.5 foot open space gap)
- Centers of cul-de-sacs (+/- 5,460 SF)
- Parking for carts at beach (+/- 1,860 SF) - (grass car parking for beach is not open space but gravel golf cart parking is open space?)

The total questionable open space listed above is 251,693 square feet (5.78 Acres), and this area, if excluded, would reduce open space ratio to only 58.22% open space. In light of this, the

Peninsula Township
May 10, 2016
Page 5 of 11

addition of an emergency road only increases the lack of compliance with the open space requirements.

Alternative Proposed Findings of Fact

Since the Board has only been provided with draft findings of fact to support an approval of the project, we have compiled draft findings of fact to support a denial. We believe the evidence compels the Board to deny the proposed PUD, and the following findings can be adopted to support a denial:

8.3.1(1) General Standards: The Town Board shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use on the proposed location will:

(c) Be served adequately by essential facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.

- i. The Board finds that the proposed emergency access road relies on a single entrance/exit road and does not comply with the International Fire Code, Section D107.1 pertaining to one- or two-family dwelling residential developments. (Exhibit A)
- ii. The Board finds that the Developer has not procured a Part 41 permit for the proposed community septic system. The Board finds that the information is incomplete and lacks evidence in support due to the lack of State or County approval of the wastewater treatment plans for the development. (Exhibit 2)
- iii. The Board finds that, in order for the development to have essential services and facilities, the development proposal includes a new emergency access road, a storm sewer detention basin and community septic system that cannot be counted as "open space" for purposes of the PUD development. These items, when removed from the calculation for preserved open space presented by the Developer, reduce the amount of preserved open space well below the required 65% for an open space PUD. (Exhibit B)

This standard HAS NOT been met.

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8.3.1(3) Specific Requirements: In reviewing an impact assessment and site plan, the Town Board and the Planning Commission shall consider the following standards:

(d) That the plan meets the requirements of Peninsula Township for fire and police protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.

- i. The Board finds that the proposed emergency access road relies on a single entrance/exit road and does not comply with the International Fire Code, Section D107.1 pertaining to one- or two-family dwelling residential developments. (Exhibit A)
- ii. The Board finds that the Developer has not procured a Part 41 permit for the proposed community septic system. The Board finds that the information is incomplete and lacks evidence in support due to the lack of State or County approval of the wastewater treatment plans for the development. (Exhibit 2)
- iii. The Board finds that, in order for the development to have essential services and facilities, the development proposal includes a new emergency access road, a storm sewer detention basin and community septic system that cannot be counted as "open space" for purposes of the PUD development. These items, when removed from the calculation for preserved open space presented by the Developer, reduce the amount of preserved open space well below the required 65% for an open space PUD. (Exhibit B)

This standard HAS NOT been met.

(e) That the plan meets the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.

- i. The Board finds that the proposed emergency access road relies on a single entrance/exit road and does not comply with the International Fire Code, Section D107.1 pertaining to one- or two-family dwelling residential developments. (Exhibit A)
- ii. The Board finds that the Developer has not procured a Part 41 permit for the proposed community septic system. The Board finds that the information is incomplete and lacks evidence in support due to the lack of

Peninsula Township
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State or County approval of the wastewater treatment plans for the development. (Township Exhibit 2)

- iii. The Board finds that County Soil Erosion Control's review is contingent on grading and stabilization plans for the bluff and topographical features that have not been submitted. The Board further finds that the County identifies the potential for storm water to be directed onto neighboring properties as a result of grading activities on the site. No Part 91 permit has been procured by the Developer. (Township Exhibits 7 and 8.)
- iv. The Board finds that the Developer has not procured relevant approvals from the Army Corps of Engineers, or documentation indicating that no such approval is required for the dock proposed in the bay. (Township Exhibit 8.)

This standard HAS NOT been met.

(h) That the soil conditions are suitable for excavation and site preparation, and that organic, wet or other soils which are not suitable for development will either be undisturbed or modified in an acceptable manner.

- i. The Board finds that the soils map indicates that the majority of the property to be developed is classified LKE2 (Leelanau-Kalkaska loamy sands, 12 to 18 percent slopes, moderately eroded) and LKF2 (Leelanau-Kalkaska loamy sands, 25 to 45 percent slopes, moderately eroded). The plan focuses development on sandy steep slopes and unique topographical features on the property.
- ii. The Board finds that the development plan calls for the removal of "approximately half of the tree cover" on the property "to accommodate grading and earthwork for the project." (Application at 23). The Application itself points out the importance of these trees for soil and slope stability (Application at 10). According to Dr. Christopher Grobbel, this will likely cause substantial erosion on the property due to a loss of stabilizing trees on steep slopes. (Grobbel Report)
- iii. The Board finds that the plan calls for regrading of steep slopes and topographical features on the property cutting some 15 vertical feet of the bluff and filling equivalent areas (see Application at 24). Some 27 acres of

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the property, or 33% of the land, will be denuded and re-contoured with heavy equipment.

- iv. The Board finds that County Soil Erosion Control's review is contingent on grading and stabilization plans for the bluff and topographical features that have not been submitted. The Board further finds that the County identifies the potential for storm water to be directed onto neighboring properties as a result of grading activities on the site. No Part 91 permit has been procured by the Developer. (Township Exhibits 7, 8.)
- v. The Board finds that the Developer has not procured a Part 41 permit for the proposed community septic system. The Board finds that the information is incomplete and lacks evidence in support due to the lack of State or County approval of the wastewater treatment plans for the development. The Board further finds that the proposed community septic system is in the vicinity of wetlands and soils that are not suitable for wastewater treatment. (Township Exhibits 2, 3)
- vi. The Board finds that evidence has been presented at the public hearing of historic use of pesticides on the property containing compounds like lead and arsenic. These compounds stay in the soil and could there is a high likelihood that they exceed acceptable state criteria. The developer has not provided any information on the environmental condition of the soils on the property, including any Phase I, Phase II or BEA studies done in conjunction with the property. The developer has not provided an approved or proposed "due care plan" for the property. Therefore, it is unclear whether the project will disturb contaminated soils and increase exposure risk to those contaminated soils. (See Part 201, MCL 324.20101, *et. seq.*)

This standard HAS NOT been met.

(i) That the proposed development will not cause soil erosion or sedimentation problems.

- i. The Board finds that the soils map indicates that the majority of the property to be developed is classified LKE2 (Leelanau-Kalkaska loamy sands, 12 to 18 percent slopes, moderately eroded) and LKF2 (Leelanau-Kalkaska loamy sands, 25 to 45 percent slopes, moderately eroded). The plan focuses development on sandy steep slopes and unique topographical features on the property.

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- ii. The Board finds that the development plan calls for the removal of “approximately half of the tree cover” on the property “to accommodate grading and earthwork for the project.” (Application at 23). The Application itself points out the importance of these trees for soil and slope stability (Application at 10). According to Dr. Christopher Grobbel, this will likely cause substantial erosion on the property due to a loss of stabilizing trees on steep slopes. (Grobbel Report)
- iii. The Board finds that the plan calls for regrading of steep slopes and topographical features on the property cutting some 15 vertical feet of the bluff and filling equivalent areas (see Application at 24). Some 27 acres of the property, or 33% of the land, will be denuded and re-contoured with heavy equipment.
- iv. The Board finds that County Soil Erosion Control’s review is contingent on grading and stabilization plans for the bluff and topographical features that have not been submitted. The Board further finds that the County identifies the potential for storm water to be directed onto neighboring properties as a result of grading activities on the site. No Part 91 permit has been procured by the Developer. (Township Exhibits 7, 8.)

This standard HAS NOT been met.

(j) That the drainage plan for the proposed development is adequate to handle anticipated stormwater runoff, and will not cause undue runoff onto neighboring property or overloading of water courses in the area.

- i. The Board finds that the development plan calls for development next to a very steep bluff down to East Bay. The plan also calls for regrading portions of the top of this bluff for home sites and the removal of “approximately half of the tree cover” on the property “to accommodate grading and earthwork for the project.” (Application at 23). The Application itself points out the importance of these trees for soil and slope stability (Application at 10). According to Dr. Christopher Grobbel, this will likely cause substantial erosion and runoff due to a loss of stabilizing trees on steep slopes. (Grobbel Report)
- ii. The Board finds that the plan calls for regrading of steep slopes and topographical features on the property cutting some 15 vertical feet of the

Peninsula Township
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Page 10 of 11

bluff and filling equivalent areas (see Application at 24). Some 27 acres of the property, or 33% of the land, will be denuded and re-contoured with heavy equipment.

- iii. The Board finds that County Soil Erosion Control's review is contingent on grading and stabilization plans for the bluff and topographical features that have not been submitted. The Board further finds that the County identifies the potential for storm water to be directed onto neighboring properties as a result of grading activities on the site. No Part 91 permit has been procured by the Developer. (Township Exhibits 7, 8.)
- iv. The Board finds that evidence has been presented at the public hearing of historic use of pesticides on the property containing compounds like lead and arsenic. These compounds stay in the soil and could there is a high likelihood that they exceed acceptable state criteria. The developer has not provided any information on the environmental condition of the soils on the property, including any Phase I, Phase II or BEA studies done in conjunction with the property. The developer has not provided an approved or proposed "due care plan" for the property to ensure there is no runoff of contaminated substances. (See Part 201, MCL 324.20101, *et. seq.*)

This standard HAS NOT been met.

(n) That the plan provides for the proper expansion of existing facilities such as public streets, drainage systems and water sewage facilities.

- i. The Board finds that the proposed emergency access road relies on a single entrance/exit road and does not comply with the International Fire Code, Section D107.1 pertaining to one- or two-family dwelling residential developments. (Exhibit A)
- ii. The Board finds that the Developer has not procured a Part 41 permit for the proposed community septic system. The Board finds that the information is incomplete and lacks evidence in support due to the lack of State or County approval of the wastewater treatment plans for the development. (Township Exhibit 2)
- iii. The Board finds that, in order for the development to have essential services and facilities, the development proposal includes a new

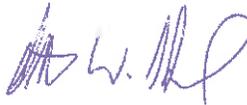
Peninsula Township
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emergency access road, a storm sewer detention basin and community septic system that cannot be counted as "open space" for purposes of the PUD development. These items, when removed from the calculation for preserved open space presented by the Developer, reduce the amount of preserved open space well below the required 65% for an open space PUD. (Exhibit B)

This standard HAS NOT been met.

Thank you for providing us with the opportunity to share our concerns about this project and our proposed findings of fact. We urge the Township to deny the project based on the proposed findings of fact provided above. If you have any follow up questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "S.W. Howard".

Scott W. Howard

Exhibit A

Click here for
PAID Subscriptions

- International Fire Code
- [2012 (First Printing)]
- Appendix D - Fire Apparatus Access Roads
- SECTION D101 GENERAL
- SECTION D102 REQUIRED ACCESS
- SECTION D103 MINIMUM SPECIFICATIONS
- SECTION D104 COMMERCIAL AND INDUSTRIAL DEVELOPMENTS
- SECTION D105 AERIAL FIRE APPARATUS ACCESS ROADS
- SECTION D106 MULTIPLE-FAMILY RESIDENTIAL DEVELOPMENTS
- SECTION D107 ONE- OR TWO-FAMILY RESIDENTIAL DEVELOPMENTS
- D108 REFERENCED STANDARDS

D107.1 One- or two-family dwelling residential developments.

D107.1 One- or two-family dwelling residential developments.

Top Previous Section Next Section To view the next subsection please select the Next Section option.
SECTION D107 ONE- OR TWO-FAMILY RESIDENTIAL DEVELOPMENTS

D107.1 One- or two-family dwelling residential developments.

Developments of one- or two-family *dwelling units* where the number of *dwelling units* exceeds 30 shall be provided with two separate and *approved* fire apparatus access roads, and shall meet the requirements of Section D104.3.

Exceptions:

1. Where there are more than 30 *dwelling units* on a single public or private fire apparatus access road and all *dwelling units* are equipped throughout with an *approved automatic sprinkler system* in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 of the *International Fire Code*, access from two directions shall not be required.
2. The number of *dwelling units* on a single fire apparatus access road shall not be increased unless fire apparatus access roads will connect with future development, as determined by the *fire code official*.

Top Previous Section Next Section To view the next subsection please select the Next Section option.
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Exhibit B

Land Information Access Association

322 Munson Ave.
Traverse City, MI 49686
(231) 929-3696
(231) 929-3771

MEMO

To: Scott Howard
Olsen, Bzdok and Howard.

From: Harry Burkholder, Executive Director
Land Information Access Association

Date: 2-11-2016

Re: Measurement Calculations

Scott,

We calculated all of the areas from the list you provided using the AutoCAD file provided. The areas you listed are all really close to what we measured. Our official breakdown is listed below. The number in parentheses is the number you provided, and the second number is what we measured.

Centers of cul-de-sacs (+/- 5,460 SF) 5,460.88 SF
Parking for carts at beach (+/- 1,860 SF) 30 spaces x 60 SF = 1,800 SF
Detention basin (+/- 125,231 SF) 125,231.35 SF
Septic System (+/- 54,000) 54,105.54 SF
16.5 foot gap between gravel road edge and lot line (+/- 65,142 SF) 64,835.9 SF

Totals (251,693 SF) 251,433 SF
Totals (5.78 Acres) 5.77 Acres
Totals (58.22 % OS) 58.22% OS

Please let us know if you have any questions.
Harry

David D. Taft
952 Neahtawanta Road
Traverse City, Michigan 49686

May 9, 2016

Monica Hoffman, Clerk
Supervisor Peter Correia & Township Trustees
Peninsula Township
13235 Center Road
Traverse City, MI 49685

RECEIVED
MAY 11 2016
CLERK

Reference: Township Board Meeting – The 81 on East Bay
SUP #123 – Special Use Permit Application

Dear Monica:

I write this letter for you to enter into the record of the May 10, 2016 meeting of the Township Board and to circulate to all Board members before the May 10 meeting. This letter follows my request of May 3, 2016 for an update on the 10 approval conditions of The 81 on East Bay – SUP #123– approved at the August 11, 2015 Peninsula Township Board meeting. The community would appreciate an open and detailed discussion of the status of these approval conditions at a Board meeting before final approval of SUP#123 is granted.

Hon. Philip E Rodgers, Jr. (File # 2015031218AA) issued a Decision and Order on Appeal in January 2016: “The issues delegated to the Peninsula Township Fire Department and the Township Engineer for review and approval including the location and functionality of the emergency access road and whether the standards for soil erosion, grading and storm water have been met are remanded to the Board for further proceedings consistent with the decision and order.”

This letter addresses soil erosion, grading and storm water issues on the site discovered after Township Board approval (8/11/2015) that merit the careful attention of the Board.

1) Possible Lead/Arsenic Contamination on the Site - Tim Boursaw indicated in a written statement (April 2016) that from the 1930s through the 1970s 80% of the Boursaw Property—the 81 Site—was cherry orchards—and through the 1950s the land was exposed to pesticides legal at that time including applications of copper, lead, arsenic and other pesticides, phased out in late 1950s and early 1960s. In the June 15, 2015 Planning Commission minutes, on questioning by a Trustee about farming on the 81 Site, the developer’s attorney said: “..it has not been looked at because the larger portion of this property was not farmed. The portion of the property that was farmed will be graded. It is not part of the ordinance criteria.” This statement is not consistent with the family member’s statement about the farm history.

At the July 14, 2015 Township Board meeting, when asked about possible contamination on the site and an environmental assessment, it was indicated by the Township Planner that there is nothing in the ordinance to compel an environmental assessment. A Trustee then responded that the Township is responsible for the health, safety and welfare so it is a Township issue.

The Developer's attorney said: "farmed area will be land balanced and that is how to mediate lead arsenic."

Lead and arsenic are not easily remediated—both are highly toxic. Lead is a heavy element and arsenic a lighter metal. Both are major environmental concerns.

There is nothing that compels a land purchaser, the developer in this case, to undertake an environmental assessment of the property. The State of Michigan states a Due Care responsibility if there is possible suspected contamination on the property (Michigan Department of Environmental Quality Due Care folder—June 2014). Once a property is suspected of potential contamination, the owner has the obligation to prevent anyone using the property from being exposed to the contamination, to prevent actions that might cause the existing contamination to spread off the property, and to take precautions to protect other people who come onto the property—contractors, utility workers, etc.

In light of the new evidence of extensive orchard farming with use of toxic chemicals, it would be appropriate that a BEA – Baseline Environmental Assessment - be conducted on the 81 Site to determine 1) if there is contamination on this site, 2) the identification and amount of the contamination constituents and 3) the location and mapping of these contaminants. The comments made by the attorney ---that the farmed portion of the site will be graded and the farmed area will be land balanced to mediate lead arsenic---- are precisely what should not be done—until a determination is made about contamination on the site.

Any grading plan may potentially move contaminated soil on the site, exposing it to erosion and storm water runoff—possibly into an aquifer or the lake. Lead and arsenic as metals do not degrade over time—and could still exist on the site. Before any grading and contouring is started, for the safety of future residents and to protect the liability of the developer and of the Township, a BEA to understand if contamination exists--what it is and where it is on the site---must be conducted before SUP approval. The Township Board should demand this environmental knowledge about the site—as ultimately the approver of the project, the Township is a party to any future environmental liability on the site.

2) Erosion During and After Construction – In the updated plans submitted to the Michigan Department of Environmental Quality for a Wastewater System, there are cautionary notes to guide site grading and contouring contractor:

"Mass grading shall be completed to prevent erosion of the existing lakeside bluffs. Minimize disturbance of existing vegetation to maintain a stabilized bluff. The mass grading along the bluffs shall be carefully completed to prevent any excavated material from sliding down the bluff."

"leave existing vegetation in place as long as possible to maintain a stabilized slope along the bluff. After completion of grading, stabilize with new vegetation as soon as possible to prevent elongated exposure to erosion." These comments from the engineer report clearly establish the sensitivity of the slope.

During the presentation to the Planning Commission of June 15, 2015, the developer's attorney stated in the minutes: "most of the slopes are being retained."

This is contrary to the grading and contouring plans submitted as part of the Wastewater Systems application and included in the packet for this meeting. Also, in the August 11, 2015 presentation

to the Township Board, Mansfield, the consulting engineer, commented on the grading of the slopes: "there are small hummocks and angulations on the top that will be cut off to work with roads, views, houses, sewer and storm systems." The attorney then follows: "the natural contour of the property will remain the same." These statements in the presentations to the Planning Commission and Board seem to minimize the 'mass grading' now mentioned in the plan and the extensive site grading to locate a road next to the shoreline properties.

Grobbell Environmental & Planning Associates sent a report and a recommendation to Supervisor Correia which appears to have been ignored by the Planning Commission and Township Board in July or August 2015 meetings, as it was not mentioned by anyone, yet this report is listed in the appendix of the August 11, 2015 Board meeting. Dr. Grobbell recommends: "the project should be denied as proposed for failure to comply with the following requirements of the peninsula Township Zoning ordinance." Dr. Grobbell lists many fact-based issues about soil erosion/deposition, Open Space, septic, soil erosion control, etc. and details the large grading and re-contouring on the site.

3) Community Septic – In the Wastewater System application submitted to the Michigan DEQ, there are calculations of sewage wastewater estimated daily in the community septic. Dr. Grobbell stated in his report the system is likely to handle in excess of 10,000 gallons a day of sewage wastewater. The application asserts a maximum treated amount of 9,548 gpd—based on an assumption of 31 homes, 4 bedrooms per home and 308 gpd/home. The developer's attorney stated that the system processes less than 10,000 gpd in the July 14, 2015 Board meeting—indicating that the Township: "does not have to guarantee." If one uses the U.S. Geological Survey home water use with 4 occupants per home, one would calculate 11,000 gpd; if using the US EPA estimate of per home use, one would calculate in excess of 12,000 gpd. Despite the recent assertion by the Township to disavow any future financial responsibility for this community septic system, if it processes greater than 10,000 gpd of sewage, the Township likely will have to assume responsibility—including financial responsibility—for operating this system for the health and safety of the community. Just answer the question, what are the neighbors to do if the project fails?

The location of the Community Septic is in close proximity to the wetlands and the planned storm water retention/infiltration basin and close to non-percolating lots in the first subdivision proposal of the developer. From a practical viewpoint these contiguous locations may be concerning after storms -- as larger than planned quantities of water will be entering the soil filtration basin adjacent to the drain fields—possibly interfering with adequate bioremediation of the sewage wastewater before it reaches ground water or lake. Also, if there is power loss—as experienced for days last summer, at least 5 of the 31 homes on the community septic will be affected as they require pressure from power to move sewage wastewater to grinders, tankage and drain fields.

Thank you in advance for entering this in the record and studying these comments prior to the May 10 meeting.

Sincerely,



David D. Taft

May 10, 2016

Dear Peninsula Township Board:

Please accept my letter in regards to SUP#123 – The 81 on East Bay Planned Unit Development for the Public Hearing this evening. I am an adjacent landowner on the westward boundary of the proposed development. I have submitted letters in regards to this matter to the Planning Commission on 4/13/15; 5/18/15; 6/8/15. The 81 development will inevitably have adverse impacts to my property and to the Peninsula as a whole.

As it relates to my property, the developer's plans call for significantly re-grading the wooded ridge and slope along the western boundary of the parcel. Disturbance to the ridge and slope could cause soil erosion, diversions of water flows and storm water runoff making the slope unsound and impacting my retention wall. Per the ruling of Judge Phillip Rodger's in December 2015, the soil and erosion studies for this parcel were incomplete. I urge the Board to look closely at this issue and require proper studies of the soil and potential erosion.

In addition, the fire emergency egress route plan was also found to be inadequate by Judge Rodger's. As a neighboring landowner this is also a critical issue that needs to be addressed with a safe a proper solution. Also, of concern is the placement of community the septic system and potential adverse impacts to the water quality of East Bay.

Finally, as you are aware, this parcel is largest remaining privately owned intact piece of shoreline on the Peninsula. The 81 plans are contrary to the character of the Old Mission Peninsula, defined by its unique agricultural, historic and scenic natural beauty. The plans do not fit within the guidelines of the Township's Master Plan. I hope that the outcry by my fellow neighbors, landowners and residents of the Peninsula in opposition to The 81 development are being heard.

I urge you to thoughtfully consider your decision and require the developer, to every extent possible, to preserve the key environmental features of the property: the shoreline, bluffs, wooded ridges, and water quality of the East Bay.

Respectfully submitted,

Kadee Tseitlin
3900 Sean Robinson Court
Traverse City, MI 49686



KEVIN P. McELYEA, LLA

GRAND TRAVERSE COUNTY DRAIN COMMISSIONER

400 BOARDMAN AVENUE, TRAVERSE CITY, MICHIGAN 49684

(231) 922-4807 * FAX (231) 922-4658, E-MAIL: KMCELYEA@GRANDTRAVERSE.ORG

Grand Traverse County provides mandated and necessary services that ensure safety and add value to our community.

MEMORANDUM

DATE: May 9, 2016
TO: Members of the Peninsula Township Board
FROM: Kevin P. McElyea, LLA - County Drain Commissioner
RE: Board Packet for May 10, 2016 meeting

RECEIVED
Kevin
MAY 11 2016

I have received a copy of your Board Packet for the May 10, 2016 meeting, and have reviewed the information submitted for the "Special Assessment District Braemar/Old Mission Estates" agenda item. I respectfully request that this memorandum be attached to the minutes of the May 10, 2016 regular Township Board meeting.

It is with no small measure of concern that I find myself in the position to correspond with you regarding the untruthful statements made by consultants on page 172 of the packet.

After numerous FOIA requests by the Township Planner, attorney Joe Quandt and engineer Andy Smits, the requestors clearly learned on multiple occasions that there were, NO preliminary or final design solutions yet proposed for the petitioned Peninsula Township drainage projects. You recall that I was asked and obliged the request to stop the Drain Code process to allow the Township to pursue a solution. Consequently, I did not engage my engineer to provide a "fix". Therefore, it is clearly misleading of the author of the document, submitted as page 172 of your packet, to indicate that there was a "Proposed Drain Commissioner Fix" and the eight critical inaccuracies they offered about that imaginary fix on that page.

Those actions make me question the consultant's credibility on this public project. What is their motive to devise these untruths? --- Is this to earn your support for their plagiarized, non-transparent, over budget solution? Moreover, there is a pattern of this disingenuous behavior from these consultants.

Such as when the Drain Commissioner was petitioned to start these projects, the Drain Code requires that he prepare a watershed outline, which is to be used to establish the preliminary drainage and assessment district. Quandt and Smits then strongly argued that runoff from the Old Mission Estates subdivision did not contribute storm water flows to the proposed watershed district and demanded that they be excluded from assessments. Subsequently, the Drain Commissioner was forced to provide additional documentation of 11 videos during a rain event that then provided evidence of runoff as he originally proposed.

Additionally, Quandt and others alleged that the Drain Commissioner would have an open checkbook and could expand upon the project at any time without a vote of affected citizens. It now appears that the consultants are proposing an open-ended project with vague, non-transparent budgets and potentially re-billing the citizens for the work my engineer provided in establishing the watershed assessment district.

Should you have any questions or concerns, I will be available to discuss them at your meeting.

Pete Correia

From: Joseph E. Quandt [jequandt@krlawtc.com]
Sent: Tuesday, May 10, 2016 11:43 AM
To: kmcelyea@grandtraverse.org; Andy Smits; scott@teamconaway.com; jonathan@lakeeffectassociates.com; gsoutear@charter.net
Cc: assessor@peninsulatownship.com; Peter Wendling; Pete Correia; Bob Cooney; Matthew L. Boyd; Ed Roy
Subject: Fwd: Special Assessment District Braemar/Old Mission Estates
Attachments: RE untruths in May 10-2016 Board Packet.pdf; ATT00001.htm

Kevin:

I just received a copy of the memo you provided the Peninsula Township board. The statements you make are frankly actionable as libel. I'll assume that you did not seek counsel from county legal staff before communicating your libelous comments to the public. Further, your actions, since communicated on County letterhead can be imputed against the county which may expose Grand Traverse County to liability. Of course, federal law provides for your individual liability to the extent that libel is outside the scope of your official duties as a county employee.

My reputation is something I take very seriously and having you communicate your position that I have been untruthful is damaging to my reputation and consequently my livelihood as a respected member of the bar. I'm quite confident that your comments will place me in a false negative light with the community including people who may wish to engage me in the future.

Please be advised of my intent to bring action against you and the county for your libelous statements. I intend to seek exemplary and punitive damages and Michigan law provides, pursuant to MCL 600.2911 that I give you an opportunity to retract your libelous statements in the same manner in which you have communicated them before I can seek those damages. I will require that since you have made this very public statement to a public body that you immediately provide a printed retraction of your statement to Peninsula Township and that you also verbally acknowledge that retraction to the Township board.

Regards,

Joseph Quandt

Sent from my iPad
Joseph E. Quandt
Kuhn Rogers, PLC
412 S. Union Street
Traverse City, MI 49684
231-947-7901 x115

RECEIVED
MAY 10 2016
CLERK

Begin forwarded message:

From: Sally Akerley <assessor@peninsulatownship.com>
Date: May 10, 2016 at 10:36:26 AM EDT
To: "Joseph E. Quandt" <jequandt@krlawtc.com>, <ajs@inlandseaseng.com>, Scott Conaway <scott@teamconaway.com>, <gsoutear@charter.net>, "Jonathan Campbell" <jonathan@lakeeffectassociates.com>, <jeff@gtengineeringtc.com>
Subject: FW: Special Assessment District Braemar/Old Mission Estates

FYI

Sally Akerley, MAAO
Township assessor

**EDGAR ROY III
7140 LOGAN LANE
TRAVERSE CITY MI 49686**

Email: eroy@krlawtc.com

May 10, 2016

Peninsula Township Representatives
13235 Center Road
Traverse City, MI 49686

RECEIVED
MAY 11 2016
CLERK

Dear Chairperson Correia and Township Board Members:

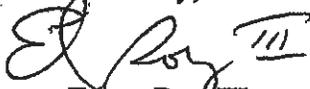
A little over one year ago the Drain Commissioner tried to push through the Logan Hills Drainage District without regard to the rights of Peninsula Township residents and the rights of the Township Board. I understand of the five Petitions he filed to establish drains in Grand Traverse County - only the Cass Road District is proceeding. (One Petition was denied at the BOD level, three ended up in litigation and the Drain Commissioner now must start all over again because he has missed court ordered deadlines.)

The Drain Commissioner's office has made a number of missteps concerning the Logan Hills proposed drainage district and three other districts. His "history" demonstrates that the Drain Commissioner's office is ill-suited to handle any drainage issues associated with the Logan Hills/Maples Terrace neighborhood.

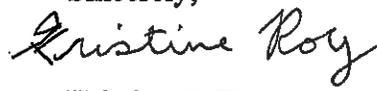
Although there is much to be said with regard to the Road Commission/its staff's involvement in trying to facilitate the Drain Commissioner's "pursuits" (sometimes behind the scene) - suffice it to say that the Road Commission likewise has self-serving motives. In my opinion, rather than being truly interested in the health, safety and welfare of Township residents living in Logan Hills subdivision, on Maple Terrace and on Peninsula Drive, these two agencies have jointly pursued what can only be fairly deemed another governmental boondoggle.

Please consider this a letter of support to vote in favor of the Special Assessment District for Logan Hills/Maple Terrace. A vote in support of the SAD is a clear recognition that the Township and its affected residents are far better stewards of the use of our tax dollars. We are more acutely interested in directly solving the drainage problems and avoid creating yet another level of bureaucracy designed to benefit governmental agencies - rather than benefitting the Township residents they are supposed to serve.

Sincerely,


Edgar Roy III

Sincerely,


Kristine A. Roy

Deb Hamilton

From: Sarah Crane [sarahcrane63@gmail.com]
Sent: Monday, May 09, 2016 8:31 PM
To: deputyclerk@peninsulatownship.com
Subject: Brine

May 9, 2016

Hi this letter is to ask that you give special consideration to the brine used on Ridgewood Road and Brinkman as they both have trail heads for the park and receive much more traffic than just the residents that live on them. It was so dusty the other day it looked like a brush fire. We can not even open our windows. A few years ago my neighbor had to hire a kid with a water tank in the back of his truck to drive back and forth in front of their house spraying the road to keep the dust down, while they had a baby shower on their front porch. Please consider the extra expense for applying the "good" brine. The product that you contracted with the Road Commission the last few years has not been effective at all. I believe that our road was only treated twice, and the product washes away with the first good rain.

Thank You
Sarah Crane
4600 Ridgewood Road
Traverse City Mi 49686
231-313-8154

RECEIVED
MAY 10 2016
CLERK