

**CHARTER TOWNSHIP OF VAN BUREN
PLANNING COMMISSION AGENDA
Wednesday, August 26, 2015 – 7:30 PM
Board of Trustees Room**

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

MINUTES Approval of minutes from the regular meeting of August 12, 2015

CORRESPONDENCE

PUBLIC HEARING: None

OLD BUSINESS:

ITEM #1 **CASE #14-005 RZ (Decision Postponed at 8/12/15 PC Meeting)**

TITLE: **THE APPLICANT, BELLEVILLE DEVELOPMENT, INC. IS REQUESTING TO REZONE APPROXIMATELY 7.421 ACRES CURRENTLY ZONED R-1B (SINGLE-FAMILY RESIDENTIAL) TO C-2 (EXTENSIVE HIGHWAY BUSINESS).**

LOCATION: **PARCEL NUMBER V125-83-064-99-0002-002, ALSO KNOWN AS 11055 QUIRK ROAD, IS THE SUBJECT OF THIS HEARING. THE SITE IS LOCATED ON THE EAST SIDE OF QUIRK ROAD BETWEEN MOHAWK ST. TO THE NORTH AND N. I-94 SERVICE DRIVE TO THE SOUTH. A REZONING APPLICATION REQUIRES A PUBLIC HEARING, WHICH WAS HELD BY THE PLANNING COMMISSION AT ITS MEETING ON MARCH 11, 2015.**

- A. Presentation by the applicant.
- B. Presentation by Township staff and consultants.
- C. Planning Commission discussion.
- D. Planning Commission considers recommendation to the Township Board for the Rezoning application.

NEW BUSINESS:

GENERAL DISCUSSION

ITEM #2 **PROPOSED BELLEVILLE LAKE ORDINANCE. GENERAL DISCUSSION AND QUESTIONS REGARDING AMENDMENTS TO THE ZONING ORDINANCE TO ADD BELLEVILLE LAKE SHORELINE DISTRICTS AND ASSOCIATED REGULATIONS FOR ALL ZONING DISTRICTS ALONG THE SHORELINE OF BELLEVILLE LAKE.**

ADJOURNMENT

**CHARTER TOWNSHIP OF VAN BUREN
PLANNING COMMISSION
August 12, 2015
MINUTES**

Chairperson Thompson called the meeting to order at 7:31 p.m.

ROLL CALL:

Present: Franzoi, Johnson, Boynton, Budd, McKenna, Kelley and Thompson.

Excused: None.

Staff: Secretary Harman.

Planning Representatives: McKenna Associate, Sally Hodges.

Audience: Six (6).

APPROVAL OF AGENDA:

Motion McKenna, Boynton second to approve the agenda of August 12, 2015 as presented.

Motion Carried.

APPROVAL OF MINUTES:

Motion Boynton, Johnson second to approve the minutes from July 22, 2015 as presented.

Motion Carried.

NEW BUSINESS:

ITEM # 1 CASE# 15-013 RZ

TITLE: **THE APPLICANT, DOMINIC AND REGINA FERRAIUOLO, REQUEST TO REONE A PARCEL OF APPROXIMATELY 0.37 ACRES FROM C-1 (GENERAL BUSINESS) TO R-2A (SINGLE FAMILY RESIDENTIAL) DISTRICT. A REZONING APPLICATION REQUIRES A PUBLIC HEARING, WHICH WAS HELD BY THE PLANNING COMMISSION AT ITS MEETING ON JULY 8, 2015.**

LOCATION: **PARCEL TAX ID NUMBER V125-80-021-01-0006-001, ALSO KNOWN AS 50081 MOTT ROAD, IS THE SUBJECT PROPERTY OF THIS HEARING. THE PROPERTY IS LOCATED ON THE SOUTH SIDE OF MOTT ROAD, WEST OF DENTON ROAD.**

Applicant Regina Ferraiuolo gave the presentation. The neighboring properties on both sides of 50081 Mott Road are zoned R-2A, the Ferraiuolo's would like their property zoned as R-2A as well.

Sally Hodges of McKenna Associates presented review letter dated 7-14-15 recommending the Planning Commission recommend that the Township Board of Trustees approve the applicant's request to rezone the subject site from C-1 to R-2A for the reasons referenced in the letter.

No comments from Commissioners or the audience.

Motion Johnson, Kelley second to recommend to the Township Board of Trustees for approval the applicants request to rezone approximately 0.37 acres located at parcel number V125-83-021-01-

0006-001 also known as 50081 Mott Road from C-1 to R-2A for the reasons stated in the McKenna Associates review letter dated 7-14-15. (Letter Attached)

Roll Call:

Yeas: Boynton, Budd, McKenna, Kelley, Johnson, Franzoi and Thompson.

Nays: None.

Absent: None.

Motion Carried.

ITEM # 2 **CASE# 14-005 RZ**

TITLE: **THE APPLICANT, BELLEVILLE DEVELOPMENT, INC. IS REQUESTING TO REZONE APPROXIMATELY 7.421 ACRES CURRENTLY ZONED R-1B (SINGLE-FAMILY RESIDENTIAL) TO C-2 (EXTENSIVE HIGHWAY BUSINESS).**

LOCATION: **PARCEL TAX ID NUMBER V125-83-064-99-0002-002, ALSO KNOWN AS 11055 QUIRK ROAD, IS THE SUBJECT OF THIS HEARING. THE SITE IS LOCATED ON THE EAST SIDE OF QUIRK ROAD BETWEEN MCBRIDE AVE. TO THE NORTH AND THE I-94 SERVICE ROAD TO THE SOUTH. A REZONING APPLICATION REQUIRES A PUBLIC HEARING, WHICH WAS HELD BY THE PLANNING COMMISSION AT ITS MEETING ON MARCH 11, 2015.**

Jim Terbrueggen with Bud Design & Engineering Services and applicant Remy Hanna gave the presentation. The applicant would like to rezone from R-1B to C-2 for a proposed hotel. The applicant held a citizens meeting with the surrounding neighborhood residents and has worked with them to make the proposed site more pleasing with added buffering.

Sally Hodges of McKenna Associates presented review letter dated 8-5-15 recommending the Planning Commission discuss the matter of possible access limitations with the applicant during deliberation on the zoning request. If that issue is satisfactorily addressed, McKenna Associates recommends the Planning Commission recommend that the Township Board of Trustees approve the request to rezone the site from R-1B (Single Family Residential) to C-2 (Extensive Highway Business) District for the reasons referenced in the letter.

Commissioners discussed concerns with the parking lot area, the two parcels owned by the applicant being combined, access and driveways on the site, fairground patron's use of the property, the impact on neighbors, concerns of not having clearer definition of no access to the property on Quirk Road and the possibility of a resolution to define access to the property.

The applicant will discuss the Quirk Road access concerns further and put together language for the next Planning Commission meeting.

Motion Kelley, Boynton second to table the discussion until the next Planning Commission meeting in two weeks on August 26, 2015. Motion Carried.

OLD BUSINESS: None.

GENERAL DISCUSSION: None.

Motion Boynton, McKenna second to adjourn at 8:16 p.m. Motion Carried.

Respectfully submitted,

Christina Harman
Recording Secretary



Memo

TO: Planning Commission

FROM: Ron Akers
Director of Planning and Economic Development

RE: Case #14-005 RZ

DATE: August 21, 2015

Please find attached to this memo, information regarding Case #14-005 RZ for the rezoning at 11055 Quirk Rd. As you know a public hearing was held for this case as required in the Zoning Enabling Act on March 11, 2015 and the case was also before the Planning Commission on August 12, 2015. At the August 12, 2015 meeting a decision on the recommendation of this case was postponed until the August 26, 2015 meeting. In addition to the previously viewed information, the applicant has submitted a proposed "Conditional Rezoning Agreement." This agreement was submitted around 12:00 p.m. on Friday August 21, 2015 and due to lack of time, a review letter was not able to be submitted by our Planning Consultants, McKenna & Associates. I look forward to the Commission's discussion on the matter.

CONDITIONAL REZONING AGREEMENT

[Belleville Development, Inc.]

Agreement, to be effective on the _____ day of August, 2015, is entered into by and between Belleville Development, Inc., a Michigan Corporation, the address of which is 31100 Stephenson Hwy., Madison Heights, MI 48071 ("Owner"), and the Charter Township of Van Buren, 46425 Tyler Road, Van Buren, MI 48111 ("Township"), a Michigan municipal corporation.

R E C I T A L S:

Owner owns all interest in the "Land" described on the attached incorporated property description exhibit, **Exhibit 1**.

For purposes of improving and using the Land for a hotel development, Owner has petitioned for an amendment of the Township's Zoning Ordinance so as to reclassify the Land from R-1B, Single Family Residential to C-2, Extensive Highway Business District.

The C-2 District would allow the Owner to develop and use the Land for the proposed Hotel Development (the "Development"), a use that is generally compatible with the surrounding area. However, such District would also allow Owner to develop and use the Land for other purposes which may not be compatible with the surrounding area.

Michigan law, MCL 125.3405, authorizes the Owner to voluntarily offer in writing, and authorizes Township to approve, certain use and development of the Land as a condition to the proposed rezoning to C-2.

The Owner is making this voluntary offer in writing to use the Land for a Hotel Development in accordance with a specific site plan, **Exhibit 2** ("Site Plan").

The Township Future Land Use Map identifies the property as "Gateway Commercial", which is of similar use with the properties to the south and east. The development of properties in the immediate area of the Land reflect the authorization to use the Land for a Hotel Development would be consistent with the planning of the Township in respect to actual development and use, including the considerations that:

- The property to the South and East is zoned C-2 Commercial.
- The property to the South and East is developed and certain parcels operated as hotel developments.
- The property to the North is zoned R-1B but operates as the Wayne County Fairgrounds and RV Park.

- The Land will be combined with Parcel No. 83-064-99-0002-003 to form one larger parcel and will border both Quirk Road and the I-94 Service Drive.

Accordingly, the Township has approved the rezoning of the Land to C-2, with the reliance upon the Owner's offer to presently use the Land for a Hotel Development in accordance with the Site Plan, with consideration that future development and uses will be in compliance with C-2 zoning requirements subject to Owner's submission of a Site Plan to the Township. The Township and Owner desire to set forth their understanding in this Agreement to clarify rights and responsibilities of the parties their successors, assigns and transferees, with the view that this Agreement will run with the Land, and with the understanding that the terms of this Agreement shall constitute an inseparable part of the rezoning of the Land to the C-2 District.

NOW, THEREFORE, the Owner and the City, for the good and valuable consideration outlined in this Agreement, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

1. Consistent with MCL 125.3405, the Land has been conditionally rezoned to the C-2, Extensive Highway Business District, and the Land shall be and is hereby authorized for the development and use for a Hotel Development with consideration that future development and uses will be in compliance with C-2 zoning requirements, subject to and in accordance with this Agreement, including the Site Plan, and, unless this Agreement is amended by mutual agreement of the Township and Owner, following public hearing, or unless the Owner determines to develop and use the Land in accordance with the zoning applicable to the Land under the Agreement termination provisions set forth in Paragraphs 5 and 6, below, the Owner shall not develop and use the Land in a manner inconsistent with this Agreement, including the Site Plan. While this Agreement is in force, the development and use on the Land in accordance with this Agreement shall be deemed to be a permitted use of the Land under the township Zoning Ordinance.
2. As a condition to developing and using the Land in accordance with the Agreement, the Owner shall be obligated to seek and obtain site plan approval. Site plan review shall be governed by the Zoning Ordinance provisions applicable to the C-2 District, subject to the provisions of this Agreement which shall govern in the case of conflict. It is agreed that the Site Plan is in substantial conformance with the requirements for site plan review, and, as a result of site plan review and approval, including any conditions imposed therein, the Land shall be permitted to be developed and used substantially as shown on the Site Plan.

3. In consideration for the Owner's obligations as contained in this Agreement, Owner and Township agree as follows as to Owners rights to development of the Land:

- i) Owner shall have access to and the right to the development of the entire 11.34 acre parcel during the construction phase of the development and in the future use of the development.
- ii) During the period of construction, Owner shall have the right to seek from the Township the appropriate approval, permits and/or zoning of an emergency or temporary construction vehicle entrance and exit traffic lanes from the Land onto and from Quirk Road by way of approval from the appropriate governmental entity.
- iii) Owner shall have, after the period of construction, the unalienable right to seek from the Township the appropriate approval, permits and/or zoning of a permanent vehicle entrance and exit traffic lanes onto and from Quirk Road by way of approval from the appropriate governmental entity.

4. This Agreement shall remain valid and enforceable in accordance with the following time schedule:

- a. The Owner shall be required to submit materials required for site plan review in accordance with Township ordinance on or before the expiration of 6 months from the date of this Agreement; and,
- b. The Owner shall have an additional 6 months from the date of final site plan review in which to obtain other governmental approvals as may be required, complete construction plans for architectural and engineering, secure financing, and submit a building permit application; and,
- c. The Owner shall have 6 months following issuance of a building permit to secure a contractor and commence on-site construction of the hotel development in accordance with the Site Plan, at least to the stage of completing the foundation for such improvement to the point of being able to in good faith call for a foundation inspection from the Township. Such dates shall be consistent with common law principles of substantial completion. The building shell construction will substantially complete within sixteen (16) months of the issuance of the building permit.

5. The time periods set forth in Paragraph 3, above, may be extended by the Township Board upon application of the Owner, and, if the Owner has been pursuing approvals and/or development in good faith, such application shall not be unreasonably denied unless there has been a material change of circumstances in the area of the Land; provided, the Township shall have no obligation whatsoever to extend a time period hereunder if more than 3 years has elapsed following approval of this Agreement.

6. In the event the Owner does not conform with the time requirements set forth in Paragraph 3, as the same may be extended under Paragraph 4, or if Owner notifies the Township Clerk in writing prior to the commencement of construction (as described in sub-paragraph 3.c., above) that Owner desires to terminate this Agreement, the rezoning of the Land to C-2, and this Agreement, shall thereupon terminate and cease to be enforceable, in which the zoning classification on the Land shall revert to R-1B, Single Family Residential as provided in MCL 125.3405(2), and the Township shall thereupon record with the Register of Deeds an affidavit bearing the legal description of the Land, reflecting that the rezoning and this Agreement have become unenforceable. If the rezoning and this Agreement become unenforceable as provided in this Paragraph, no permits shall be issued by the Township, and no development shall be undertaken by the Owner, as otherwise contemplated in this Agreement.
7. Once on-site construction has been commenced, as described in sub-paragraph 3.c., above, if the Owner desires to seek a change in the zoning regulations applicable to the Land, and negotiation of an amendment to this Agreement (subject to public hearing) is not mutually agreeable, the Owner shall be obligated to file a new rezoning application in the normal course, in which event all law otherwise applicable to rezoning applications in the Township and State shall apply. As noted, above Paragraph 1, unless and until the zoning is modified in accordance with such law, the Owner shall not develop and use the Land in a manner inconsistent with this Agreement, including the Site Plan. However, if zoning is modified, this Agreement shall terminate and cease to be enforceable, and the Township shall thereupon record with the Register of Deeds an affidavit bearing the legal description of the Land, reflecting that the rezoning granted incidental to this Agreement, and this Agreement itself, have become unenforceable.
8. By execution of this Agreement, the Township and Owner acknowledge that they agree to be bound by the provisions of this Agreement, and that each of the requirements and conditions in this Agreement represent a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the Site Plan, taking into consideration the rezoning to C-2 and the specific use authorization specified in this Agreement.
9. Directly after approval of this Agreement, the Board of Trustees shall pass a Resolution rezoning the Property from an R-1B, Single Family Residential zoning classification to C-2, Extensive Highway Business District zoning classification. That Resolution shall also state that the Zoning Map shall be amended to reflect a new zoning classification. The Planning Director shall take necessary action to amend the Zoning Map to the new classification along with a relevant designation that will provide reasonable notice of the Conditional Rezoning Agreement. The Conditional Rezoning Approval and the amendment to Zoning Map shall not become effective until the Conditional

Rezoning Agreement is recorded with the Wayne County Register of Deeds and a certified copy of the Agreement is filed with the Township Clerk.

10. This Agreement may not be modified, replaced, amended or terminated except as provided for in this Agreement.
11. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.
12. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. The signature of any party to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart.
13. This Agreement shall be binding on, and shall inure to the benefit of the parties and their respective successors and assigns.

THIS AGREEMENT was executed by the respective parties on the date specified with the notarization of their name.

[Signatures on following pages]

Belleville Development, Inc.

By: _____

Its: _____

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

 The foregoing instrument was acknowledged before me this
_____ day of _____,
_____ on _____
_____, 20____.

_____, Notary Public
Oakland County, Michigan
My Commission Expires: _____

[Signatures on behalf of the Charter Township of Van Buren on the following page]

CHARTER TOWNSHIP OF VAN BUREN

By: Linda Combs
Its: Supervisor

By: Leon Wright
Its: Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me this _____ day of _____, by _____, on _____, 20____

), Notary Public
Wayne County, Michigan
My Commission Expires: _____

STATE OF MICHIGAN)
) SS
COUNTY OF WAYNE)

PREPARED BY:

Patrick N. Butler, Esq.
31100 Stephenson Hwy.
Madison Heights, MI 48071

WHEN RECORDED RETURN TO:

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B

August 5, 2015

Planning Commission
 Charter Township of Van Buren
 48425 Tyler Road
 Belleville, MI 48111

Subject: Case # VBT-RZ 14-005; Parcel V 125-83-064-99-0002-002/11055 Quirk Road/Former Jacobson Property; Rezoning Review #1

Dear Commissioners:

The applicant has requested rezoning of 7.421 acres of land from R-1B (Single Family Residential) to C-2 (Extensive Highway Business). Although not the subject of this review, the applicant has presented a site plan for a new 121 room suites motel and associated parking at the northeast corner of the North Service Road and Quirk Road. That site consists of two parcels; Parcel I is zoned C-2 Extensive Highway Business and Parcel II is zoned R-1B. The applicant has applied for rezoning of the R-1B parcel (Parcel II) to C-2. Our comments are below.

COMMENTS

1. **Existing Conditions.** The site is located within the Township DDA in the Belleville Road District Plan area. The surroundings are summarized below:

Location	Existing Land Use	Master Plan	Existing Zoning
Site	Vacant, former tack shop, barn and accessory structures	Gateway Commercial	R-1B (Single Family Residential)
North	Wayne County Fairgrounds	Public/Semi Public	R-1B (Single Family Residential)
East	Motel	Gateway Commercial	C-2 (Extensive Highway Business)
South	Vacant	Gateway Commercial	C-2 (Extensive Highway Business)
West	Single Family Residential Subdivision	Medium Density Single Family A	R-1B (Single Family Residential)

The C-2 zoned parcel immediately to the south is also owned by the rezoning applicant and is part of the larger site presented as the new motel.

2. **Zoning Ordinance.** Permitted uses in the site's existing R-1B District and the proposed C-2 District are described below:

- a. Existing R-1B Zoning. The principal permitted uses in the existing R-1B District include detached single family detached dwellings; public owned and operated playgrounds, libraries and recreational facilities; public, private or parochial schools; government buildings and facilities; family day care homes; adult foster care homes; home occupations and horses for non-commercial uses. By special approval, child care centers; public owned buildings/utilities; golf courses; child care centers; group day care homes; churches and places of worship; bed and breakfast and other uses consistent with those allowed in this district are among the uses permitted.
 - b. Proposed C-2 Zoning District. The C-2 is a general business district and permits all C-1 principal permitted uses and the following additional principal permitted uses, including but not limited to: hotels and motels; new car sales; building materials establishments; sales of recreation vehicles; shopping centers; furniture and equipment sales; commercial amusement places; assembly halls; light industrial uses such as warehousing with no outdoor storage; wholesaling and gas stations. By special approval and subject to public hearing and Township Board approval, the following uses may be permitted: all uses allowed by special approval in the C-1 district; car wash establishments; bowling alleys and similar uses; drive-in/drive-through restaurants; service stations and commercial garages; open air businesses; planned shopping centers; self-storage facilities RV storage yard; outside storage of building and contracting equipment and supplies; auto rental and leasing; storage yards for construction; drive-in theaters; mining; air freight and similar uses.
3. **Master Plan Compliance.** The Township's Belleville Road Area Master Plan designates this land for Gateway Commercial uses. The Plan describes the Gateway Commercial designation as uses that benefit from the high visibility and accessibility from I-94. Gateway Commercial locations are intended to attract freeway traffic and direct it to the retail and restaurant corridor on Belleville Road. The Gateway Commercial use corresponds to the C-2 zoning district. Although the rezoning request is consistent with the Master Plan, care will be necessary when site development is proposed to direct all traffic to the North Service Road rather than Quirk Road, and to sufficiently buffer the nearby single family residential neighborhood from the impacts of the future non-residential uses.
 4. **Pattern of Development.** The site is at the west boundary of the planned Gateway Commercial area and the parcels to the west are used, zoned and master planned for single family residential dwellings. The Master Plan recognizes the need for buffering the interface between single family residential and higher intensity commercial uses, and "residential protection". The land abutting the parcel on the north is the Wayne County Fairgrounds and is the site of periodic public-oriented special events and fairs with high attendance, creating non-residential offsite impacts of noise, traffic, dust, lights, etc. The parcel immediately east of the site is occupied by the Hampton Inn and Holiday Inn Express. With adequate consideration for screening, landscaping, and access management to mitigate any possible negative effects, C-2 development can be appropriate for the site.
 5. **Access and Traffic.** The site proposed for rezoning has frontage on Quirk Road, a residential collector street and classification that is not generally appropriate for commercial traffic such as may be generated by a C-2 use. Although it is our understanding, based on the site plans the applicant has shared with the Township, the applicant intends to combine this parcel with the C-

2 parcel he owns fronting on the North Service Road to the south, as a rezoning there is no guarantee that future development would not wish to enter/exit to Quirk Road. If all traffic is restricted to the North Service Road, the use of the rezoning site for C-2 permitted uses is not expected to generate more traffic than compatible with the service drive corridor or the traffic received by the fairgrounds. Issues related to traffic on site, circulation patterns, ingress and egress will be reviewed in detail at the time of site plan submission.

6. **Utilities and Infrastructure.** The site is served by public water and sanitary sewer. Any necessary improvements will be addressed during the site plan review process.

RECOMMENDATION

We recommend that the Planning Commission discuss the matter of possible access limitations with the applicant during deliberation on the rezoning request. If that issue is satisfactorily addressed, we could recommend that the Commission recommend that the Township Board of Trustees approve the request to rezone the site from R-1B (Single Family Residential) C-2 Extensive Highway Business District for the following reasons:

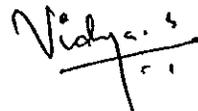
1. The requested C-2 zoning district is consistent with the planned Gateway Commercial district as proposed in the Township's Belleville Road District Master Plan and Future Land Use Map.
2. Compliance with the zoning ordinance requirements for screening, landscaping, setbacks, access management and other requirements will assist in mitigating possible negative off site impacts from C-2 development on the single family neighbors across Quirk Road.
3. Rezoning the parcel to C-2 will facilitate a consistent development pattern along the North Service Road, as envisioned in the Master Plan.
4. Rezoning to C-2 will not place an additional burden on the available infrastructure and municipal facilities.

Respectfully submitted,

McKENNA ASSOCIATES, INCORPORATED



Sara J. Hodges, AICP, IAP2
Senior Vice President

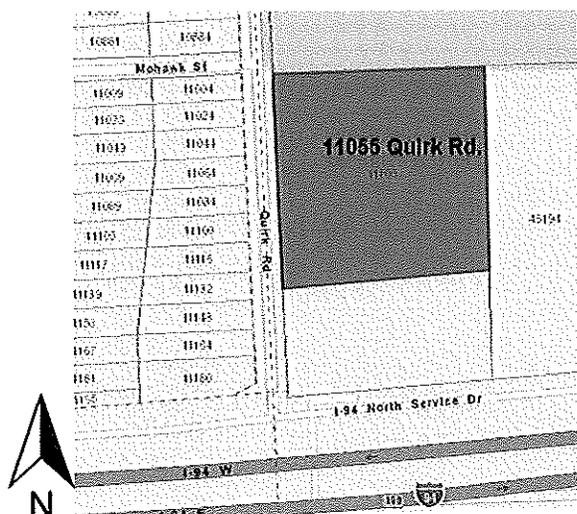


Vidya Krishnan
Senior Planner

**CHARTER TOWNSHIP OF VAN BUREN
PLANNING COMMISSION
PUBLIC HEARING**

Notice is hereby given that the Charter Township of Van Buren Planning Commission will hold a public hearing on **Wednesday, March 11, 2015 at 7:30 p.m.**, in the Board of Trustees Room, 46425 Tyler Road, Charter Township of Van Buren, Wayne County, Michigan to consider a request to rezone the following described property.

Parcel tax ID number **V-125-83-064-99-0002-002**, also known as **11055 Quirk Road**, is the subject property of this hearing. The parcel measures approximately 7.421 acres. This property is located on the east side of Quirk Road between Mohawk St. to the north and N. I-94 Service Drive to the south.



The applicant, Belleville Development, Inc., is requesting this rezoning action. The Public Hearing is in regards to amending the Charter Township of Van Buren Zoning Ordinance 06-02-92, as amended, zoning map by rezoning the subject property from **R-1B (Single-Family Residential)** to **C-2 (Extensive Highway Business)**.

Written comments will be accepted by the Planning and Economic Development Department until 4:00 p.m. on the hearing date.

In compliance with the Americans with Disabilities Act, reasonable accommodations will be made available with advance notice.

Posted: February 13, 2015
Published: February 19, 2015

August 19, 2015

Planning Commission
Charter Township of Van Buren
46425 Tyler Road
Belleville, MI 48111

Subject: Continued Review of Draft Belleville Lake Shoreline Zoning Districts

Dear Commissioners:

We last discussed the proposed Belleville Lake Shoreline Zoning Districts in June 2015. The combination of some busy agendas and other tasks kept us from moving ahead with the review. Also, most Commissioners have now taken a tour of the lake by boat and seen the wide variety of existing conditions present.

As you know, an overriding objective of these proposed regulations is to continue the Township's policy of allowing non-commercial use of the Lake and township property by adjacent upland property owners for customary lakefront recreational purposes, while creating consistent standards for decision-making.

Please bring your copy of the draft Belleville Lake Shoreline Zoning Districts, dated 4/8/15 to the meeting August 26th so we can continue our review. If you need a new copy of the draft text, please let the Planning Department or me know, and it can be emailed to you. Also, to facilitate your review, we have prepared the enclosed summary of the regulations as a table. This summary highlights the most important aspects of the proposed regulations.

I look forward to meeting with you next Wednesday night.

Respectfully submitted,

McKENNA ASSOCIATES



Sara J. Hodges, AICP, IAP2
Senior Vice President

SUMMARY

Belleville Lake Shoreline Districts

SECTION	TITLE	EFFECT
16C.01	PURPOSES	Protect Lake environmental quality, aesthetics, minimize shoreline erosion and safety
		Comply with direction of Court to have consistent & clear standards for Township approvals
		Protect public health, safety and general welfare of all persons using the lake, including adjacent property owners
		Comply with requirements of Township's license with FERC to operate French Landing Dam
		Rules are for <u>only Township-owned lake property</u> . Standards and process to consistently regulate it (Township-owned Lake and "gap land")
16C.02	DEFINITIONS	KEY CONCEPTS
		Lake Lot Line - boundary line of a lot or parcel of land, lawfully existing on documentation recorded with the Wayne County Register of Deeds, which abuts the Township Lake property.
		Lake Frontage - distance between the side lot lines of a lot or parcel as extended to the Belleville Lake shoreline, measured between their points of intersection with the shoreline at the normal high water mark.
		Township Lake Property - land owned by the Township at Belleville Lake, whether or not it is above the normal high water mark. It is the property that exists below the Lake Lot Line and extends into Belleville Lake and is generally recognized as the property below the 655' contour line or brow of the hill.
		Upland - land area that lies adjacent to and above the Township Lake property
16C.03	DISTRICTS	<i>These two districts will exist only on Township-owned Lake property</i>
	Belleville Lake Shoreline District A - BLA	
	Permitted Uses:	Water-related uses customarily accessory to a single family lakefront lot
		Structures that accommodate 10 or fewer watercraft at one time
	Specific Regulations:	
		Must have SF dwelling on the abutting lot No "keyholing" permitted Use only for and by BLA abutting upland owner and their invited guests; no renting or leasing of facilities Dockage for more than 10 watercraft at one time is not permitted.

	<u>Belleville Lake Shoreline District B - BLB</u>	
	<u>Permitted Uses:</u>	Water-related uses accessory to non-single family residential lakefront lots (multiple family, commercial, office, public, institutional and similar)
		Most uses require Planning Commission approval – SP or SLU
		<u>Site Plan Approval Uses</u> – Lake structures that can accommodate 10 or fewer watercraft at one time; decks and stairs; boat hoists and cradles and similar
		<u>Special Use Approval Uses</u> - Lake structures that accommodate more than 10 watercraft; marinas; watercraft minor service uses; boat launches and ramps for public access only; excavations greater than 10 cubic yards; other similar uses.
	<u>Specific Regulations:</u>	No “keyholing” permitted Dockage for more than 10 watercraft not permitted unless FERC and all other agencies have approved.
16C.04	DEVELOPMENT REGULATIONS	
		Lake frontage is measured between side lot lines extended to shore
		No buildings or covered structures on water or Township-owned property
	<u>Docks:</u>	Must be perpendicular to shore, must abut land the applicant owns, and may not create safety hazards
	Side Setback:	15 ft. from side lot lines extended
	Max. Length:	40 ft. into the Lake, measured perpendicular from shore (unless greater length needed to reach 3 ft. water depth).
	Max. Width:	4 ft. in BLA 6 ft. in BLB
		Boat lifts and cradles shall be setback min. 5 ft. from side lot lines extended, nor shall any watercraft be moored within 5 ft. of side lot lines.
	<u>Lake Frontage Coverage by all Structures:</u>	
		50% in BLA
		60% in BLB @ non-commercial multi-boat docking facilities
		100% in BLB @ marinas, public use and abutting commercial sites
		Boardwalks, catwalks on retaining walls, and shoreline protection structures that parallel the shore are exempt from coverage limits

		Extent of Coverage calculation shall include 10 ft. additional width on any side of lake structure that can accommodate boat dockage. Multiple structures on same lot are combined in calculations.
	<u>Dock & Raft Ownership ID & Repair</u>	Shall have address sign on shore or the structure (6 ft. sq. ft. or less, and no higher than 5 ft. above waterline)
		Must be kept in good repair
	<u>Boat Storage Devices (cradles, hoists, lifts, etc.)</u>	
		No walls permitted
		Can't be used as deck or outdoor living space
		Max. 2 boat capacity per hoist
		Not more than 3 attached docks
		Roof pitch = 4:12 minimum
		Max. height = min. height needed to raise boat out of water
	<u>Excavations, Grade Changes, Earth Modifications</u>	
		Minor earth modification, etc. = 10 cubic yds. or less
		Major excavations, etc. require Township Engineer approval
	<u>Other Items</u>	
		No new channels or canals
		Seawalls, bulkheads and other erosion protection devices must be kept in good repair
		Rip-rap and gabion baskets - preferred for erosion protection
		Marker and buoys - placement requires Township approval
		Rafts and similar - Locate on bottomland immediately adjacent to Lake frontage where raft owner has ownership interest
		Stairs – may be permitted on Township lake property if the Township determines it is necessary and the minimum practical for reasonable access
		Marinas and Non-Commercial Multi-Docking Facilities – no dry docks or land storage of watercraft permitted; all lake structures under same ownership and same design to create uniform appearance; approval considerations include location on the Lake, visibility and impacts on aesthetic and recreational quality of the Lake, separation from other marinas, other public health, safety and welfare aspects.
		Watercraft Repairs – minor repairs including fueling, only at marinas. Major repairs prohibited on Township property.
		Overnight Anchorage in Open Water - prohibited
		Dockage and Storage Space - rentals prohibited
		Fences – prohibited

16C.05	EXEMPTIONS	Routine maintenance; minor earth change; gardening; earth changes due to public utilities; planting or removal of trees & shrubs in a manner that does not cause erosion; temporary stockpiling
16C.06	APPROVAL PROCESS	Township Approval Letter Required for the following:
		1. Install, construct or expand a dock, boat cradle, boat lift, boat hoist, ramp, or launch.
		2. Install, construct or expand a seawall, bulkhead, dike, levee or other erosion control device.
		3. Install, place or maintain a ski jump or other rigid platform.
		4. Install, place or maintain a navigational marker or buoy.
		5. Excavate, grade, or make earth modifications other than those exempted under this Ordinance.
		Application to Township required; Township does not grant permits
		Review Process – administrative approval by staff, site plan approval by Planning Commission, or special approval by Township Bd., depending on the use/structure proposed
		Township Approval Criteria Listed in Ordinance
		Approvals from FERC, MDEQ and any other agency with jurisdiction are required before any construction is permitted
		Existing Docks, Structures and Uses – are not considered vested.
		Lawful usage shall be permitted to continue, however FERC may force removal at any time.
		Board of Zoning Appeals – has jurisdiction for modifications, appeals and special exceptions in BLA & BLB. Less stringent criteria than for variances.
		Indemnification of Township by abutting owner; Obligations to maintain the property; Penalties for violations (civil infractions)

CHARTER TOWNSHIP OF VAN BUREN

**COUNTY OF WAYNE
STATE OF MICHIGAN**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE ZONING ORDINANCE 6-2-92 AS AMENDED OF THE CHARTER TOWNSHIP OF VAN BUREN TO ADD A NEW ARTICLE XVIC, BELLEVILLE LAKE SHORELINE DISTRICTS.

THE CHARTER TOWNSHIP OF VAN BUREN ORDAINS:

SECTION 1. Add a new ARTICLE XVIC, BELLEVILLE LAKE SHORELINE DISTRICTS to read as follows:

SECTION 16.01C. PURPOSE.

The Charter Township of Van Buren recognizes and concludes that the proper and safe use of Belleville Lake is desirable to retain and maintain the physical, ecological, cultural and aesthetic characteristics of the Lake in the Township, to preserve and protect the quality and safety of the Lake and shorelines and the rights of adjacent owners and users as well as the Township as a whole, to promote the public health, safety and welfare of all persons making use of the Lake within the Township and properties adjacent to the Lake in the Township, and to ensure compliance with federal and state laws in light of the Township's ownership of the land in and adjacent to Belleville Lake, as well as with the terms of the Federal Energy Regulatory Commission (FERC) license to operate the French Landing Dam. Accordingly, it is the intent and purpose of the Township Board to adopt reasonable regulations for the number and placement of docks, installation of sea walls, earth excavation or grading, and other matters with respect to Belleville Lake in the Township. It is further the intent of the Township Board to restrict the private use of Township-owned Lake property to those water-based uses and structures customarily accessory to a waterfront lot, and to affirm that abutting property owners are responsible for maintaining both their property at the periphery of the Lake and the Township-owned Lake property adjacent to their property clear of fallen trees, reasonably protected from erosion, and otherwise maintained as required under the terms of the FERC license.

SECTION 16.02C. DEFINITIONS.

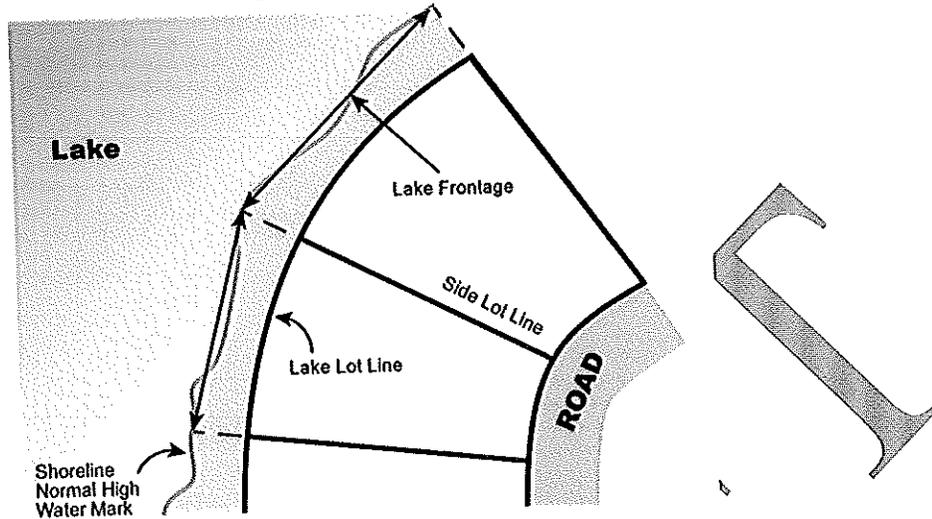
For the purposes of this section:

- a. "Boardwalk" means a walkway made of planking.

- b. "Boat" means every description of watercraft used or capable of being used as a means of transportation on water as defined under Part 801 of the Natural Resources and Environmental Protection Act, 1994 P.A. 451, MCL 324.80101.
- c. "Boat cradle", "shore station", "boat hoist" and "boat lift" means a device for the purpose of mooring, anchoring or holding a watercraft in, on or above the water in the Lake.
- d. "Bottomland" means the land area that lies below the normal high water mark.
- e. "Catwalk" means a narrow footway along the edge of a seawall or similar feature raised above the shoreline.
- f. "Common use lot" means any private site, platted lot or other parcel held in common by a subdivision, association, or similar agency or group of individuals, or held in common by virtue of the terms of a plat of record; which provides common use Lake access to non-Lakefront lots or land owners.
- g. "Director" means the Director of Planning and Economic Development of the Charter Township of Van Buren, or successor charged with enforcing this Ordinance.
- h. "Dock" means a structure, platform or fixture extending from the shore or bottomlands into a Lake.
- i. "Dock Stem" means that portion of a dock or mooring structure that extends perpendicular to the shore.
- j. "Docked" or "docking" means the anchoring, tethering, or mooring of a watercraft directly to a pier, structure, platform, pole, anchor or dock; and also means the placement of a watercraft in an off-shore boat cradle or shore station, or anchoring or tethering to the bottomlands of a Lake.
- k. "Lake" or "Belleville Lake" means that portion of Belleville Lake within Wayne County.
- l. "Lake Frontage" or "Frontage" means the distance between the side lot lines of a lot or parcel as extended to the Belleville Lake shoreline, measured between their points of intersection with the shoreline at the normal high water mark.

Figure 16.02C.1

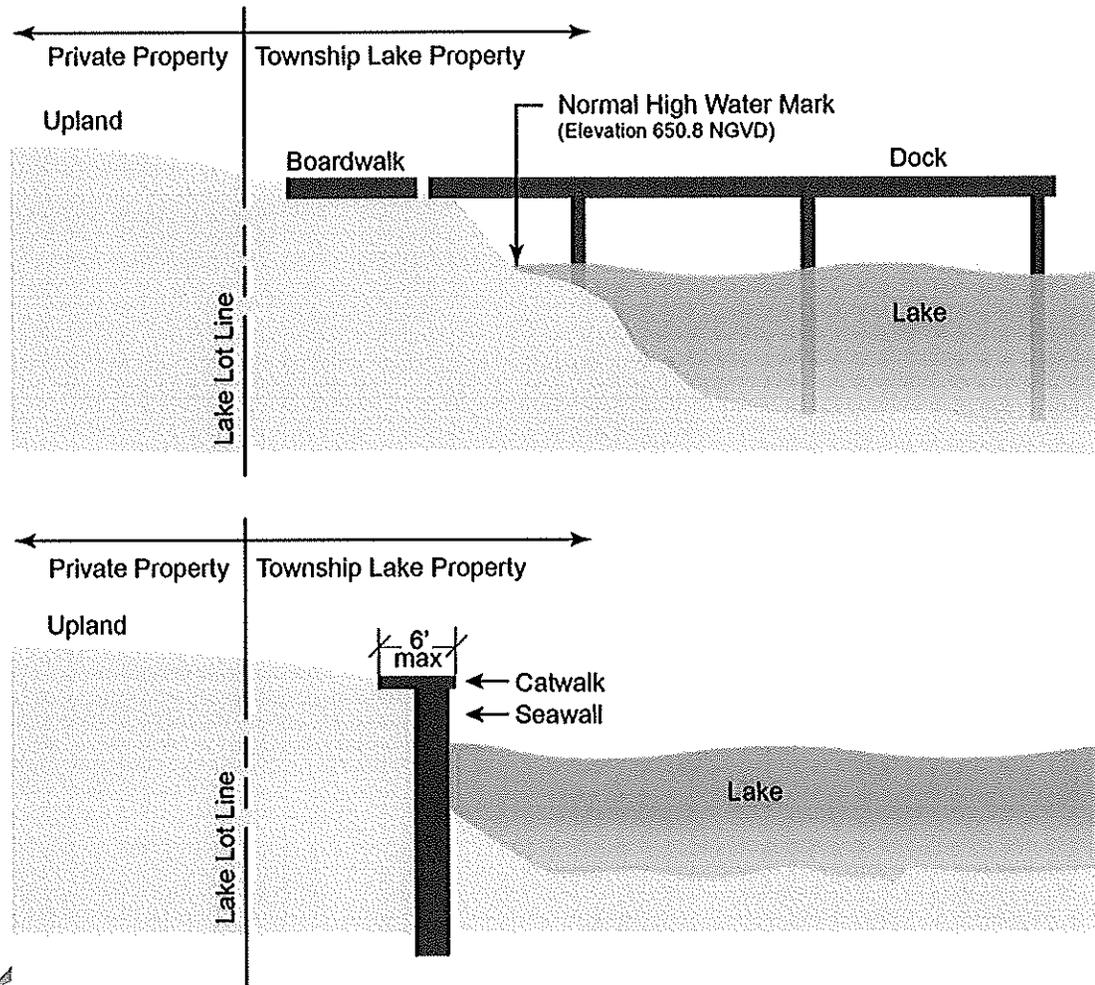
Lake Frontage



- m. "Lake Lot Line" means the boundary line of a lot or parcel of land, lawfully existing on documentation recorded with the Wayne County Register of Deeds, which abuts the Township Lake property.
- n. "Lake Structures" means improvements constructed upon Township Lake property, as may be permitted by this Article XVIC.
- o. "Marina" means a facility that is owned or operated by an entity, extends into or over an inland Lake or stream, and offers service to the public or members of the marina for docking, loading, or other servicing of recreational watercraft.
- p. "Moor" or "Mooring" means the anchoring, tethering or docking of a boat directly to a pier, structure, platform, pole, anchor or dock, and also means the placement of a boat in a boat cradle or shore station, the regular or overnight beaching of a boat, or overnight anchoring or tethering to the bottomlands of the Lake.
- q. "Non-Commercial Multi-Docking Facility" means a facility used for docking or mooring from one or more Lake frontage properties to serve more than one single family dwelling and limited to use by the residents of the property, such as at outlots (common use lots), mobile home parks, condominium and apartment developments, and other commonly owned or controlled points of access.
- r. "Normal high water mark" means the normal high water mark of the Lake as determined by the Federal Energy Regulatory Commission from time to time. Presently on Belleville Lake, "normal high water mark" means six hundred and fifty and eight-tenths (650.8) feet National Geodetic Vertical Datum (NGVD), 1929.

Figure 16.02C.2

Lake Structures Example



- s. "Ramp" or "Launch" means a short, hardened slope extending from the shoreline into the Lake for the purpose of launching or retrieving boats.
- t. "Seawall" or "Bulkhead" means a linear, rigid structure built along the shoreline to resist the erosion of the land caused by the Lake and which can also be used to moor boats and as a structure to receive and discharge a boat's passengers and cargo.
- u. "Separate frontage" means that portion of a lot or parcel of land lawfully existing on documentation recorded with the Wayne County Register of Deeds, which abuts or intersects with the normal high water mark of the Lake, whether such lot or parcel is owned by one or more persons, is commonly owned by several persons or combinations of persons, or occupied by a multiple-unit residential development.

- v. "Township Lake property" means land owned by the Township at Belleville Lake, whether or not it is above the normal high water mark and is the property that exists below the Lake Lot Line and extends into Belleville Lake and is generally recognized as the property below the 655' contour line or brow of the hill.
- w. "Upland" means that the land area that lies adjacent to and above the Township Lake property.
- x. "Watercraft" means any boat, pontoon boat, hydrofoil, hovercraft, sailboat, jet ski, personal watercraft, jet boat, or similar vessel.

SECTION 16.03C. BELLEVILLE LAKE SHORELINE DISTRICTS

Two Belleville Lake Shoreline Districts are established in this section: the Belleville Lake Shoreline District A - Single Family Residential (BLA), and the Belleville Lake Shoreline District B - Non-Single Family Residential (BLB). These zoning districts regulate the use of the Township-owned Belleville Lake property.

The BLA District shall generally abut Lake frontage upland zoned R-1A, R-2A, R-1B, R-1C Single Family Residential districts, and AG or AG-A Agricultural and Estates districts. The BLB District shall generally abut Lake frontage upland zoned or used for more intensive uses that are not accessory to a single dwelling on a single family lot, including but not limited to common use lots, multiple family, commercial, office, public, institutional and similar uses.

Accordingly, no improvements, modifications, alterations, removal, repairs or structures of any kind shall be constructed, installed or made on Township Lake property within the BLA and BLB districts unless those actions comply with the regulations of the respective district, obtain the approval of the Township as provided herein, and the approval of all other agencies with jurisdiction.

- a. **Belleville Lake Shoreline District A - Single Family Residential (BLA).** The BLA District is intended to provide for the use of the Township-owned Belleville Lake property for water-related uses that are customarily accessory to an abutting single family dwelling on a separate lot with Lake frontage.
 - 1. Uses Subject to Administrative Approval. In the BLA District, the following water-based uses and structures customarily accessory to one single family dwelling on a single family lakefront lot shall be permitted. All such uses shall be subject to Township administrative approval as described in Section 16.06C., herein.
 - a) Docks, piers, landings, boardwalks and catwalks that can accommodate no more than 10 watercraft in total at one time on a single parcel.
 - b) Boat hoists, cradles and lifts.
 - c) Stairs, and walkways located on Township Lake property.

- i. Shall only be permitted if determined necessary by the Township to access the permitted uses.
- ii. Shall be subject to the maximum Lake frontage coverage and other standards applicable to the use.
- d) Embankments, bulkheads, gabion baskets, retaining walls and similar structures for erosion control to protect the existing shoreline.
- e) Minor excavation, grading or earth modifications, defined as those that do not exceed 10 cubic yards or disturb an area of 1,000 square feet or less within 100 feet of the normal high water mark of the Lake.
- f) Navigational markers or buoys.
- g) Any other use of the same nature or class of water-based uses listed in this district which, in the determination of the Township is consistent with the purpose of this district and which will not impair the present or potential use of the Lake and adjacent properties. Any such use shall be limited to the use of the lakefront by a single family residential dwelling on an individual lot.

At the discretion of the Director, any BLA use may be referred to the Planning Commission for public hearing, recommendation to and special approval by the Township Board, and/or site plan review and approval in accordance with the provisions of this Ordinance.

2. General Restrictions on all BLA Uses. All uses permitted in the BLA District shall be subject to the following restrictions:
- a) All uses and structures shall comply with the standards and requirements of Section 16.04C. Development Standards, herein.
 - b) No use or structure shall be permitted if there is not a single family dwelling on the abutting frontage lot.
 - c) Private ramps, launches or docks intended to provide access to the Lake for multiple non-abutting or back lots of a subdivision, site condominium or other development are prohibited.
 - d) No signs shall be permitted other than those approved by the Township and necessary for public safety.
 - e) No use or structure or combination thereof shall be permitted that can accommodate more than 10 watercraft at one time on a single parcel.
 - f) All watercraft, docks, boats, watercraft storage facilities including boat cradles, shore stations and boat lifts and other structures and facilities permitted in this BLA District are limited solely for the use and quiet enjoyment of the abutting frontage lot owners and their invited guests. No such facilities as listed above shall be rented, leased or allowed to be used by any other persons. For purposes of this section, persons shall mean an individual, partnership, corporation, association and any other entity to which the law provides or imposes rights and responsibilities.

b. **Belleville Lake Shoreline District B – Non-Single Family Residential (BLB).** The BLB District is intended to provide for the use of the Township-owned Belleville Lake property for water-related uses customarily accessory to land zoned or used for more intensive uses than a single family dwelling on a separate lot with Lake frontage. Such more intensive uses include, but are not limited to common use lots, multiple family, commercial, office, public, institutional and similar uses.

1. Uses Subject to Administrative Approval. In the BLB District, the following water-based uses and structures shall be permitted subject to Township administrative approval as described in Section 16.06C, herein.
 - a) Embankments, bulkheads, retaining walls and similar structures for erosion control, to protect the existing shoreline.
 - b) Minor excavation, grading or earth modifications, defined as those that do not exceed 10 cubic yards or disturb an area of 1,000 square feet or less within 100 feet of the normal high water mark of the Lake.
 - c) Navigational markers or buoys.

At the discretion of the Director, any BLB use may be referred to the Planning Commission for public hearing, recommendation to and special approval by the Township Board, and/or site plan review and approval in accordance with the provisions of this Ordinance.

2. Uses Subject to Planning Commission Approval. In the BLB district, the following water-based uses and structures may be permitted, subject to Planning Commission site plan approval.
 - a) Docks, piers, landings, boardwalks, catwalks or similar features that can accommodate no more than 10 watercraft in total at one time on a single parcel. Such features shall serve an abutting upland parcel used for permitted commercial, office, public or institutional purposes, including but not limited to restaurants, public parks, private clubs, transient dockage under public ownership and control, and other uses determined similar in the discretion of the Planning Commission and not otherwise specifically provided for in this Article.
 - b) Non-commercial multi-docking facilities that can accommodate no more than 10 watercraft in total at one time on a single parcel.
 - c) Boat hoists, cradles and lifts as part of a non-commercial multi-docking facility permitted under this Section 16.03C.b.2.b), that are under common ownership and are all of the same style.
 - d) Decks, stairs, and walkways located on Township Lake property.
 - i. Shall only be permitted if determined necessary by the Township to access the permitted uses.
 - ii. Shall be subject to the maximum lot frontage coverage and the other standards of Section 16.04C Development Standards.

3. Uses Subject to Special Approval. The following water-based uses and structures

shall be permitted subject to special approval in accordance with the requirements of Sections 4.46 and 18.08 of this Ordinance. These uses shall require public hearing by the Planning Commission, recommendation to and special approval by the Township Board, and Planning Commission site plan review and approval.

- a) Non-commercial multi-docking facilities with docks, piers, landings, boardwalks, catwalks or similar features that can accommodate more than 10 watercraft in total, at one time on a single parcel.
- b) Boat hoists, cradles and lifts as part of a non-commercial multi-docking facility permitted under this Section 16.03C.b.3, a) which are under common ownership and are all of the same style.
- c) Docks, piers, landings, boardwalks, catwalks or similar features that can accommodate more than 10 watercraft in total at one time on a single parcel. Such features shall serve an abutting upland parcel used for permitted commercial, office, public or institutional purposes, including but not limited to restaurants, public parks, private clubs, transient dockage under public ownership and control, and other uses determined similar in the discretion of the Planning Commission and not otherwise specifically provided for in this Article.
- d) Marinas.
- e) Watercraft minor service uses, including sale of gasoline, only permitted as part of a marina.
- f) Boat launches and ramps, for public access only.
- g) Any other use of the same nature or class of water-based uses listed in this district as either a principal use permitted or a use subject to special approval which, in the determination of the Township is consistent with the purpose of this district and which will not impair the present or potential use of the Lake and adjacent properties.
- h) Major excavation, grading or earth modifications, defined as those greater than 10 cubic yards or that disturb an area of more than 1,000 square feet within 100 feet of the normal high water mark of the Lake.

4. General Restrictions on BLB Uses. All uses permitted by right or by special approval in the BLB District shall be subject to the following restrictions:
- a) No boat lifts, cradles or hoists shall be permitted at marinas.
 - b) No buildings or covered structures shall be permitted on the water or on Township Lake property.
 - c) There shall be no major repair of watercraft conducted on the water or Township Lake property.
 - d) All uses and structures shall comply with the standards and requirements of Section 16.04C. Development Standards, herein.
 - e) Private ramps or launches intended to provide access to the Lake for multiple non-abutting or back lots of a subdivision, site condominium, multiple family development or other non-frontage uses shall be prohibited.

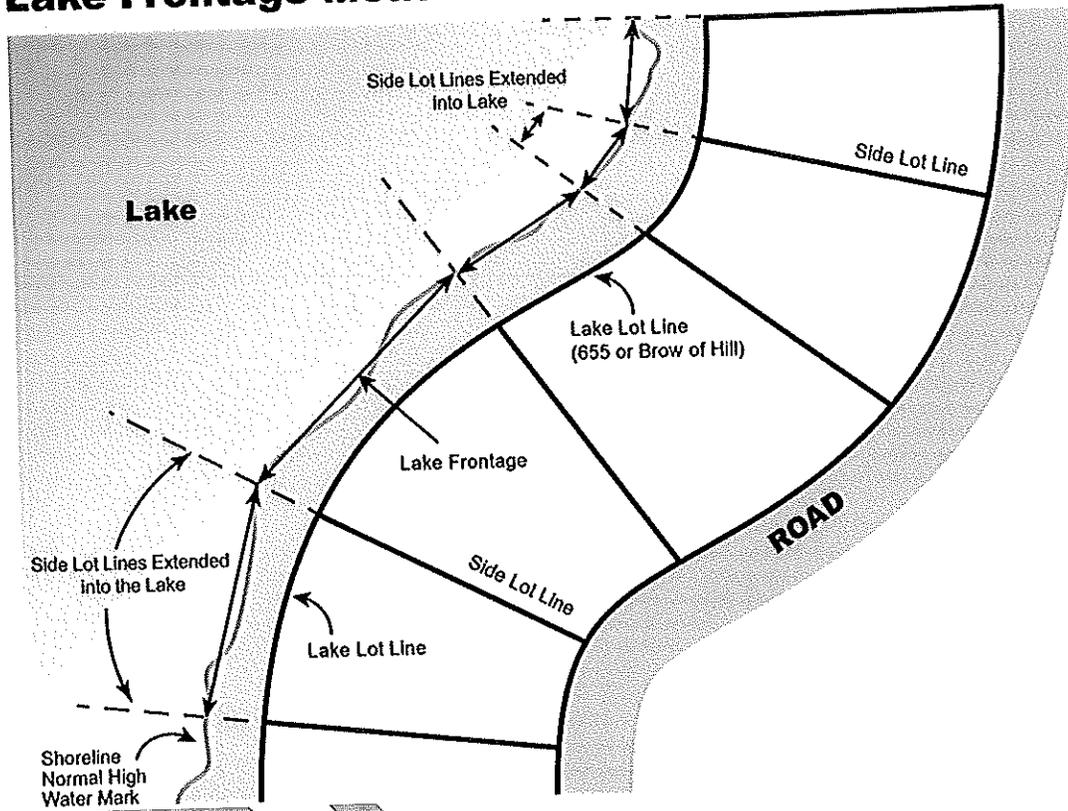
- f) No signs shall be permitted other than those approved by the Township and necessary for public safety.
- g) All watercraft, docks, boats, watercraft storage facilities including boat cradles, shore stations and boat lifts and other structures and facilities permitted in this BLB District are limited solely for the non-commercial use and quiet enjoyment of the abutting frontage lot owners, lessees, renters, and their invited guests. No such facilities as listed above shall be rented, leased or allowed to be used by any other persons unless approved by the Township in conjunction with an approved marina. For purposes of this section, persons shall mean an individual, partnership, corporation, association and any other entity to which the law provides or imposes rights and responsibilities. For purposes of this section, commercial use shall mean the rental, lease or allowed use of docks, boat cradles, shore stations and boat lifts by persons who are not abutting frontage owners, lessees, or renters. Any prior approvals or authorizations granted by the Township for uses inconsistent with this section are hereby cancelled, revoked and of no further force and effect.

SECTION 16.04C. DEVELOPMENT REGULATIONS

- a. **General.** No buildings are permitted on Township Lake property, and no buildings or other structures are considered vested. Provided however that the presence of structures on Township Lake property does not convey any legal or equitable right, title or interest whatsoever in the Township Lake property other than as expressly set forth herein. It is understood that any facilities installed hereunder are subject to the terms of the FERC license and the Township's approval, and the Township may force their removal at any time with or without cause. If the landowner does not remove structures as ordered by the Township and the Township removes such structures, the land owner shall either pay the costs of removal or those costs shall become a lien upon the property. Further, no structure within the BLA or BLB districts shall be considered an accessory structure as regulated under Section 4.14 of this Ordinance.
- b. **Dock Location.** No dock shall be placed or maintained in a location where it can present a hazard to navigation, or create a risk that boats will run aground while attempting to moor at the dock. No person shall install or maintain a dock except on shoreline or bottomlands abutting a frontage in which they have an ownership interest. All docks shall be positioned perpendicular to the shore, and in a manner that does not unreasonably encroach on the use and enjoyment of the Lake by neighboring lots.
- c. **Measurement of Lake Frontage.** Each side lot line of the abutting upland lot shall be extended as a straight line from its point of intersection with the boundary of the Township Lake property (Lake lot line) to its intersection with the Lake frontage line at the normal high water mark. A lot's total Lake frontage shall be measured as a straight line connecting the points of intersection of the extended side lot lines with the normal high water mark.

For purposes of measuring setbacks for docks, boat lifts and similar structures, the side lot lines shall be extended to the Lake frontage line and then extended on the same line, straight into the Lake from the shoreline.

**Figure 16.04C.1
Lake Frontage Measurement**



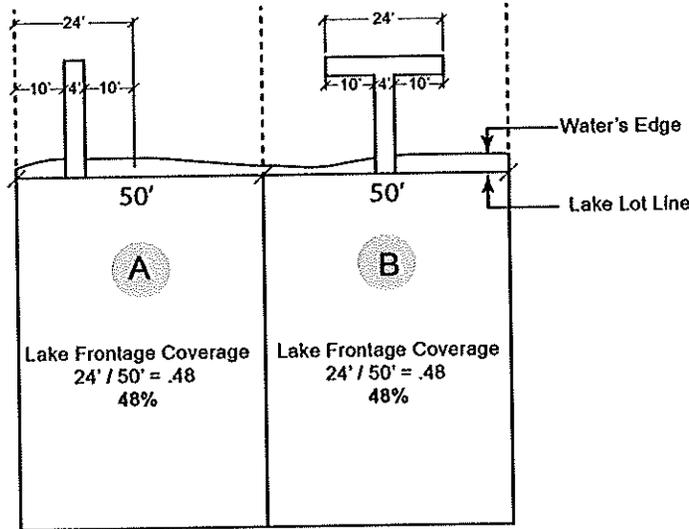
d. **Setback Requirements.** Side setbacks shall be measured from the side lot lines of the abutting upland lot as extended into the water, as defined in Section 16.04C.c.

1. **Docks.** No dock shall be constructed, installed or placed within 15 feet of the side lot lines of the abutting upland lot as extended into the water.
2. **Boat Lifts and Boat Cradles.** No boat lift or boat cradle shall be located within five feet of a side lot line of an abutting upland lot as extended into the water.
3. **Launching, Storing, Mooring or Docking.** No boat or portion thereof shall be launched, stored, moored or docked within five feet of the side lot lines of an abutting upland lot as extended into the water.
4. **Boardwalks and Catwalks.** Boardwalks, catwalks and other walkways located on Township Lake property shall be permitted to extend to the side lot line as

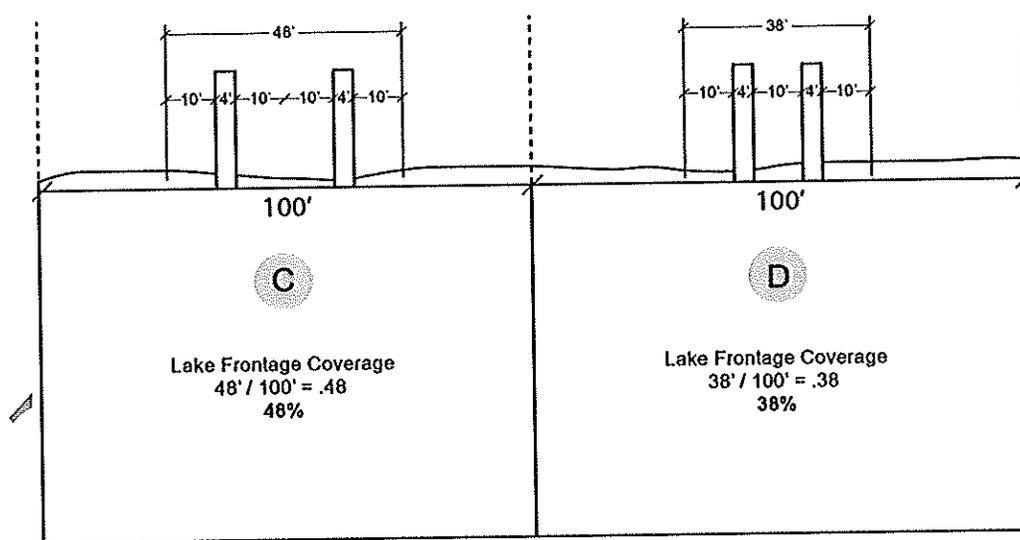
extended. No boardwalk, catwalk, or other walkway shall extend more than one foot over the water, nor shall any such structure be more than 6 feet in width. These structures shall be generally parallel the shoreline and shall be exempt from the computation of Lake frontage coverage.

- e. **Dock Length and Width.** No dock or any other structure or appurtenance shall extend more than 40 feet into the Lake, measured perpendicularly from the shoreline, unless greater length is necessary to reach water with a depth of three feet, and then no further than necessary to reach such depth. Maximum dock widths shall be four feet in the BLA and six feet in the BLB districts.
- f. **Size and Extent Restrictions.** (See Figure 16.04C.2)
1. In the BLA District, docks, other mooring structures, boat cradles, boat hoists, similar structures and watercraft shall extend across no more than 50% of the Lake frontage of the single family lot to which they abut.
 2. In the BLB District, docks, other mooring structures, boat cradles, boat hoists, similar structures and watercraft for non-commercial multi-boat docking facilities shall extend across no more than 60% of the Lake frontage of the lot which they abut. Such watercraft and structures shall be clustered along the parcel frontage into no more than four groupings. For marinas, public uses, or abutting commercial sites, the Township may authorize docks, other permitted structures and watercraft to extend across up to 100% of the Lake frontage, as deemed appropriate and subject to special approval.
 3. The extent of frontage coverage shall include the coverage by docks, other mooring structures, projections including boat hoists, boat cradles, lifts and similar, and watercraft. Permitted boardwalks, catwalks upon retaining walls, and shoreline protection structures that parallel the shore shall be excluded from the computation of frontage coverage.
 4. Extent of distance across a lot's Lake frontage shall be measured along the lake frontage line determined in accordance with Section 16.04C.c. The extent of structures across the lake frontage shall be the width of the structures measured parallel to the abutting lot's lake frontage line plus 10 feet of additional width for boat dockage on any side of the structure that can accommodate dockage, divided by the total length of the lot's lake frontage. The width of a "T" or "L" dock shall be measured at its widest point generally parallel to the lake frontage, and shall include a minimum of 10 feet of additional width parallel and adjacent to the "stem" for boat dockage.

**Figure 16.04C.2
Extent Coverage Examples**



NOTES: 10' minimum side setback. Boat must be 5' from side lot line.



5. On any parcel with multiple docks, boat lifts, or similar water based structures, including but not limited to marinas and non-commercial multi-docking facilities, any such structures that are separated by 10 feet or less shall be considered one unit for purposes of calculating extent across the lake frontage. Structures that are separated by more than 10 feet shall be considered as individual units, and the space between those units shall not be included as Lake frontage coverage.
6. No docks, other mooring structures or combination thereof on a single site that accommodate more than 10 watercraft shall be permitted, except as provided in

the BLB District under Section 16.03C.b., above. Further, no such docks, other mooring structures or combination thereof that accommodate more than 10 watercraft shall be permitted unless it is approved by FERC, all other agencies with jurisdiction, and receives special approval of the Township as provided herein.

7. Boardwalks, catwalks and other walkways on Township Lake property shall be a maximum of four feet wide, except at public marinas or other commercial uses in the BLB district, where they may be up to six feet wide. The Township may approve additional width as it deems appropriate, subject to special approval.
- g. **Dock and Raft Ownership Identification and Repair.** The owner(s) of a dock, boat lift, boat storage device, raft, swimming platform or other similar structures shall place a numerical address sign on such item or the shoreline that conspicuously identifies the current abutting property address of the owner(s). The sign shall include both the address number and street name in reflective, non-illuminated characters and shall be legible from the water. The sign shall not exceed 6 square feet in area and shall be placed no more than 5 feet above the waterline.

All docks, boat lifts, boat cradles and rafts shall be kept in good repair. Good repair means free from defects which might cause a hazard to persons or boats and free from defects which may result in interference with navigation of boats in the Lake.

- h. **Boat Storage Devices.** Each boat cradle, hoist or boat lift used in conjunction with the Lake shall meet all of the following requirements, in addition to the other requirements of this Ordinance.
1. It shall not have walls, nor shall any part of the structure be used as a deck or outdoor living space.
 2. It shall be designed for not more than two boats.
 3. It shall be designed with not more than three attached docks. Boat lifts with seating on three or more sides shall be prohibited.
 4. Any roof or other cover over a boat lift shall have a minimum pitch of 4:12.
 5. No boat cradle, hoist or lift shall exceed the minimum height necessary to raise the boat out of the water.
- i. **Excavations, Grade Changes, and Earth Modifications.** All earth modifications, excavations and grade changes, shall meet the following criteria:
1. Minimize changes to the contour of the shoreline.

2. Maintain lateral earth support to prevent slope failures and to avoid potential negative impacts to adjacent lots.
 3. Riprap and gabion baskets are the preferred methods of erosion control and bank stabilization, where practicable.
 4. A Soil Erosion permit must be obtained from Wayne County, if required by the Soil Erosion and Sedimentation Control Act, P.A. 451 of 1994. Any earth disturbance greater than one acre or within 500 feet of the Lake requires a Soil Erosion and Sedimentation Control permit from Wayne County. The County may grant a waiver from permitting for gardening and very limited earth disturbances, but the abutting upland owner remains responsible for making the application.
 5. All major excavations and grade changes under this Ordinance are subject to the approval of the Township Engineer.
- j. **Channels and Canals.** No new channels or canals shall be created or expanded along the Belleville Lake shoreline for the purpose of creating additional Lake frontage or for the mooring of boats.
 - k. **Seawalls and Bulkheads.** Gabion baskets and rip-rap are generally preferred means for shoreline stabilization. All existing seawalls, bulkheads and other erosion protection devices shall be kept in good repair to prevent soil erosion and sedimentation into the Lake. As new erosion protection devices are required, seawalls and bulkheads shall only be permitted where gabion baskets and rip-rap are not feasible. New or replacement seawalls or bulkheads shall have at least one egress ladder or steps per 70 linear feet.
 - l. **Markers or Buoys.** No marker or buoy shall be placed or maintained in a location where it may present a hazard to navigation, or create a risk that boats will become entangled while navigating the Lake. Township approval is required to place any markers or buoys.
 - m. **Floating Rafts.** Floating rafts, swimming platforms, trampolines, slalom buoys, ski jumps or floats shall be located in the Lake so as to not impede navigation or present a safety hazard to boats; and shall be located on bottomlands immediately adjacent to a Lake frontage in which raft owner has an ownership interest.
 - n. **Stairs.** Stairs, walkways, and decks for access from the abutting upland lot to the shoreline may be permitted on Township Lake property only if the Township determines that it is necessary and is the minimum practical for reasonable access.
 1. To minimize visual and physical impacts on the frontage, such structures shall be limited to no more than one per frontage lot, or the number of dock clusters, whichever is greater. Stairs, walkways and decks shall be included in the

- calculation of, and subject to the limitations on maximum lot frontage coverage, and the other standards of Section 16.04C Development Standards.
2. Stairs must be placed entirely above the waterline, except in cases where stairs are required to access the water due to a seawall or bulkhead.
- o. Marinas and Non-Commercial Multi-Docking Facilities.** Marinas and non-commercial multi-docking facilities must meet all the requirements that apply to their component docks, seawalls, and other facilities, as well as the following:
1. Dry docks and dry land storage of watercraft are not permitted on Township Lake property.
 2. Suitable fire extinguishers, grounding cables, and other safety devices are required at any fueling stations. Fueling stations are not permitted at a non-commercial multi-docking facility.
 3. Such uses shall comply with all applicable construction standards and permit requirements of the MDEQ.
 4. All docks, hoists and similar structures installed shall be under common ownership and of a common design so as to create a unified appearance at the site. Hoists and similar structures shall not be permitted at a marina.
 5. All such uses shall be located so as to protect the neighboring property owners from potential off-site impacts of the use and so as to protect navigation on the Lake.
 6. When reviewing a proposed new marina, non-commercial multi-docking facility or changes to an existing facility, the Township shall consider factors including, but not limited to the location of the facility on the Lake, its visibility and potential impacts on the aesthetic and recreational quality of the Lake, the separation from other marinas, and other considerations for the public health, safety and general welfare.
- p. Watercraft Repairs.** Minor watercraft repairs, including fueling, shall be permitted only at marinas. Major repair is not permitted in the BLA or BLB district, nor is exterior painting, varnishing, or intensive restoration work.
- q. Overnight Anchorage.** There shall be no overnight watercraft anchorage in open water permitted.
- r. Rental Prohibited.** There shall be no rental of watercraft dockage or storage space except at a Township-approved marina.

- s. **Fences Prohibited.** There shall be no fences permitted on Township Lake property.

SECTION 16.05C. EXEMPTIONS

A Lake frontage property owner who does or causes the following activities to be conducted on Belleville Lake, his or her frontage, or on abutting Township Lake property is not required to obtain a permit under this Article 16C. Exemption under this Section does not alleviate the responsibility of a property owner to obtain all other permits and approvals required by the Township and other entities with jurisdiction.

- a. Routine maintenance and repair of docks, seawalls, bulkheads, boat cradles, boat lifts, hoists, ramps or launches due to normal wear and tear.
- b. A minor earth change, 10 cubic yards or less, that is stabilized within 24 hours of the initial disturbance.
- c. Earth changes necessitated by the installation, repair, or maintenance work performed in a public utility easement or approved private easement for public utilities.
- d. Gardening, if the natural elevation of the area is not changed.
- e. Planting of trees, shrubs, and other vegetation.
- f. Removal of trees, shrubs, and other vegetation, in a manner that does not cause erosion.
- g. Normal and customary residential landscaping. Native and natural plantings are preferred.
- h. Temporary stockpiling of soil, sand, or gravel not greater than 10 cubic yards, as part of a construction project on the Lake, provided that the loose material is protected to prevent wash or erosion.

SECTION 16.06C. BELLEVILLE LAKE SHORELINE DISTRICT APPROVAL PROCESS

- a. **Approval Required.** Except as otherwise provided in this Section, no person shall do or cause any one of the following on Belleville Lake, on his or her frontage, or on abutting Township Lake property without first having obtained Township approval in accordance with the provisions of this Ordinance:
1. Install, construct or expand a dock, boat cradle, boat lift, boat hoist, ramp, or launch.
 2. Install, construct or expand a seawall, bulkhead, dike, levee or other erosion control device.

3. Install, place or maintain a ski jump or other rigid platform.
4. Install, place or maintain a navigational marker or buoy.
5. Excavate, grade, or make earth modifications other than those exempted under this Ordinance.

b. **Application Requirements.** Only the property owner or authorized designee may apply for approval under this Section. Each applicant shall submit the following documents and drawings. If determined necessary and required by the Township, the drawings and documents shall be signed by licensed professional(s).

1. A completed application form, including a description of the proposed improvements and modifications and description of any other required permits.
2. A plan that shows the boundaries of the abutting upland lot, the location of the proposed installation and the location of the shoreline, and location of any existing structures within 50 feet of the proposed installation.
3. A copy of any existing survey from the abutting upland lot and photographs of the existing conditions.
4. Plans, elevations and sections, with dimensions, showing the height, length, width, distance to the lot lines and configuration of the proposed installation.
5. Specification of the materials to be used in construction or installation.
6. Water depth at the farthest point of projection, when additional dock length is requested.
7. Distance from the farthest point of projection to the opposite shore (if less than 250 ft.).
8. A description of the existing shoreline features and uses.
9. A description of any shoreline erosion control or shoreline stabilization (seawalls, bulkheads and similar) proposed as part of the project.
10. Other information as determined necessary by the Township to protect the public health, safety and welfare of the Township's residents, those who use Belleville Lake and the shoreline habitat.
11. The application fee established by the Township Board.

12. Completed application for review by Michigan Department of Environmental Quality, and if required, by FERC.
 13. Any other applicable elements of Site Plan and/or Special Approval applications, as required by this Ordinance.
- c. **Review Process.** All plans and applications for approval under these Belleville Lake Shoreline Districts shall be submitted to the Director of Planning and Economic Development or other designated Township official for Township review. The plans and applications shall be reviewed to ensure compliance with the submittal requirements of this Ordinance, and consistency with Belleville Lake Shoreline District zoning and development regulations. Review shall be by one of the following processes: Administrative, Site Plan, and/or Special Approval, as further specified below.
1. Administrative Approval. Uses listed under the Belleville Lake Shoreline District A – Single Family Residential (BLA), Section 16.03C.a., and those uses in the Belleville Lake Shoreline District B – Non-Single Family Residential (BLB), Section 16.03C.b.1., above, are subject to administrative approval by the Director of Planning and Economic Development. The Director shall review the plan for compliance with the requirements of this Ordinance.
 - a. The Director of Planning and Economic Development may forward any application for a use under this Section to the Planning Commission for its site plan review and/or public hearing, recommendation and special approval by the Township Board upon finding that unique characteristics of the site or the application warrant such consideration.
 - b. Every application submitted for review shall be in accordance with the requirements of this Ordinance. Administrative review procedures are not intended to modify any ordinance, regulation or development standard. Approval by all other agencies with jurisdiction, including FERC is also required.
 2. Site Plan Approval by the Planning Commission. The uses permitted under the Belleville Lake Shoreline District B – Non-Single Family Residential (BLB), Section 16.03C.b.2. above, are subject to site plan approval by the Planning Commission. For purposes of the Belleville Lake Shoreline Districts, the information required for a site plan shall contain all information required by this Zoning Ordinance Section 4.33 Information Required for site plan approval, and also that information specified under Section 16.06C.b. above. The Planning Commission shall review the plan for compliance with along with compliance with all applicable requirements of this Zoning Ordinance. Approval by FERC may be required for such uses, along with the approval of other agencies with jurisdiction.

3. **Special Approval by the Township Board.** The uses permitted in the Belleville Lake Shoreline District B – Non-Single Family Residential (BLB), Section 16.03C.b.3. above, are subject to special approval by the Township Board. All such uses shall be subject to the standards, criteria, procedures and requirements of Sections 4.46 Review and Authorization of Special Approval Uses, and 18.08 Powers of the Township Board Concerning Special Approvals, of this Zoning Ordinance, including public hearing and recommendation by the Planning Commission and approval of the Township Board. All special approval uses also require submission and approval of a site plan, along with compliance with all other applicable requirements of this Zoning Ordinance. Approval by FERC and other agencies with jurisdiction is also required for all special approval uses.
- d. **Approval Criteria.** The Township shall find that the following criteria are met prior to granting approval for any use of Township Lake property in the Belleville Lake Shoreline District. In addition, for those uses that required special approval of the Township Board, the criteria of Section 18.08.f. must also be met.
 1. The application shall demonstrate compliance with all of the requirements of Section 16.04.C. above, and all other applicable requirements of this Zoning Ordinance.
 2. The structure(s) shall not unreasonably interfere with the adjacent property owners' or public's use and enjoyment of the waters of Belleville Lake. The facilities are so designed as to protect the neighboring property owners from negative off site impacts.
 3. The structure(s) will not create a risk to the health, safety and welfare of persons who use Belleville Lake for recreational purposes, and will not interfere with safe navigation on the Lake.
 4. The structure(s) will be constructed of materials which will not impair the water quality, water flow or water levels of Belleville Lake.
 5. To the extent feasible, the structures(s) shall protect and enhance the scenic, recreational and environmental quality of Belleville Lake. The location of the facilities shall be such that they will not create a negative visual impact for the general public.
 6. Marinas and non-commercial multi-docking facilities shall be separated from one another to avoid overcrowding and excessive boat traffic on the Lake.
 7. Consideration shall be given to maintaining consistency with the upland zoning and land use.

8. Uses approved shall be consistent with the primary goal of permitting reasonable use by Lake residents and land owners.
- e. **Approval Issuance.** The Director of Planning and Economic Development shall authorize the issuance of a Township approval letter if, following review in accordance with the procedures of this Ordinance, all conditions and standards of the Ordinance and the approving body are met. Approvals from FERC, MDEQ and any other agency with jurisdiction that cannot be obtained until the Township's approval is issued, shall be required before any construction, earthwork or site changes begin, and a copy of all such other approvals must be submitted to the Township Director of Planning and Economic Development. If an application is denied by the Township, a written record shall be provided to the applicant listing the reasons for the denial. In addition:
1. No structure within the BLA or BLB districts shall be considered an accessory structure for purposes of this Ordinance.
 2. Any other activities conducted on the land or water shall comply with all applicable federal, state and local laws.
- f. **Existing Boat Docks, Structures and Uses.**
1. General. No buildings are permitted on Township Lake property, and no buildings or other structures are considered vested. Provided however that the presence of structures on Township Lake property does not convey any legal or equitable right, title or interest whatsoever in the Township Lake property other than as expressly set forth herein. It is understood that any facilities installed hereunder are subject to the terms of the FERC license and the Township's approval, and the Township may force their removal at any time with or without cause. If the landowner does not remove structures as ordered by the Township and the Township removes such structures, the land owner shall either pay the costs of removal or those costs shall become a lien upon the property. Further, no structure within the BLA or BLB districts shall be considered an accessory structure as regulated under Section 4.14 of this Ordinance.
 2. Easements. The lawful mooring, docking, or launching of boats or installation and usage of docks, boat lifts, boat cradles, or platforms on or from a Lake access easement recorded prior to the date of adoption of this Section shall be permitted to continue. However, any easement recorded after the date of adoption of this Section shall not permit the mooring, docking, or launching of boats or installation and usage of docks, boat lifts, boat cradles, platforms or rafts on the Lake.
 3. Continuation of Lawful Existing Uses.
 - a. The lawful mooring, docking, or launching of boats or usage of docks,

boat lifts, boat cradles, piers, platforms or rafts on or from a particular lot, parcel, or frontage occurring prior to the date of adoption of this Section shall be permitted to continue without change. However, if any existing dock, boat lift, boat cradle, pier, platform, raft or similar structure shall be removed, it shall thereafter fully comply with the provisions of this Section. Further, any change, alteration, or expansion of such prior usage which occurs after the date this Section becomes effective shall fully comply with the provisions of this Section.

- b. Normal maintenance and repair of docks, seawalls, and bulkheads due to normal wear and tear shall not be deemed a change, alteration, or expansion of prior usage.
- c. Whether a Lake use or structure is approved by the Township or not, it is the obligation of all property owners to maintain both their property at the periphery of the Lake and the Township Lake property adjacent to their property clear of fallen trees, reasonably protected from erosion, and otherwise maintained as required under the terms of the FERC license.
- d. The burden of proof in asserting and establishing a defense under this Section is on the property owner who asserts a lawful existing use. The Board of Zoning Appeals may hear and decide appeals regarding the existence or expansion of any lawful existing uses under this Section. The Board of Zoning Appeals shall not decide any such appeal until after it has held a public hearing pursuant to Article 19 of this Ordinance.

g. **Exceptions, Modifications and Appeals.**

1. Board of Zoning Appeals. For the purposes of this Article 16C., the Board of Zoning Appeals ("BZA") as established and regulated in Article 19 of this Ordinance shall be the reviewing body. All provisions of said Article 19 shall apply except as specifically modified in this Section 16.06C.g.
2. Powers. The BZA may interpret the provisions of this Article 16C. if questions arise and may approve modifications to particular provisions of this Section, and grant special exceptions for a given case. In exercising its powers, the BZA shall have the primary goal of reaching an equitable conclusion and allocation of use of the Township Lake property for the purposes stated in Section 16.01C Purpose of this Ordinance.
3. Standards for Special Exceptions. The BZA shall not grant a special exception to any provision of this Article 16C. unless it first makes all of the following findings:
 - i. Enforcement of the provision(s) requested for special exception would unnecessarily prevent the reasonable use of the land or boats involved

- without resulting benefit to the public health, safety and welfare of persons or property;
- ii. The special exception would not unduly prevent the realization of the purposes of this Ordinance;
 - iii. The special exception would not cause substantial harm or detriment to adjacent or nearby lands or boats or the public interest or safety, nor be contrary to the intent or purposes of this Ordinance;
 - iv. Unusual circumstances or conditions are involved; and
 - v. The special exception is consistent with the goal of providing reasonable, equitable access to all abutting lake owners.
4. **No Precedent.** Granting a specific special exception does not set a precedent for consideration of future special exception requests, as each request is to be decided on a case by case basis.
 5. **Special Exception.** Upon making the findings above, the BZA may grant a special exception to provisions of this Article 16C, subject to complying with all other requirements of this Ordinance. The BZA may also attach reasonable conditions to the granting of an exception.
 6. **Public Hearing.** Appeals and requests for special exceptions to this Article shall be considered only at a duly held public hearing and meeting of the BZA. Notice of the hearing shall be given in accordance with Article 19. In addition the Township shall give at least fifteen (15) days prior written notice of such hearing to any Lake or property owners association if the association has provided its address to the Township beforehand.
- h. **Indemnification.** By accepting any Township approval, the applicant agrees to execute an agreement to defend, indemnify and hold harmless the Township and its elected and appointed officials, agents, representatives, employees, boards and commissions against and with respect to any and all actions, suits, proceedings, claims, demands, judgments, costs and expenses resulting from the erection or usage of a structure or facility pursuant to this Article 16C. By virtue of any approval under this Article, the applicant further agrees to permit the Township to take access to the property at reasonable times for inspections and for purposes of public safety.
 - i. **Obligations.** Abutting property owners shall be responsible for maintaining both their property at the periphery of the Lake and the Township Lake property adjacent to their property clear of fallen trees, reasonably protected from erosion, and otherwise maintained as required under the terms of the FERC license.
 - j. **Penalties and Enforcement.**
 1. **Penalty.** Violation of this Article is a civil infraction, for which fines shall be not less than One Hundred Dollars (\$100) or more than Five Hundred Dollars (\$500)

for the first offense and not less than Two Hundred Dollars (\$200) nor more than Two Thousand Five Hundred Dollars (\$2,500) for subsequent offenses, in the discretion of the court, and in addition to all of the costs, damages and expenses provided by law. For purposes of this Article, "subsequent offense" means a violation of this Article committed by the same person within twelve (12) months of a previous violation of the Article for which said person admitted responsibility or was adjudicated to be responsible, provided however, that offenses committed on subsequent days within a period of one (1) week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

- 2. Injunction. Any violation of this Article is hereby declared to be a nuisance per se. In addition to, or in lieu of, seeking to enforce this Article by proceeding under Section 6.06C.j.1. above, the Township or any Township resident may institute an appropriate action in a court of general jurisdiction seeking injunctive or equitable relief.
- 3. Enforcement and Administration. This Article shall be enforced and administered by the Township Director of Planning and Economic Development, or such other Township official as may be designated from time to time by resolution by the Township Board.

SECTION 2. Conflicts. If any provision of the Zoning Ordinance conflicts with this amendment to the Zoning Ordinance, the most restrictive provision shall apply.

SECTION 3. Severability. This Ordinance and the various parts, sentences, paragraphs, sections, and clauses thereof are hereby declared to be severable. Should any part, sentence, paragraph, section, or clause be declared unconstitutional, null, or void by a court of competent jurisdiction, such declaration shall not have any effect on the validity of the remaining parts, sentences, paragraphs, sections, and clauses of this Ordinance.

SECTION 4. Effective Date: This Ordinance shall be effective upon publication in a newspaper of general circulation within the Township.

This Ordinance is hereby declared to have been adopted by the Township Board of the Charter Township of Van Buren, County of Wayne, State of Michigan, at a Regular Meeting, called and held on the ___th day of _____, 2015.

YEAS:
NEAS:
ABSENT:

I hereby approve the foregoing Ordinance.

Leon Wright, Township Clerk

Linda Combs, Township Supervisor

Adopted:
Published:
Effective:

DRAFT