

Dear ZBA Members,

We have put together the activity of what has been going on since Mr. Otto, Leelanau Water Sports, has purchased the 1274 Peck Rd property on a land contract.

1. LWS took over the property in June of 2019.
2. He was required to have an approved site plan before starting his business. He did not do this.
3. He was informed to do a site plan and get it to the ZA. Ordinance states he had 30 days to get this done. He did not comply.
4. In the fall winterizing of boat motors where observed by several persons. He was allowing the antifreeze to run in the ground. EGLE-DEQ was called.
5. No site plan has been sent in to the ZA.
6. The following violations have not been enforced by the SBTS.
7. Section 23.5.1 Warning. Section 23.6.1 Violations. Section 23.6.2 Notices of Violation. Section 23.6.4 Violation of the 30days. 23.7 Lists the financial penalties for being in violation of the ZO. We feel none of these were enforced by SBTS.
8. Over July 4, 2020 an illegal 250 gal. fuel tank was fill with gasoline to fuel the boats. EGLE was called and they shut it down. He was required to get an approved gasoline tank and moved far away from the structure on the property.
9. Aug 3, 2020 a letter from the township lawyer was sent to LWS giving them another 30 days. No compliance from LWS.
10. Sept 23, 2020 another letter was sent per township lawyer. The last paragraph stated The township intends to file a Municipal Civil Infraction on October 23, 2020. You may Avoid penalty by submitting a compliant site plan prior to that date. Alternatively, you may regain compliance by ceasing business activity until successful submission and review of a compliant site plan.  
The site plan was not received until the end of Dec.2020. The SBTS did not enforce any violation against LWS for not complaining with their letters.
11. The first site plan review was Feb 2,2021. The ZA ask for ZO section 8.8 Yard Storage. Whenever a business establishment finds it necessary to store part of its goods, supplies merchandise or returnable containers out side the confines of the building structure, it shall provide an enclosure by solid fence or its equivalent not less and six(6) feet high around such storage area, said fence to be made and maintained in a manner that is Consistent with the intent and purpose of this ordinance and does not adversely affect the adjacent property. In approving or disapproving such fence the ZA shall apply the following standards.
  - A. The fence will be constructed of such material and of such design as to reasonably Prevent trespassers from entering the premises by scaling such fence.
  - B. The fence shall be solid construction or of material so as to obstruct the view of the Premises enclosed.
  - C. The shall be maintained and/or painted, but shall not be used as a sign or signboard In any way.
  - D. Materials stored shall not OBTRUDE above the fence.
12. LWS has platoon boats 11-12 feet high, they will obtrude over a 6 foot fence. This will look terrible and intrusive to the neighbors and commercial businesses in the area. It will also affect our Scenic M22 roadway by diminishing the beauty of the roadway.
13. The site plan was review on March 16, 2021, and on and May 4, 2021 the asked for the site plan to be revised.
14. In late May 2021 violations of Leelanau County Stormwater ordinance where violated.
  1. Moved soil
  2. Put moved soil in wetlands.
  3. Put new gravel down.No permits where filed. Wet land rules are in packet. Steve Christensen was on site.

15. LWS did not put the proper paper work in to the Suttons Bay Township Tax Assessor. He has been paying residential taxes and not commercial. That has been changed for 2022.
16. A letter was found from the DEQ-EGLE and given to the SBPC. In packet.
17. June 1 the SBPC voted against LWS site plan was turn down. The board stated the ZO. 19.1 and 19.15.

We believe that the SBPC used the right language to turn down the site plan. For over 3 years LWS has not been in compliance with the SBTS. He has not followed rules from the State, township or County. He has done what he wants and waits to see if he gets caught. This commercial business has been very intrusive on the neighbors and business in our area. The worst part is how it looks on Scenic M22. There is no other boat storage in Leelanau County on M22 going into other villages.

Another concern is that boat storage is in the SBTO. Article 4 Agricultural District. What is interesting is that boats are not to be seen from the roadway and that no less than on a 2 acre parcel. Article 4 is in packet.

We have looked at LWS current site plan and found some errors.

The set backs are to be 10 feet on both sides, residential and commercial, not 6 feet.

We feel his road off of M22 will never be approved because of the wetlands. We have lived here since 1978 and no one has been able to get a permit to put in a road off of M22.

Also under the ZO 3.12.1 it describes buffering-landscaping which is suppose to a variety of Trees and shrubs to restrict a clear view of the property not just cedar trees.

A 6ft fence on the north side of the property will not let enough sun in to the trees and shrubs. We are also concern with this fence it will also kill our cedars that have been in place for 42 years.

We have enclosed a petition that has been circulated in the area concerning the appearance of how our M22 Scenic roadway and Peck Rd. We are trying to improve and looks of the area and make it more appealing.

Thank-you for reading this, and please consider our concern with letting LWS stay in our neighbor hood.

Respectively,

Wayne and Sharon Livingston.

5. Driveway and parking areas.
  6. The centerline(s) of any road(s).
  7. Location of any easements.
  8. The Commission may require the property to be located by a registered surveyor, in cases where property boundaries are not clearly indicated by corner markers or other means.
- D. A Health Department permit, if the proposed development requires a well or sewage disposal system.
  - E. A driveway permit from the Leelanau County Road Commission if applicable.
  - F. Any other information deemed necessary by the Commission to determine compliance with the Ordinance, and to provide for its enforcement.

**SECTION 23.4.5 TEMPORARY USE PERMITS**

The Zoning Administrator is authorized to issue a temporary land use permit for temporary uses, as follows:

- A. Carnival, Circus, or Fair, for a period not to exceed seven (7) days.
- B. Open Lot Sale of Christmas Trees, for a period not to exceed forty-five (45) days.
- C. Real Estate Sales Office, for lots or units on the premises and for a period not to exceed one (1) year, provided no cooking or sleeping accommodations are maintained in the structure.
- D. Contractor's Office and Equipment Sheds, for the development on the parcel and for a period not to exceed one (1) year, provided that such office be placed on the property to which it is appurtenant.

**SECTION 23.5 FAILURE TO PASS INSPECTION**

**SECTION 23.5.1 WARNING**

Should the Zoning Administrator determine that the building or structure is not located according to the site and construction plans filed, or is in violation of any provisions of this Ordinance, or of any other applicable law, he shall so notify, in writing, the holder of the permit. Further construction shall be stayed until correction of the defects set forth has been accomplished, and upon notice and request for re-inspection by the applicant, inspections have been completed and written approval given.

**SECTION 23.5.2 CANCELLATION OF PERMIT**

Should the holder of a land use permit fail to comply with the requirements of the Zoning Administrator at any inspection stage, the Zoning Administrator shall cause notice of cancellation of the permit to be securely and conspicuously posted upon or affixed to the land use not conforming to the Ordinance requirements, the same being sent by first class mail to the address provided to the township by the applicant when he, she, or it filed the original application for land use permit. Such posting shall be considered as serving notice of cancellation to the permit holder. No further activity in such use shall be undertaken or permitted until such time as the requirements of this Ordinance have been met. Failure of the permit holder to properly notify the Zoning Administrator of the time for an inspection shall automatically cancel the permit, requiring issuance of a new permit before the land use may proceed.

**SECTION 23.5.3 VOIDING OF PERMIT**

- A. Any land use permit granted under this Ordinance shall be null and void unless the property is developed as proposed, within one (1) year. The Zoning Administrator shall notify the holder of the permit at least thirty (30) days prior to the expiration of the one year period, and before voidance of the permit is actually declared. Permits may be extended for up to one (1) additional year by the Zoning Administrator upon the written request from the permit holder.
- B. The Zoning Administrator may suspend or revoke a permit issued in error or on the basis of incorrect information supplied by the applicant or his agent, or which is in violation of any of the ordinances or regulations of the Township.

**SECTION 23.6 VIOLATIONS**

**SECTION 23.6.1 REPORTS OF VIOLATION**

Violations observed by residents of the Township may be reported to the Zoning Administrator to be investigated. This need not be in writing. The Zoning Administrator should keep the names of such residents confidential.

**SECTION 23.6.2 NOTICES OF VIOLATION**

Whenever the Zoning Administrator determines that a violation of this Ordinance exists, he shall issue a notice of violation. Such notice shall be directed to each owner or party in interest in whose name the property appears on the last local tax assessment records.

**SECTION 23.6.3 SERVING OF NOTICE**

All notices shall be in writing and shall be served upon the person to whom they are directed personally or, in lieu of personal service, may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing should be kept on file.

**SECTION 23.6.4 CORRECTION OF VIOLATIONS**

All violations shall be corrected within thirty (30) days following the date of issuance of written notice to correct.

**SECTION 23.6.5 PROSECUTION OF UNCORRECTED VIOLATIONS**

If steps have not been taken to correct the violation(s), they shall be referred for prosecution to the Township's attorney, who may institute injunction, mandamus, abatement, or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any unlawful erection, maintenance, or use.

**SECTION 23.7 PENALTIES**

Any person, firm, association, corporation or other entity who or which shall violate any provision of this Ordinance in any particular, or who fails to comply with any of the regulatory measures or conditions imposed by the Board of Appeals or the Planning Commission pursuant to this Ordinance or otherwise pursuant to Michigan law shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine for each violation in accordance with the schedule set forth herein, along with costs which may include all expenses, direct and indirect, to which the township has been put in connection with the municipal infraction. Costs of no more than \$500 shall be ordered. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance. Provisions of this Ordinance may also be enforced by suit for injunctive relief.

Civil Fines for Municipal Infractions

Unless otherwise provided elsewhere within this Ordinance for specific violations, Civil Fines for municipal civil infractions shall be assessed in accordance with the following schedule:

	<u>Fine</u>
1st violation	\$100.00
2nd violation within 3-year period	\$250.00
3rd violation within 3-year period	\$500.00
4th or subsequent violation within 3-year period	\$1000.00

**SECTION 23.8 APPEARANCE TICKETS AND MUNICIPAL CIVIL INFRACTION CITATIONS**

As provided for in the Suttons Bay Township Municipal Civil Infraction Ordinance, the Suttons Bay Township Supervisor, the Suttons Bay Township Zoning Administrator and the Suttons Bay Township Attorney, are hereby authorized to investigate violations of this ordinance, and to issue and serve appearance tickets and citations, including municipal civil infraction citations, pursuant to MCL 764.9c, MCL 600.8701 and MCL

July 4, <sup>th</sup> 2020  
illegal fuel tank.



## FIGURA LAW OFFICE

EMPIRE COMMERCE CENTER  
11470 S. LEELANAU HWY., STE 105  
PO BOX 447  
EMPIRE, MICHIGAN 49630

RICHARD J. FIGURA, PC\*  
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\* Outstanding Municipal Attorney Award  
Michigan Association of Municipal Attorneys

TELEPHONE: (231) 326-2072 FACSIMILE: (231) 326-2074

\*\* Also admitted in Pennsylvania

Of Counsel to Simen, Figura & Parker, PLC  
Flint, Michigan

August 6, 2020

Patrick Otto  
1274 S. Peck Rd.  
Suttons Bay, MI 49682

Mr. Otto,

I am writing to you as the attorney for Suttons Bay Township. We have recently received a copy of your email communications with the Suttons Bay Township Zoning Administrator as well as the Zoning Administrator's Report and Findings of Fact relating to your business. After review of these materials, it appears that your business has been operating since 2019 without having satisfied the required abbreviated site plan review. I trust that your communications with the zoning administrator have been a good faith attempt to attain compliance with the zoning ordinance. Because of this good faith attempt, the Township is willing to forego enforcement actions provided that a complete site plan is received by August 31, 2020.

I am enclosing a copy of Article 19 of the Township's Zoning Ordinance (the ZO). While the Zoning Administrator has determined that your business fits within the permitted uses for the Commercial District, this determination does not remove the need for site plan review. Section 19.2 of the ZO states that "site plan review is required... under other circumstances required by this ordinance."

**SECTION 19.2 APPLICABILITY** Site Plan Review is required for any project requiring a Land Use Permit, Special Land Use Permit, Planned Unit Development, Site Condominium, Subdivision, Appeal, Variance, or under other circumstances required by this Ordinance.

Section 19.4 of the ZO lists other circumstances that require site plan review, including "Commercial Site Plan change of use to a greater intensity", which requires abbreviated site plan review. I understand that this property was used for residential purposes before you acquired it, and is now used as a staging area for a watercraft rental business. The watercraft business occupies a larger portion of land than the prior residential use, requires modification to the land, and the installation of business equipment or fixtures; all of these factors indicate a greater intensity of use.

The requirements of this type of site plan are found at Section 19.7 of the attached document. Because you have not yet submitted and received approval for a site plan, operation of your business is a violation of the Zoning Ordinance. I am told that you have committed to provide a completed site plan to the Township within a month. If a site plan is not received, the Township will have no choice but to authorize the issuance of civil infraction citations which would bring this matter in the 86<sup>th</sup> District Court for Leelanau County. If proven responsible for the violations, you could be

Mr. Patrick Otto  
August 6, 2020  
Page -2-

enjoined from continuing operation of your business and may also be subject to paying the Township's costs in bringing such an enforcement action.

**The Township is willing to forego enforcement on this matter provided that a completed site plan meeting the requirements of Section 19.7 is received by August 31, 2020.** Please direct any questions to the Zoning Administrator directly.

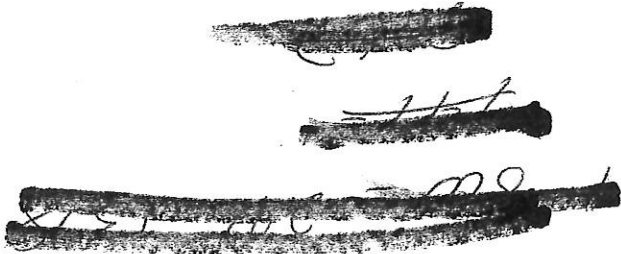
Sincerely,

FIGURA LAW OFFICE



Timothy J. Figura, Esq.  
[tfigura@figuralaw.com](mailto:tfigura@figuralaw.com)

TJF/jab  
Enclosure





**FIGURA LAW**

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\*\* Also admitted in Pennsylvania

Of Counsel to Simen, Figura & Parker, PLC  
Flint, Michigan

September 23, 2020

**NOTICE OF VIOLATION**

Patrick Otto  
1274 S. Peck Rd.  
Suttons Bay, MI 49682

Mr. Otto,

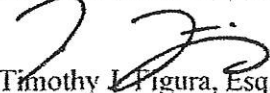
I am again writing to you as the attorney for Suttons Bay Township. You received a letter from our office dated August 5, 2020, to which you responded via email. A copy of that letter is attached hereto. You will recall that our August 5 letter served to notify you that the Township is willing to forego enforcement actions provided that a complete site plan is received by August 31, 2020. **As of September 22, 2020, you have not supplied the required site plan to Suttons Bay Township. This letter is a Notice of Violation of §19.2 and §19.4 the Suttons Bay Township Zoning Ordinance resulting from operation of a business without submitting a site plan.**

Your August 5, 2020 communication to our office stated that August 31, 2020 was not a reasonable timeframe for you to submit a site plan due to difficulty related to Covid-19. While the Township is sensitive to these concerns, the fact remains that your business is currently operation in violation of the Suttons Bay Township Zoning Ordinance. When required, a site plan must be submitted prior to commencing an intended use, and doing otherwise results in a violation of the zoning ordinance. As mentioned in our prior letter, the Township was willing to allow your business operation to continue due to your willingness to comply with the zoning ordinance.

The Township intends to file a Municipal Civil Infraction on October 23, 2020. You may avoid penalty by submitting a compliant site plan prior to that date. Alternatively, you may regain compliance by ceasing business activity until successful submission and review of a compliant site plan.

Sincerely,

FIGURA LAW OFFICE

  
Timothy J. Figura, Esq.  
[tfigura@figuralaw.com](mailto:tfigura@figuralaw.com)

TJF/jab  
Enclosures  
cc: Steve Patmore via email

**SECTION 8.5 BUFFER ZONE**

Deleted in its entirety by Amendment 09-001 effective August 28, 2009. See Section 12.6

**SECTION 8.6 ACCESSORY BUILDINGS**

Accessory Buildings in the Commercial District shall be subject to the same provisions of location, spacing and occupancy as the primary buildings permitted in the District and their area shall be computed as part of the maximum total area of land occupancy permitted.

**SECTION 8.7 OFF-STREET PARKING, AND DELIVERY ACCESS**

Refer to Section 3.15.3 Landscaping and Buffering for minimum standards for parking. Access shall be provided for the unloading of goods, supplies, or merchandise from truck to business establishment without obstructing the public right-of-way.

**SECTION 8.8 YARD STORAGE**

Whenever a business establishment finds it necessary to store part of its goods, supplies, merchandise or returnable containers outside the confines of the building structure, it shall provide an enclosure by solid fence or its equivalent not less than six (6) feet high around such storage area, said fence to be made and maintained in a manner that is consistent with the intent and purpose of this Ordinance and does not adversely affect the adjacent property. In approving or disapproving such fence the Zoning Administrator shall apply the following standards:

- A. The fence will be constructed of such material and of such design as to reasonably prevent trespassers from entering the premises by scaling such fence.
- B. The fence will be solid construction or of material so as to obstruct the view of the premises enclosed.
- C. The fence shall be maintained and/or painted, but shall not be used as a sign or signboard in any way.
- D. Materials stored shall not obtrude above the top of the fence.

**SECTION 8.9 AREA AND BULK REQUIREMENTS**

All uses allowed in this district shall be subject to the provisions of Section 3.6 Schedule of Area, Height, and Placement Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

## Soil Erosion - Leelanau Conservation District

 <https://www.leelanaucd.org/soil-erosio...>

The Leelanau County Stormwater Ordinance, which incorporates Part 91 of Act 451 (formerly Act 347), Michigan's Soil Erosion and Sedimentation Control Law, regulates and requires a permit for:

- All commercial projects
- Earthwork within 500 feet of a lake or stream (includes minor projects)

## Soil Erosion | Leelanau County

 [www.leelanau.gov/lcdraincomse.asp](http://www.leelanau.gov/lcdraincomse.asp)

Soil Erosion This site is supported by the

May 4 2021

SBT Planning Commission

Comments from Planning Commission

- Would not approve site plan unless primary access is on M-22, not Peck Rd.
- Area where moving boats- is gravel necessary?
- Boat wrapping area should be gravel
- Can 35 boats fit on this site.
- Section 8;8 - limit the size of the boats that are stored so they won't be obtrusive.
- Section 19.15(c) talks about establishing conditions on site plan approval.
- How do you limit the use of oils, detergents, etc. which would affect the ecology?
- The desire to protect the welfare and health of the community should be the forefront in our mind.

List of what the applicant should show on the site plan

- Show what material the boats would be parked on.
- Need to show how big boats and little boats are going to be stored.
- Need to know why limited gravel is planned for the site
- Would like to have some verification that M-22 will be the access route
- Need to see better layout of the boats.
- Need to know the types of soils that will be used on the site.
- Need to know if the boats, other materials will be stored within a 6-foot fence.

# *Benzie-Leelanau District Health Department*

## **BENZIE OFFICE**

P.O. Box 341  
10524 Main Street  
Honor, Michigan 49640  
Phone (616) 325-5100  
Fax (616) 325-5109

## **LEELANAU OFFICE**

P.O. Box 747  
102 S. Madison  
Suttons Bay, Michigan 49682  
Phone (616) 271-5550  
Fax (616) 271-5575

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August 18, 1997

Doug DeGrow  
1873 Valley View  
Kokomo, IN 46902

**Re: Sand Filter System Approval for Commercial Property Near Suttons Bay  
(Property Tax #: 45-011-033-030-00)**

Dear Mr. DeGrow:

As you are aware, a Site Survey (#5927-1996) completed by our Department found this property unsuitable for conventional on-site sewage disposal. On May 7, 1997 we met with Ben McGeachy of the Department of Environmental Quality to evaluate the property for the use of a sand filter wastewater disposal system. In a letter to our Department dated June 26, 1997, Mr. McGeachy gave conditional approval for a sand filter and our Department has since concurred with this approval. The following are the conditions that would be placed on a permit issued by our Department.

1. Due to the limited area available (along Peck Road) for initial and replacement sand filter drainfield disposal areas, usage would be limited to 50 gpd. This would accommodate two employees with no additional water usages. This limitation would need to be recorded as a deed restriction.
2. The existing house and well will need to be removed from the site with only the present drive used for demolition in order to not disturb surrounding soils. The existing well will need to be properly abandoned along with the existing septic system.
3. Plans for the sand filter must be completed by a registered engineer and approved by the Department of Environmental Quality and our Department.
4. Any septic system that services the Alpine Party Store must be removed from this property.

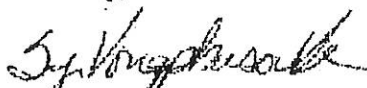
At such time a potential developer wants to pursue the use of this site given the above listed conditions, a meeting shall be arranged which would include the developer, his consulting engineer, a representative from the DEQ, and a representative from this Department. Specific system design details based on the developers proposed plans would be discussed at that time, which would be the basis for future septic and well permit issuance.

MDEQ File #98-6-114  
August 27, 1998  
Page 4

Should you wish to request a formal administrative hearing, your written request must be received within 60 days of the date of this letter. Please submit your written request to:

Office of Administrative Hearings  
Michigan Department of Environmental Quality  
Knapps Centre - Third Floor  
Suite 340  
P. O. Box 30473  
Lansing, Michigan 48909-7973

Sincerely,



Sy Vongphasouk  
Land and Water Management Analyst  
Land and Water Management Division  
616-775-3960 ext. 6364

SV/elm

cc: Mr. Les Thomas, MDEQ, LWMD, Lansing  
Ms. Mary Ellen Cromwell, MDEQ, LWMD, Lansing  
Mr. Fred Gottschalk, MDEQ, LWMD, Mio Office  
Suttons Bay Township Supervisor  
Leelanau CEA  
USCOE



STATE OF MICHIGAN



JOHN ENGLER, Governor

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

*"Better Service for a Better Environment"*

HOLLISTER BUILDING, PO BOX 30473, LANSING MI 48909-0473

INTERNET [www.deq.state.mi.us](http://www.deq.state.mi.us)

RUSSELL J. HARDING, Director

REPLY TO:

LAND & WATER MANAGEMENT DIVISION  
CADILLAC DISTRICT OFFICE  
120 CHAPIN ST W  
CADILLAC MI 49601

August 31, 1998

CERTIFIED MAIL

Traverse City, Michigan 49684

Dear Mr. [REDACTED]:

SUBJECT: MDEQ File #98-6-114

The Department of Environmental Quality has reached a decision on your application for permit submitted under the regulatory authority of the Natural Resource and Environmental Protection Act, 1994 P.A. 451, Part 303, Wetland Protection, and Part 17, Michigan Environmental Protection to place approximately 760 cubic yards of fill material in a wetland area contiguous to Grand Traverse.

The stated purpose of this project is to construct an access drive 64 feet wide by 100 feet long.

An on site investigation revealed proposed driveway is not dependent upon being in the wetlands.

After due consideration of the permit application, on-site investigation, and review of other pertinent materials, the Department finds that the proposed project will have a significant adverse impact on the natural resources associated with the Grand Traverse Bay watershed.

The subject wetland filters runoff, removing nutrients and other contaminants prior to their introduction into the watershed. This filtration is accomplished by a combination of natural processes such as physical entrapment, microbial transformation, and biological utilization. The Department finds the proposed wetland fill would harmfully alter the filtration benefits of the wetland.

Explanation of findings:

The Department of Environmental Quality turned down an initial request to fill and create an entry from M-22: the department stated that this parcel had alternate access available from Peck Road.

The Department of Environmental Quality and the Michigan Highway Department later gave permission to improve the northern drive of the Barrels and Barrels Party Store by filling and widening. A easement agreement between owners of the subject parcel and the owners of the party store was conditioned on this approval. An agreement for this easement was not able to be obtained.

A site survey report from the Health Department is provided in this package. Water usage is limited to 50 gallons per day, and businesses are limited to two employees at any one time.



MDEQ File #98-6-114  
August 27, 1998  
Page 2

The wetland area provides breeding, loafing, cover, feeding, and nesting habitat for a variety of marsh birds and waterfowl, escape cover and breeding habitat for furbearers, and cover and feeding habitat for upland wildlife species. This area also provides valuable production habitat for reptiles and macroinvertebrates which are a vital part of the food web. These values would be adversely impact by the proposed driveway fill.

The Department finds this wetland provides valuable water storage capacity during times of high water and peak runoff. The project would result in elimination of critical water storage area and may increase flood stages in adjacent areas.

Section 30311(1) of the Natural Resource and Environmental Protection Act, supra, states, in pertinent part: "A permit...shall not be approved unless the Department determines that the issuance of a permit is in the public interest...."

Section 30311(4) states in pertinent part: "A permit shall not be issued unless it is shown that an unacceptable disruption will not result to the aquatic resources. A permit shall not be issued unless the applicant also shows either of the following:

- a) The proposed activity is primarily dependent upon being located in the wetland.
- b) "A feasible and prudent alternative does not exist."

The Department finds that the proposed project is not in the public interest in that the benefits which reasonably may be expected to accrue from the proposal do not balance the reasonably foreseeable detriments of the activity. The proposed project will cause an unacceptable disruption to the aquatic resources. The activity is not dependent upon being located in the wetland and a feasible and prudent alternative exists.

Section 1705(2) of Part 17 of the Natural Resources and Environmental Protection Act states, "In any such administrative, licensing, or other proceedings, and in any judicial review thereof, any alleged pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein, shall be determined, and no conduct shall be authorized or approved which does, or is likely to have such effect so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare."

In consideration of the statutory provisions as noted above, the Department has determined that the adverse impacts to the environment and public trust are significant, and they have not been mitigated to the extent possible. We further find that the public interest in the proposed project is not greater than the public interest in unavoidable degradation of the resource and that there is feasible and prudent alternatives.

MDEQ File 888-6-114  
August 27, 1998  
Page 3

Part 17 of the Natural Resource and Environmental Protection Act, supra, requires the Department to deny application for activities that will cause pollution, impairment, or destruction to the State's natural resources when there exists a feasible and prudent alternative consistent with reasonable requirements of the public health, safety, and welfare. The Department finds that the proposed project will cause pollution, impairment, or destruction to the State's natural resources and there is a feasible and prudent alternative.

A feasible and prudent alternative exists to maximize the upland available on the property and access from Peck Road.

Based on the foregoing findings, a permit cannot be granted to place approximately 780 cubic yards of fill material in a wetland area contiguous to Grand Traverse Bay to construct an access drive 64 feet wide by 100 feet long, and your application is hereby denied.

The Department would give consideration to the alternative mentioned above.

Should you wish to pursue this alternative, please contact Sy Vongphasouk at the Cadillac District Office, 616-775-3960 ext. 6364.

Should you wish to appeal this action of the Department, you have the right to request an administrative hearing. The administrative hearing is held before an administrative law judge and is conducted in a manner similar to a circuit court trial.

As an alternative, you may request an informal review of your file by the Land and Water Management Division District Supervisor. The informal review process consists of requesting in writing a review of your file and any additional information or project modification you may wish to submit. The informal review can usually be scheduled within 45 days of your written request and could resolve your application in a more timely fashion than the formal hearing process.


If you would like to request an informal review of your file by the District Supervisor or submit alternative project plans, please contact this office in writing within 14 days of this letter.

MDEQ File #98-6-114  
August 27, 1998  
Page 4

Should you wish to request a formal administrative hearing, your written request must be received within 60 days of the date of this letter. Please submit your written request to:

Office of Administrative Hearings  
Michigan Department of Environmental Quality  
Knapps Centre - Third Floor  
Suite 340  
P. O. Box 30473  
Lansing, Michigan 48909-7973

Sincerely,



Sy Vongphasouk  
Land and Water Management Analyst  
Land and Water Management Division  
616-775-3960 ext. 6364

SV/elm

cc: Mr. Les Thomas, MDEQ, LWMD, Lansing  
Ms. Mary Ellen Cromwell, MDEQ, LWMD, Lansing  
Mr. Fred Gottschalk, MDEQ, LWMD, Mio Office  
Suttons Bay Township Supervisor  
Leelanau CEA  
USCOE



# SUTTONS BAY TOWNSHIP ZONING ORDINANCE

The Township of Suttons Bay in Leelanau County, Michigan, ordains:

## ARTICLE 1

### TITLE, PURPOSE, ENABLING AUTHORITY AND CONDITIONS OF ENACTMENT

(Annotation: Article amended in its entirety by Amendment 16-004, effective February 24, 2017)

#### SECTION 1.1 TITLE

This Ordinance shall be known as the Suttons Bay Township Zoning Ordinance and will be referred to herein as the Ordinance.

#### SECTION 1.2 PURPOSE

The purpose of the Ordinance is to protect the public health, safety, and general welfare of the inhabitants of Suttons Bay Township, through the establishment of zoning districts within which the proper use of land and natural resources may be encouraged and regulated to achieve planned orderly growth and development for the Township, preventing overcrowding of lands, avoiding undue congestions of population, and facilitating transportation, public utilities, fire safety, and for other purposes of the Michigan Zoning Enabling Act.

#### SECTION 1.3 ENABLING AUTHORITY

This Ordinance is enacted pursuant to P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.).

#### SECTION 1.4 SCOPE

Except as otherwise provided in this Ordinance, no lot or parcel of land, no existing building, structure, or part thereof and no new building, structure or part thereof shall hereafter be located, erected, constructed, re-constructed, altered or used for purposes other than in conformity with the provisions of this Ordinance.

#### SECTION 1.5 RELATIONSHIP TO LAND USE MASTER PLAN

The Zoning Ordinance and the Zoning Map are based upon the Suttons Bay Community Joint Master Plan of August 2011, and the supporting documents.

## ARTICLE 19 SITE PLAN REVIEW

(Annotation: Article amended in its entirety by Amendment 16-004, effective February 24, 2017)

### SECTION 19.1 INTENT

The purpose of this Article is to establish uniform site plan procedural requirements and standards for all applicable land use developments in the Township so the site plan provisions of this Ordinance can be applied equitably and fairly, encouraging a harmonious relationship of land uses within the site and adjacent lands. Toward this end, this Ordinance requires site plan review and approval by the Planning Commission (Commission), Zoning Board of Appeals (ZBA), or the Zoning Administrator as set forth below, or as otherwise provided in this Ordinance.

### SECTION 19.2 APPLICABILITY

Site Plan Review is required for any project requiring a Land Use Permit, Special Land Use Permit, Planned Unit Development, Site Condominium, Subdivision, Appeal, Variance, or under other circumstances required by this Ordinance.

### SECTION 19.3 CATEGORIES / TYPES OF SITE PLANS AND REVIEW

There shall be three categories of site plans that are applicable depending on the different type and complexity of proposed land uses:

- A. **Administrative Site Plan** applies to Land Use Permits issued by the Zoning Administrator and to projects such as single family dwellings, additions to dwellings, and construction of accessory structures. See Article 23 Administration and Enforcement, Section 23.4 Land Use Permits.
- B. **Abbreviated Site Plan** applies to Variance Requests, Appeals, and projects where Abbreviated Site Plan Review is specified in this Ordinance. This review is performed by the Commission or ZBA.
- C. **Detailed Site Plan** applies to more intensive land uses as specified in this Ordinance, and applies to site plans that are not listed as Administrative or Abbreviated.

- G. Evidence of sufficient protection to ensure there shall be no additional storm water run-off created by the project, or that adequate measures have been taken to accommodate such storm water run-off created on the site.

**SECTION 19.14 APPROVAL AND COMPLIANCE**

- A. In cases where the Commission reviews the site plan, the Commission shall act to approve, approve with conditions, or disapprove the site plan in writing with findings of fact.
- B. The action shall be recorded in a record of the zoning application and shall be filed with the Zoning Administrator. The Zoning Administrator or Commission shall notify the applicant in writing of its decision along with the Findings of Fact.

**SECTION 19.15 ESTABLISHING CONDITIONS ON SITE PLAN APPROVAL**

- A. A site plan may be approved with conditions necessary to comply fully with the intent of this Ordinance.
- B. Reasonable conditions may include conditions necessary to:
1. Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
  2. Protect the natural environment and conserve natural resources and energy.
  3. Insure compatibility with adjacent uses of land.
- C. Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the land or proposed activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

**SECTION 19.16 SECURITY REQUIREMENT**

- A. As security for and to insure compliance with the site plan and zoning ordinance and any conditions, limitations or requirements imposed by the Zoning Administrator or Commission as necessary to protect natural resources or the health, safety and welfare of

3. No more than five (5) acres of land may be actively mined at one time.
4. Previously mined areas shall be reshaped to usable grades, and cover restored to prevent erosion.
5. This use shall be considered a temporary use. A time schedule for completion of each phase of the mining and a plan for restoration of the site, acceptable to the Suttons Bay Township Planning Commission, shall be required. A surety bond, irreversible bank letter of credit, or certified check sufficient to cover the cost of restoration may be required by the Planning Commission.

H. Sawmills (See Section 2.2 Definitions), provided:

1. The Sawmill shall not be located within two hundred fifty (250) feet of any lot line, nor road right-of-way.
2. The Sawmill shall not be located within two hundred fifty (250) feet of the shoreline of any lake, creek, stream, or wetland.
3. Wherever possible, the existing vegetation shall not be removed from the setbacks. Where existing vegetation is insufficient to act as a screen and buffer, three rows of conifer trees shall be stagger planted and maintained on the perimeter of the lot, spaced seven (7) feet apart in accordance with the recommendations of the Leelanau County Soil Conservation Service. Trees shall be planted outside the road right-of-way.
4. The lot shall have a minimum area of ten (10) acres.

I. Commercial Storage of boats and vehicles. It is our intent to provide for the seasonal storage of boats and vehicles in secluded settings where they will not become eyesores, or a nucleus for further commercial development. Such storage shall be subject to the following conditions:

1. Only currently licensed boats, cars, trucks, recreational vehicles, campers, trailers for recreational vehicles and boats, and equipment necessary to the principal use, shall occupy the storage area.
2. The storage lot shall be a minimum of two (2) acres in size.
3. The actual storage area shall not be located so that it can be viewed from the surrounding land.
4. ~~Nothing shall be stored in the setbacks.~~

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5. If the storage area is protectively fenced, such fencing shall be around the storage area itself, and not along the lot perimeter.
6. Natural vegetation and/or plantings in the setbacks shall buffer and completely screen from view the storage area and any protective fencing from any public road and from neighboring properties.
7. No repairs and servicing shall be permitted.
8. The lot cannot be used for other storage purposes.
9. The location of driveways entering the lot from any public road must be approved by the County Road Commission.

J. (Annotation: Section amended by Amendment 13-001, effective April 26, 2013)  
 (Annotation: Section amended by Amendment 16-003, effective February 24, 2017)

Wineries, and Cideries are allowed as a Special Use in Suttons Bay Township's Agricultural District when the following conditions and standards are met as well as the governing standards for Special Land Uses. It is the intent of this section to encourage the growing of wine and cider crops and production of these beverages as an integral component of the rural and agricultural character of Suttons Bay Township, and to maintain the viability of fruit and other crop farming through value added processing and direct sales of these and related beverages made from locally grown crops. It is also the intent of this section to promote local agri-tourism by allowing construction of a tasting room and retail sale of related products in the agricultural district subject to this ordinance.

Wineries and Cideries are permitted, provided:

1. The winery or cidery must, if required, be properly licensed by any local, state, or federal regulatory agency.
2. Parcel requirements:
  - a. The minimum lot area shall be at least five (5) acres.
  - b. The parcel shall contain a minimum of two (2) acres of planted farm crops that support the production of products produced by the licensee.
  - c. The minimum parcel width shall be at least three hundred (300) feet.
3. Setbacks:



- I. The basic shared waterfront lot shall not be used for the storage of boats or trailers.
- J. Sanitary facilities shall be provided if the site serves residents living beyond a radius of five hundred (500) feet. The number of fixtures shall be calculated at the rate of one fixture for each five (5) families with a minimum of one (1) fixture.
- K. Setbacks:
  - 1. Docks need not comply with the setback requirements from water's edge.
  - 2. The minimum side setback for the shared waterfront lot is fifty (50) feet except that the setback for parking shall be governed by the usual standards for the district within which it is located.

**SECTION 3.10.5 APPROVALS**

Final approval of the site plan shall be subject to the site plan being recorded with the Leelanau County Register of Deeds Office. The applicant shall submit evidence of registration to obtain final approval of the site plan.

**SECTION 3.11 BOAT HOUSES**

Unless otherwise specifically provided in this Ordinance, boat houses constructed on lakes or water courses in the Township do not have to comply with setback requirements from shoreline as would be applicable to other types of structures.

**SECTION 3.12 LANDSCAPING, SCREENING, BUFFERS AND GREENBELTS**

(Annotation: Replaced in its entirety by Amendment 09-001 effective August 28, 2009)

**SECTION 3.12.1 INTENT**

The intent of this section is to promote the public health, safety and general welfare by: protecting and preserving the character of the township; promoting preservation of existing vegetation, improving the appearance of property along waterways, roads, and public areas; visual and environmental buffers between incompatible land uses; reducing noise, air, and visual pollution; moderating daily temperature fluctuations; promoting water retention and preventing soil erosion and soil depletion; and protecting the banks of creeks, streams, lakes, and natural ponds.

Different subsections within this Section are applicable to different types of development and site plans. Please review through the entire Section and verify with the Administrator which sections apply to your plans.

To the Suttons Bay Zoning Appeals board:

The persons that have sign the letter are:

1. RESIDENTIAL PROPERTY OWNERS
2. COMMERCIAL PROPERTY OWNERS
3. LEASE PROPERTY OWNERS
4. WORK IN THE AREA
5. DRIVE THROUGH THE AREA

Suttons Bay Township Zoning Board:

The writing of this letter is to to express our concerns of the setbacks and the elimination of buffering in the Suttons Bay Township Zoning regulations.

Our main concern is to keep the zoning of commercial property next to residential more appealing and to protect the neighborhoods that have been established over the years. We believe that this can be done with changing set backs and adding buffering to these areas. Landscape screening (buffering) between all property lines makes the areas more pleasant and environmentally friendly.

We are not against commercial growth. Seeing commercial buildings blend into the neighborhoods instead of being intrusive is our concern.

I have enclosed pictures of 3 commercial business that are on M22. They have buffering around them on all sides and are not an eyesore to passers-by. (Munson Medical, Hop Lot, and Suttons Bay Animal Hospital.). These businesses are not intrusive to their neighborhoods.

I have also enclosed pictures of M22 Corridor that do not have any buffering. As some of these businesses have not been asked to include buffering. As you can see, some of them have used their property as storage areas for all kinds of materials that are not related to their businesses.

You can also see that without any type of buffer this is not a pleasant picture for people as they enter the community of Suttons Bay.

The business person who is currently buying the property directly adjacent to our property on the South, has indicated that he is going to cut more trees down (which appear to be in the wetland). We have more than one concern with this: 1) We believe he is buying the property via a land contract.....this could leave a mess if he pulls out from that contract. 2) Cutting the trees will significantly decrease the buffer between that commercial property and residential neighborhoods. 3) Reduction of trees in wetlands is a concern for all of us.

The set backs between residential and commercial should be important to all of us. We would like to see an increase in the present setback to 60 feet with a Landscape buffer, in that area. This would also protect any new housing on the property north of the Bonek insurance building. We realize that south of the Bonek Building is also commercial property for sale.

The concern is that driving into Suttons Bay could begin to look like Chum's Corner, the highly commercialized area South of Traverse City on M31. Having that built with proper set backs and buffering could be a very positive setting driving into Suttons Bay and the neighborhoods.

The summary of this is to keep M22 corridor an appealing, environmentally friendly and attractive are to residents, businesses and visitors to Suttons Bay.

Wayne Kingston

Mark Featherstone

Sharon Lingait

Ally Noble

Erin Repellaski

Stephanie Burns

Chris Detert

S. Bone

John M Klauz  
Marilyn Klauz

Kim Deholl  
Albert Echelle  
Richard P. Setters  
Linda Steck

Mary Hoensheid } Permission to  
Jane Hoensheid } sign per  
Bill Klein } e-mail (S2)  
Barb Klein } Elaine Mikowski  
                  } Holly

Bill & Barb

Barbara Hayes  
Cherry Hayes  
Guy Klein  
Mark Decker  
K-L Drake

John Stutz  
Paucela S. Stanley  
~~John Stutz~~  
Termy Mackley

Holly Joann  
C. R.

Tommy  
Thomas Klauz  
Kay L. Heron  
Kathy Herman  
Stephen Mansour  
John Bumgardner  
Richard Catton  
Joan M Catton



**LARRY L GRAVES, AIA, Architect**

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By E-mail

[zoningadmin@suttonsbaytwp.com](mailto:zoningadmin@suttonsbaytwp.com)

29 October 2020

Steve Patmore, Zoning Administrator  
Suttons Bay Township  
P.O. Box 457  
Suttons Bay, MI 49682

Re: 1274 Peck Road

Dear Steve,

Thank you for taking the time to discuss with me my concerns regarding the apparent dry dock marina which has evolved at this commercial property on Peck Road. I am concerned about its lack of buffering and visual screening along the road, but especially along the north lot line adjoining the residential property to the north.

I also am concerned about the deterioration of the building on the site which also fronts the road.

It seems to me that as per the zoning ordinance requirements, proper visual screening may, in fact, be required on all four sides of this property due to the storage nature of the business.

Although I am unfamiliar with the recent history behind this development, I am pleased to hear that a proper site plan review of the property is now in process and am hopeful that it will result in adequate measures being taken to protect the interests of the community as set forth in the ordinance.

Please enter this letter in the formal record of this plan review.

Respectfully,

Larry L. Graves, AIA  
LLG/ks