

## MEMORANDUM



To: City Council

From: Rich LaBombard  
City Manager

Date: December 19, 2022

Subject: Northshore of Saugatuck  
Proposed Manrina Basin

The City of Douglas has been requested by the Saugatuck Dunes Coastal Alliance (SDCA) and several residents to provide a resolution to the United States Army Corp of Engineers (USACE) in opposition to the proposed Northshore of Saugatuck boat canal project. The proposed project located on the north side of the Kalamazoo River is situated in Saugatuck Township. The USACE is considering public comment as part of the open application. I've attached the resolution developed by the City of Saugatuck (Resolution No 221024-A) as well as documentation provided for the City of Douglas to consider.

**Discussion Item.**

**CITY OF SAUGATUCK  
COUNTY OF ALLEGAN  
STATE OF MICHIGAN**

**RESOLUTION NO. 221024-A**

**A RESOLUTION PROVIDING CITY COUNCIL'S PUBLIC COMMENT  
TO THE UNITED STATES ARMY CORPS OF ENGINEERS ON NORTHSORE OF  
SAUGATUCK, LLC'S PERMIT TO BUILD A MARINA BASIN**

Council Member Leo offered the following resolution and moved for its adoption, seconded by Council Member Gardner.

WHEREAS, NorthShore of Saugatuck, LLC has applied for a United States Army Corps of Engineers (the "USACE") permit (with USACE review file no. LRE-2010-00304-52-517-2) under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act to build a marina basin located in the Kalamazoo River, near the mouth of the Kalamazoo in Saugatuck Township (the "Township"), Michigan.

WHEREAS, the site is located upland at 3574 Dugout Road and 6500 135<sup>th</sup> Avenue, Allegan County, Michigan 49453.

WHEREAS, the City's jurisdictional boundaries, including its jurisdiction and control over the Kalamazoo River that exists within the City's boundaries, is near to the proposed marina basin.

WHEREAS, the City further owns extensive acreage held as public lands with substantial frontage on the Kalamazoo River that is directly south of the proposed marina basin.

WHEREAS, the City has interests, as reflected below, that are impacted by developments in the area, including the City's interests as a fiduciary in holding public lands in trust for its community and representing the general interests of the public within the City.

WHEREAS, the USACE is required to take into account the effects of proposed undertakings on historic properties both within and beyond waters of the United States.

WHEREAS, the USACE provided further Public Notice to the City on July 2, 2018, specifically regarding Section 106 to seek input on historic properties issues regarding the subject application pursuant to Section 106 of the National Historic Preservation Act and pursuant to 33 CFR 325, Appendix C.

WHEREAS, in response to the Public Notice and the understanding that the USACE will still consider public comment as part of the open application, City Council desires to provide public comment on the pending application and stress the importance of

the USACE to carefully review and weigh the public interest factors as well as historic preservation of the historic and cultural history at and around the proposed location as set forth below.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. In its evaluation of permit applications, the USACE will conduct a public interest review in which "due consideration shall be given to" a "local agency having jurisdiction or interest over the particular activity" and the USACE will consider "those official views as a reflection of local factors of the public interest."<sup>1</sup>
2. It is true that "[w]hen private enterprise makes application for a permit, it will generally be assumed that appropriate economic evaluations have been completed, the proposal is economically viable, and is needed in the market place. *However, the district engineer in appropriate cases, may make an independent review of the need for the project from the perspective of the overall public interest*" (emphasis added).<sup>2</sup>
3. In every application, the USACE will consider "[t]he extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work is likely to have on the public and private uses to which the area is suited."<sup>3</sup>
4. With regard to "other Federal, state, or local requirements," "where the required Federal, state and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application, the district engineer will, after considering the likelihood of subsequent approval of the other authorization and/or certification and the time and effort remaining to complete processing the Army permit application, either immediately deny the Army permit without prejudice or continue processing the application to a conclusion. If the district engineer continues processing the application, he will conclude by either denying the permit as contrary to the public interest, or denying it without prejudice indicating that except for the other Federal state or local denial the Army permit could, under appropriate conditions, be issued."<sup>4</sup>
5. The City, as a "local agency having jurisdiction or interest over the particular activity," finds that the proposed excavation to build a marina basin within the Critical Dune Area adjacent to the Kalamazoo River appears "contrary to the public interest."

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<sup>1</sup> 33 CFR § 320.4.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

6. The City finds that the cumulative, permanent detrimental impacts of the excavation and construction of the proposed marina basin on the Tri-Community tourist-based economy (City of Saugatuck, City of the Village of Douglas, and Saugatuck Township) far outweigh any possible economic benefit. The City therefore questions that the marina basin is clearly “needed in the market place.”
7. The City finds that the Tri-Community tourist-based economy relies on the preservation of the historical, ecological, and cultural values in the river mouth area, which appear will be impacted by the proposed marina basin.
8. The City finds that the proposed marina basin has the potential of impacting well-established “public and private uses to which the area is suited,” including public lands held by governmental agencies to the north and south of the proposed marina basin.
9. With regard to “other Federal, state, or local requirements,” the City only notes that litigation continues between the Saugatuck Dunes Coastal Alliance and Saugatuck Township regarding local approvals related to the marina basin.
10. The City particularly notes the following facts:
  - a. The construction of the canal will decrease Michigan’s Critical Dune Area by 6.5 acres.<sup>5</sup>
  - b. The construction of the canal will destroy the historic site of Singapore, a 19<sup>th</sup> century lumber town buried under the dunes and eligible for the National Register of Historic Places.<sup>6</sup>
  - c. The construction of the canal may damage the Potawatomi traditional cultural resources, disturbing Lake Sturgeon, wild rice growth traditionally gathered and connected to the area, and traditional burial grounds at the mouth of the Kalamazoo River.<sup>7</sup>

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<sup>5</sup> US Army Corps of Engineers, Public Notice: Proposed Marina in the Kalamazoo River and Beach Nourishment in Lake Michigan at Saugatuck, Michigan 1 (2017) (“[a] total of 241,750 cubic yards of sand would be excavated from a 6.54-acre upland area approximately 1,639 feet long and up to 200 feet wide, temporarily leaving a soil plug at the marina basin entrance”).

<sup>6</sup> US Army Corps of Engineers, Public Notice: Historic Properties Review for Proposed Marina Basin in the Kalamazoo River in Saugatuck Township, Michigan 4 (2018) (finding “the undertaking would have no adverse effect on Areas A, B, and D, but the undertaking would have an adverse effect on Area C, as defined in 36 CFR 800.5(a)(1)”). Area C has been identified as part of the buried 19<sup>th</sup> Century lumber town of Singapore.

<sup>7</sup> Mario Battaglia & Rebecca A. Hawkins, Ethnographic Traditional Cultural Property Study of the Mouth of the Kalamazoo River, Allegan County, Michigan 13-18, 23 (2019).

- d. The disposal of spoils from the construction of the canal will contribute to deforestation of a significant tree canopy of wooded sand dunes along the Kalamazoo River.<sup>8</sup>
- e. The construction of the canal will contribute to devaluation of the tri-communities' more than \$20 million in investments in the adjacent Saugatuck Harbor Natural Area, Tallmadge Woods Nature Preserve, and the Patty Birkholtz Natural Area.<sup>9</sup>

HISTORY OF THE TRI-COMMUNITIES' VALUES AND TOURIST ECONOMY: THE CANAL IS "CONTRARY TO THE PUBLIC INTEREST" AND NOT "NEEDED IN THE MARKET PLACE"

- 11. The Tri-Communities have a 137-year history of deliberately building a tourist-based economy centered on the *preservation* and *conservation* of public open space in the river mouth area.
- 12. In 1884, the Village of Saugatuck—the former governmental entity prior to incorporation of the Village into the now City of Saugatuck—purchased Mount Baldhead and the lake frontage to the west. The lake frontage would eventually become Oval Beach. Stairs up the east side of the dune and a pavilion at the bottom were built to attract tourists to the area.
- 13. In 1920, Thomas Eddy Tallmadge purchased 105 acres of forested dunes surrounding the Ox-Bow School of Art. To protect the school and land, Tallmadge made arrangements with the City to preserve the land as green space in times the school did not operate.
- 14. In 1936, the City opened Oval Beach.
- 15. In 1957, the National Park Service conducted a survey of potential park sites along Lake Michigan. The Park Service wrote in its study: "[b]y virtue of its fine beaches (Oval Beach) and scenic hinterlands, Saugatuck has a high public use value. . . . *Immediate steps should be taken to safeguard these values in order to meet the recreation demands of this region*" (emphasis added).

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<sup>8</sup> City of Saugatuck, et al., Tri-Community Master Plan 4-23 (2016) ("Mature trees represent a valuable resource in maintaining the aesthetic character of the area, not to mention their overall importance to wildlife and the natural environment. In particular, the wooded sand dunes along the Kalamazoo River and Lake Michigan, and those buffering adjacent uses from I-196, are especially important. They should be managed to insure their long term existence"). Recent drone images reveal that the "laydown area" proposed by NorthShore of Saugatuck in both the USACE and EGLE permit applications has been clearcut and excavated.

<sup>9</sup> See Letter from Lana Pollack, Chair of Michigan Natural Resources Trust Fund Board, to National Trust for Historic Preservation (Jan. 15, 2010) (on file with the City of Saugatuck).

16. Between 1977 and 1988, local citizens worked to establish Saugatuck Dunes State Park and Natural Area.
17. In 1977, the Natural Areas Conservancy of West Michigan ("NACOWMI") acquired a 300-acre parcel, known as the Luther-Uhl property, which was adjacent to what would become the Saugatuck Dunes State Park.
18. Around this time, the State acquired 550 acres from the Augustinian Seminary. It kept 40 acres of this land for the operation of a prison and gave the remainder of the land to the Department of Natural Resources ("DNR").
19. Following its acquisition of the land, it advocated for the Luther-Uhl land to be protected as a natural area for scientific study.
20. Following this, the DNR announced its state park plan which called for a 1,500-car parking lot on the beach and an off-road vehicle area. *The local response was immediate and unanimously negative.*
21. The DNR withdrew its state park plan and allowed for the formation of a citizen's advisory committee to draft a master plan for Saugatuck Dunes State Park. *This was the first time a citizen's advisory committee was entrusted to create a State Park Master Plan.*
22. Patty Birkholz, a Parks Commissioner from the Township, was appointed Chair of the committee.
23. The committee's Master Plan called for a *low-impact nature study* and prohibited overnight camping—a rare prohibition in the state park system.
24. The Master Plan included detailed expansion plans for acquiring, among other lands, those around the proposed marina basin, including the NorthShore of Saugatuck property. These plans called for an expanded natural area and designated historic site where the buried ghost town of Singapore lies.
25. The Master Plan required the Luther-Uhl property to be legally designated as a Natural Area.
26. The citizens charged with drafting the Master Plan worked with the conservancy community, the DNR, and the State for six years to ensure the protection of the land. In 1982, the Master Plan was unanimously approved by the Natural Resources Commission.
27. In January 2004, *the DNR received over 100 individual letters supporting a proposed expansion of the Saugatuck Dunes State Park to include the Denison property, which then became the Singapore Dunes LLC property and most recently became the NorthShore of Saugatuck property.*

28. Between the years 2003 and 2005, the communities of the City of Saugatuck, the City of the Village of Douglas, and Saugatuck Township came together for a series of meetings to discuss and debate land use issues and future development. This meeting led to the publication of the 2005 Tri-Community Master Plan (the "2005 Master Plan"), which focused on protecting the historical, ecological, and cultural values that drive the tourist-based economy.
29. During this period of time, there were two townhall-style meetings, as well as the collection of data from a community survey. Almost every other resident in the community responded.
30. The 2005 Master Plan was unanimously approved by the City of Saugatuck, the City of the Village of Douglas, Saugatuck Township, and Allegan County.
31. To put the 2005 Master Plan into place, the municipalities took several actions towards protecting the natural areas.
32. In 2007, the Tri-Communities placed a conservative easement onto Tallmadge Woods Nature Preserve.
33. In 2009, the Tri-Communities assisted in the \$20 million public acquisition of the Saugatuck Harbor Natural Area. A grant of \$10.5 million from the Michigan Natural Resources Trust Fund was the largest public grant ever extended by this state fund.
34. In 2010, the City voters passed a millage to tax themselves for better support of the natural resources' local zoning protections.
35. In 2010, local organizations applied to have the Wild Heart of Saugatuck, an area including the river mouth, added to the National Trust for Historic Preservation's annual list of America's 11 Most Endangered Places.
36. Lana Pollack, former Chair of the Michigan Natural Resources Trust Fund Board, submitted the following letter to the National Trust for Historic Preservation in support of the designation, primarily in hopes of protecting the state's investment:

My own valuation of this area is best demonstrated by the recent MNRTF decision to grant \$10.5 million to protect a portion of the land now representing a significant part of this application. The grant approved in December 2009 is one of the largest MNRTF has ever made and is a particularly impressive commitment given the intense competition from other worthy applicants that year. Support for the grant did not come easily, but not because of a questioned worth of the project – 171 acres of critical dunes with globally imperiled inter-dunal wetlands, habitat that is home to several threatened and endangered species. The project's value was undoubtedly enhanced by its immediate proximity to Saugatuck's Oval Beach, the Saugatuck Lighthouse Cottage and the Ox-Bow School of Art.

Although MNRTF is focused on saving natural landscapes, we also recognized in this case the historic and cultural context of the particular 171 acres that our grant was supporting.

The designation that we now seek from the National Trust for Historic Preservation is needed because of the threat of development on the parcel immediately north of the Saugatuck Harbor Natural Area. The current proposal calls for a major marina development with a suggested nine story hotel, restaurants, retail businesses as well as a 70 slip marina near the site of the buried ghost town of Singapore – all prohibited by current zoning. *If completed, the proposed development's impact on MNRTF's investment of \$10.5 million still leaves me concerned that our public investment may become mostly the enhanced viewscape for a commercial development.*

*Fortunately, the history of preservation of the Saugatuck Dunes is strong. In the 1940's the State of Michigan looked at constructing a State Park at the mouth of the Kalamazoo River. In the 1950's the National Park Service surveyed the Saugatuck Dunes for its potential as a National Lakeshore. In the 1980's area citizens worked together to draft the Master Plan for the Saugatuck Dunes State Park and Natural Area. This followed the initial plan from the state DNR that called for paved roads and a parking plot on the beach, which was met with near unanimous resistance. Since that time several additional key parcels have been placed into conservation easements or turned into parks; historic buildings have been acquired by the local Historical Society; and progressive planning has established a Lakeshore Open Space District designed to better protect the historic and ecological treasures along the river and lakeshore.*

*It was with this in mind – the long and determinedly fought history of protecting the Saugatuck Dunes – that I felt comfortable urging MNRTF to award the \$10.5 million grant. The tenacious commitment of the local community to protect the Saugatuck Dunes' many historic, cultural and ecological resources ultimately held more sway than the threat of a developer's legal war chest to overturn protective zoning controls [emphasis added].*

37. In 2016, the updated Tri-Community Master Plan (the “2016 Master Plan”) was released. The priority among the Tri-Communities remains: “Public acquisition of the Denison property on both sides of the Kalamazoo River is the top priority for the Tri-Communities.”<sup>10</sup>

38. Today, the City owns nearly 16,000 feet of water frontage in the River Mouth Area immediately adjacent to the proposed canal. A portion of this is the Saugatuck Harbor Natural Area, a 177-acre designated natural area/sanctuary held under the supervision

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<sup>10</sup> City of Saugatuck, et al., Tri-Community Master Plan 9-6 (2016).



of the City. The Saugatuck Harbor Natural Area has 570 feet of water frontage on the Kalamazoo River and nearly 6,200 feet of water frontage on the Old Harbor. All of this water frontage is in its natural state and does not have seawalls or riprap. The City also manages the Tallmadge Woods Nature Preserve, a 100-acre preserve with 6,200 feet of Kalamazoo River frontage and 2,900 feet of Old Harbor water frontage.

39. The Saugatuck Harbor Natural Area and the Tallmadge Woods Nature Preserve connect with Saugatuck's Oval Beach and Mount Baldhead Park, together comprising 415 acres of park land and natural areas. These areas are all managed as low-impact natural areas to ensure the protection of the ecological, historical, and cultural values that drive Saugatuck's tourism-based economy. These areas are indispensable to the economic well-being of the City of Saugatuck, the City of the Village of Douglas, and Saugatuck Township (the "Tri-Communities").
40. The NorthShore of Saugatuck development and management may directly affect these natural areas and sanctuaries that the City manages for the benefit of the community.
41. Because of its effect on the low-impact natural areas and City-owned property, the NorthShore of Saugatuck development may have significant impacts on the Tri-Communities' tourist-based economy.
42. Among the goals listed in the 2016 Master Plan is the goal to "[p]rotect special environments and open spaces, including but not limited to sand dunes, wetlands, and critical wildlife habitat, from the harmful effects of incompatible development activity by limiting the type and intensity of land development in those areas."<sup>11</sup>
43. The 2016 Master Plan also outlines the goal to "[g]uide development in a manner which is orderly, consistent with the planned expansion of public facilities, and strives to preserve the scenic beauty, foster the wise use of natural resources, protect environmentally sensitive areas, and enhance the special character of the Tri-Communities."<sup>12</sup>
44. The 2016 Master Plan states that "[t]hese joint goals and policies are premised on a pledge by Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas to mutually cooperate in guiding future development to advance a common vision. It is intended that these goals and policies be consulted when considering future land use decisions within an individual jurisdiction, as well as those decisions that affect the interests of more than one jurisdiction."<sup>13</sup>

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<sup>11</sup> City of Saugatuck, et al., Tri-Community Master Plan 1-12 (2016).

<sup>12</sup> *Id.* at 1-4.

<sup>13</sup> *Id.* at 1-2.

45. The goals and policies in the 2016 Master Plan “are premised on a pledge by Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas to mutually cooperate in guiding future development to advance a common vision.”<sup>14</sup>
46. The goals and policies outlined in the 2016 Master Plan and those outlined by the City here represent a “local agency having jurisdiction or interest over the particular activity” and should be considered “as a reflection of the local factors of the public interest.”<sup>15</sup>
47. The 2016 Master Plan articulates the economic public interest in preserving the river mouth area of the Kalamazoo River for “low-impact development” or public open space.<sup>16</sup>
48. The City considers the 2016 Master Plan to be “a reflection of local factors of the public interest.” The 2016 Master Plan states “[t]hese joint goals and policies are premised on a pledge by Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas to mutually cooperate in guiding future development to advance a common vision. It is intended that these goals and policies be consulted when considering future land use decisions within an individual jurisdiction, as well as those decisions that affect the interests of more than one jurisdiction.”<sup>17</sup>
49. Specifically, the City considers the following 36 excerpts from the 2016 Plan to be “a reflection of local factors of the public interest”:
- a. “Goal: Guide development in a manner which is orderly, consistent with the planned expansion of public facilities, and strives to preserve the scenic beauty, foster the wise use of natural resources, protect environmentally sensitive areas, and enhance the special character of the Tri-Communities.”<sup>18</sup>
  - b. “Policy: Insure compatible land use planning and zoning across municipal borders and minimize land use conflicts by separating incompatible uses and requiring buffers where necessary.”<sup>19</sup>
  - c. “Policy: Support efforts to foster tourism by preserving the scenic beauty of the environment, expanding recreational opportunities, improving tourist attractions, preserving the historic character of the communities through the preservation of historic structures, expanding cultural and arts opportunities and encouraging development of promotional material which highlight the attractions of the Tri-Communities.”<sup>20</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> 33 CFR § 320.4(j)(1).

<sup>16</sup> See, generally, City of Saugatuck, et al., Tri-Community Master Plan (2016).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 1-4.

<sup>19</sup> *Id.* at 1-5.

<sup>20</sup> *Id.* at 1-6.

- d. "Goal: Encourage planning efforts based on the understanding, knowledge and respect for the Tri-Community's historical and cultural resources."<sup>21</sup>
- e. "Policy: Discourage the development of high intensity residential uses along the waterfront."<sup>22</sup>
- f. "Goal: Protect special environments and open spaces, including but not limited to sand dunes, wetlands, and critical wildlife habitat, from the harmful effects of incompatible development activity by limiting the type and intensity of land development in those areas."<sup>23</sup>
- g. "Policy: Identify development limitations on special environments which classify environments based on their value to the ecosystem, unique attributes, the presence of endangered plant and wildlife species, and other characteristics deemed significant."<sup>24</sup>
- h. "Policy: Encourage acquisition of special environments of significant public value by public agencies or nonprofit conservancy organizations for the purpose of preservation."<sup>25</sup>
- i. "Policy: Prepare and maintain a subarea plan for the Oxbow Peninsula including the [NorthShore of Saugatuck Property] 'Denison Property.'"<sup>26</sup>
- j. "Policy: Promote the preservation of open spaces and natural areas, as well as limited, carefully planned development along the Kalamazoo River, Kalamazoo Lake, Silver Lake, Goshorn Lake, and Lake Michigan and connecting streams, creeks, and drainage ways to protect and enhance the scenic beauty of these waterfront areas."<sup>27</sup>
- k. "In 2002 the City of Saugatuck completed a strategic plan for purposes of future growth and development and efforts involved an examination of local tourism and public opinion. The following data was secured from the plan's survey of visitors to the area, and provides useful information considered applicable to each of the Tri-Communities when considering economic and recreational impacts on the area. . . Activities – beach (40%), dune rides (12%), and boating (11%) Spending Patterns - \$500 to \$599 (median range), 15% spend +\$1,000. .  
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<sup>21</sup> *Id.* at 1-10.

<sup>22</sup> *Id.* at 1-12.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 1-13.

<sup>28</sup> *Id.* at 2-8.

- l. "The primary reasons people visit or live in the three communities are to enjoy the scenery and recreational opportunities and to live in a picturesque, safe place while they commute to nearby (or distant) urban centers. Beach recreation, boating and other water activities, shopping, art galleries and enjoying the scenery are the primary attractions for both tourists and year-around residents. While agriculture, industry and tourism are important economic sectors represented in the Tri-Communities, *tourism is king*" (emphasis added).<sup>29</sup>
- m. "Mature trees represent a valuable resource in maintaining the aesthetic character of the area, not to mention their overall importance to wildlife and the natural environment. *In particular, the wooded sand dunes along the Kalamazoo River and Lake Michigan, and those buffering adjacent uses from I-196, are especially important. They should be managed to insure their long term existence*" (emphasis added).<sup>30</sup>
- n. "A large portion of the lakeshore both north and south of the mouth of the Kalamazoo River is undeveloped or very sparsely developed. *A portion of this segment of the shoreline is in public ownership as Oval Beach Park. In 2011, the City of Saugatuck completed its acquisition of the 173 acres of natural dunes and 3,650 feet of undeveloped Lake Michigan Shoreline, formerly owned by the Denison family, between the south Kalamazoo River pier and Oval Beach City Park. This was made possibly through a partnership between the City; the Land Conservancy of West Michigan; a 10.5 million grant from the Michigan Natural Resources Trust Fund; The Nature Conservancy; The Conservation Fund; and generous private donors.* The Saugatuck Harbor Natural Area, as it is now called, is open year round for low impact uses such as hiking, fishing, bird watching and beach combing."<sup>31</sup>
- o. "The Tri-Community area is rich in cultural, and historical points of interest and many archaeological sites can be found throughout the area. Leading economists and forward-thinking governmental leaders have recognized the social and economic value of promoting and preserving cultural and historic assets. The state of Michigan has made community cultural; planning a key part of its most publicized and marketed economic development strategies: the 'smart growth'; 'heritage/cultural tourism'; and 'cool cities' initiatives."<sup>32</sup>
- p. "Archaeological sites are of particular scientific value to the fields of anthropology, ecology and biology, and may have historic or ethnic significance as well. There are 120 archaeological sites scattered throughout the Tri-Community area, mostly related to Ottawa and Potawatomi cultures. Their exact locations have not been disclosed by the Bureau of history to protect them

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<sup>29</sup> *Id.* at 3-1.

<sup>30</sup> *Id.* at 4-23.

<sup>31</sup> *Id.* at 5-7.

<sup>32</sup> *Id.* at 5-9.

from exploitation. One of these sites, the Hacklander Site, located in Section 23 is listed on the National Register of Historic Places and has components representing Middle and Late Woodland periods. *A second important site is the old Singapore site located at the north edge of the 'new' (1906) harbor channel. Recipients of Federal assistance must ensure that their projects avoid damage or destruction of significant historical and archaeological resources.* The Michigan Bureau of History reviews these projects to assess their impact on archaeological sites” (emphasis added).<sup>33</sup>

- q. “Parks, recreation, and open space are essential to the quality of life of area residents, and are an important component of the local tourist economy. They enhance property values, as well as physical and psychological well-being.”<sup>34</sup>
- r. “According to the 2004 community opinion survey, following was the response to the question of whether the respondent would support the additional recreation-related activities even if it meant an increase in general property taxes. . . . The greatest support among recreation-related topics was for better water quality with 62.5%, bike lanes/pathways with 60.5% support and *parks and recreation at 50.9%. When citizens express a willingness to pay higher taxes for a service that is very significant*” (emphasis added).<sup>35</sup>
- s. “Recreation is important to the Tri-Communities and the visual experience of the community is tied to the recreational experience. Residents like to live in the Tri-Communities, in part, because it is a uniquely attractive location. *Tourists visit and spend money in the Tri-Communities based in part on the visual experience. Natural features and open spaces are important components of the Tri-Communities,* contrasting with the concentrated, developed areas of the City of Saugatuck and the City of the Village of Douglas. The compact, strong identities of the City and Village are enhanced when natural, open spaces surround the two communities. Water is one of the natural features surrounding the City and Village and helping to give them form and identity. Wetlands, woodlands, farms and parks are other existing natural features that currently contribute to natural open space.”<sup>36</sup>
- t. “Tourists have always been attracted to the area, but tourism is now the number one economic activity. . . . Consequently, how the waterfront is used will be of crucial importance to the future of the Tri-Community area.”<sup>37</sup>
- u. *“Although waterfront lands have high revenue generating potential, a major attraction of both the Lake Michigan and Kalamazoo River waterfronts is their*

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<sup>33</sup> *Id.* at 5-11.

<sup>34</sup> *Id.* at 7-1.

<sup>35</sup> *Id.* at 7-18.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 8-1.

*scenic, natural shorelines composed of forested sand dunes and large wetland areas. Should these natural areas be greatly damaged or destroyed through inappropriate development, then the 'goose that laid the golden egg' will be dead. It is essential that the natural beauty of the waterfront be maintained along the Lake Michigan shoreline, the Kalamazoo River from the channel to Saugatuck, and from the Blue Star Highway Bridge inland" (emphasis added).*<sup>38</sup>

- v. "This plan seeks to define a balance between competing uses. It places protection of the natural environment at first and foremost in making future land use decisions along the Lake Michigan and Kalamazoo River waterfronts. The ultimate goal is to minimize disruption of the natural environment so that new development and redevelopment is in harmony with the environment, rather than in conflict with it. Alteration of existing natural features should be very limited, and with mitigation to provide the same values and functions nearby."<sup>39</sup>
- w. "Under the state Wilderness, Wild, and Natural Areas Program (Part 351 of the Natural Resources and Environmental Protection Act of 1994), the DNR is charged with identifying, dedicating and administering wilderness, wild and natural areas. Within the Saugatuck region, the DNR has dedicated the Saugatuck Dunes Natural Area to protect the unique dune ecosystem of open dunes, blowouts, interdunal wetlands and wooded dunes, Pitcher's Thistle occurs within the area and is listed as a threatened species by both the state and federal government. The Saugatuck Dunes Natural Area is within Saugatuck Dunes State Park. Sensitive dune ecosystems also occur in the dune areas on either side of the Kalamazoo River mouth at Lake Michigan. This area is planned for protection but details have yet to be finalized. Management would likely be the responsibility of the City of Saugatuck, Saugatuck Township and the State Park. The entire Kalamazoo River, including the Saugatuck/Douglas area is designated as an area of particular concern by the DNR. Areas of particular concern are those having scarce resources, unusual scenic beauty, unusual economic value, recreational attractions, or some combination of the above. They are only located in coastal areas. Altering the environment in an area of 'particular concern' could have a significant impact on the quality of coastal and Great Lakes waters."<sup>40</sup>
- x. "As has been emphasized throughout this Plan, *the natural beauty of the waterfront has much to do with the attraction of the Tri-Community area*" (emphasis added).<sup>41</sup>

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<sup>38</sup> *Id.* at 8-1 through 8-2.

<sup>39</sup> *Id.* at 8-2.

<sup>40</sup> *Id.* at 8-6.

<sup>41</sup> *Id.* at 8-25

- y. *"Several vistas have public values that deserve protection. These include the entry into and exit from Lake Michigan on the Kalamazoo River, the view from Mount Baldhead, the view of Kalamazoo Lake from both ends, and approaches to the Kalamazoo River Bridge"* (emphasis added).<sup>42</sup>
- z. "In seeking to balance economic development with environmental protection, the concept of carrying capacity should be a major consideration. If the carrying capacity of land or water is exceeded, then activities cannot be undertaken without unacceptable impacts on users, the environment, or both. Impacts can include increased trip times, decreased safety, pollution, loss of open space, and many other considerations. The key is prevention of overuse by limiting intensity of use on adjoining lands and regulating surface water use. Environmental protection must be a leading principle in making future land use decisions along the waterfront. Environmentally sensitive areas such as sand dunes, wetlands, high risk erosion areas, floodplains, and key woodlands should be protected from unnecessary destruction. Development should complement rather than destroy these areas and their values. By doing so the environmental quality of the air and water will be improved, wildlife habitat will be preserved, scenic values will be protected, and the character of the area will be maintained. Some new intensive shoreline development will be desirable and necessary, but the balance should not be disproportionately on the side of new tax base as it has been for the past three decades. Opportunities to enhance the waterfront should be seized. Parks and open spaces should eventually be linked with other public places."<sup>43</sup>
- aa. "Protection mechanisms, like the Natural River designation, should be recognized for the ancillary benefits they bring to the community."<sup>44</sup>
- bb. "Good land use planning is essential to the future quality of life in the Tri-Communities. Actual future land uses are difficult to predict and guide to achieve desired results. A future land use map and plan expresses local and use goals and policies and provides a land use scenario which a community may use as a physical guide. Goals and policies, in turn, drive land use and development decisions."<sup>45</sup>
- cc. "The following planning and design principles are the technical foundation in support of the proposed land use arrangements graphically depicted on the Future Land Use Map. These principles are consistent with the goals and policies in Chapter I and should remain the basis for reviewing any subsequent changes to the proposed Future Land Use Map. These planning principles are:

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<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 8-25 through 8-26.

<sup>44</sup> *Id.* at 8-27.

<sup>45</sup> *Id.* at 10-1.

- Protection of public health and safety
- *Conservation of natural resources*
- *Environmental Protection*
- Minimizing public service costs
- Efficiency and convenience in meeting land use needs
- *Insuring compatibility between land uses*" (emphasis added).<sup>46</sup>

dd. "Failure to consciously protect nonrenewable natural resources exposes a community to unbridled destruction of those resources which are the foundation for an area's character and quality of life. Conservation of natural resources usually focuses on: land, water, minerals, certain soils (such as prime farmland), wetlands, sand dunes, areas supporting an abundance and diversity of wildlife, and unique forested lands. Areas where the land and the water meet are the most important. Indiscriminate land subdivision frequently reduces the size or alters the shape of land, thereby compromising the resource value and production potential of those lands. This occurs frequently in prime agricultural areas and once lost, these lands may never be reclaimed for food production purposes."<sup>47</sup>

ee. "This principle aims at preventing pollution, impairment or destruction of the environment. While there is considerable overlap with natural resource conservation issues, environmental protection measures focus primarily on air and water quality, and the impact of activities where the water meets the land. Environmental quality is best preserved by planning for appropriate land use activities in and near sensitive environmental areas, and managing development accordingly."<sup>48</sup>

ff. "A central objective of land use planning is to locate future land uses so that they are compatible with one another. This prevents future nuisance situations between adjacent land uses, such as loud sound, ground vibrations, dust, bright lights, restricted air flow, shadows, odors, traffic, and similar impacts."<sup>49</sup>

gg. "Other natural resource areas include sand dunes, wetlands, floodplains, streams, creeks and drains, the Kalamazoo River, Lake Kalamazoo, and areas at high risk of erosion along Lake Michigan. *These areas are proposed for very limited future development in keeping with their fragility and importance in buffering Lake Michigan storms*, filtering and storing water during periods of flooding, draining stormwater from land, providing habitat for a wide range of plants and animals, and for their wide ranging open space values. *Destroying these resources would destroy the essential qualities which continue to attract residents and tourists to the area.* If conserved and wisely used, waterways and farms will become a natural greenbelt system that continues to enhance the area

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<sup>46</sup> *Id.* at 10-1.

<sup>47</sup> *Id.* at 10-3.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at 10-4.



for years to come. Local zoning ordinances should be reviewed to ensure they include adequate conservation practices” (emphasis added).<sup>50</sup>

hh. “The R-3 Lakeshore Residential Zoned District is that area of the township where controls are placed upon the use and development of areas adjacent to the shoreline of Lake Michigan *so as to preserve the shoreline as a natural resource to prevent and/or control erosion and to maintain the aesthetic qualities of the area*” (emphasis added).<sup>51</sup>

ii. “Public acquisition of the Denison property on both sides of the Kalamazoo River is the top priority for the Tri-Communities.”<sup>52</sup>

jj. “While the above priority initiatives are being implemented, the matters that come before planning commissions and governing bodies month-to-month will permit many opportunities to implement key policies in this Plan (see policies in Chapter 1). Following are key strategies that should be implemented at every opportunity through local zoning, subdivision regulations and capital improvement programs. Many may first require updates to existing Zoning Ordinances. Most of the following strategies focus on preservation of the existing charter of the Tri-Communities:

- Protect the natural environment of the area AND Protect the visual quality of and visual access to the waterfront.”<sup>53</sup>

50. The City finds that, as a “local agency having jurisdiction or interest over the particular activity,” the marina basin will harm the firmly established tourist-based economy and the standards and interests of the community and therefore is “contrary to the public interest” and contrary to the well-established “public and private uses to which the area is suited.”

51. The City, based on the policies and goals accepted by the tri-communities, finds that such policies and goals demonstrate that the marina basin will pose negative impacts to the local environment, tourism, and use of the Kalamazoo River, and therefore is not “needed in the market place.”

#### HISTORIC LAND-USE AND PLANNING: THE CANAL IS NOT UNIFORM WITH “THE PUBLIC AND PRIVATE USES TO WHICH THE AREA IS SUITED”

52. The City finds that the 2005 Master Plan and the 2016 Master Plan reflect the “public and private uses to which the area is suited.”

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<sup>50</sup> *Id.*

<sup>51</sup> *Id.* at 10-12.

<sup>52</sup> *Id.* at 13-2.

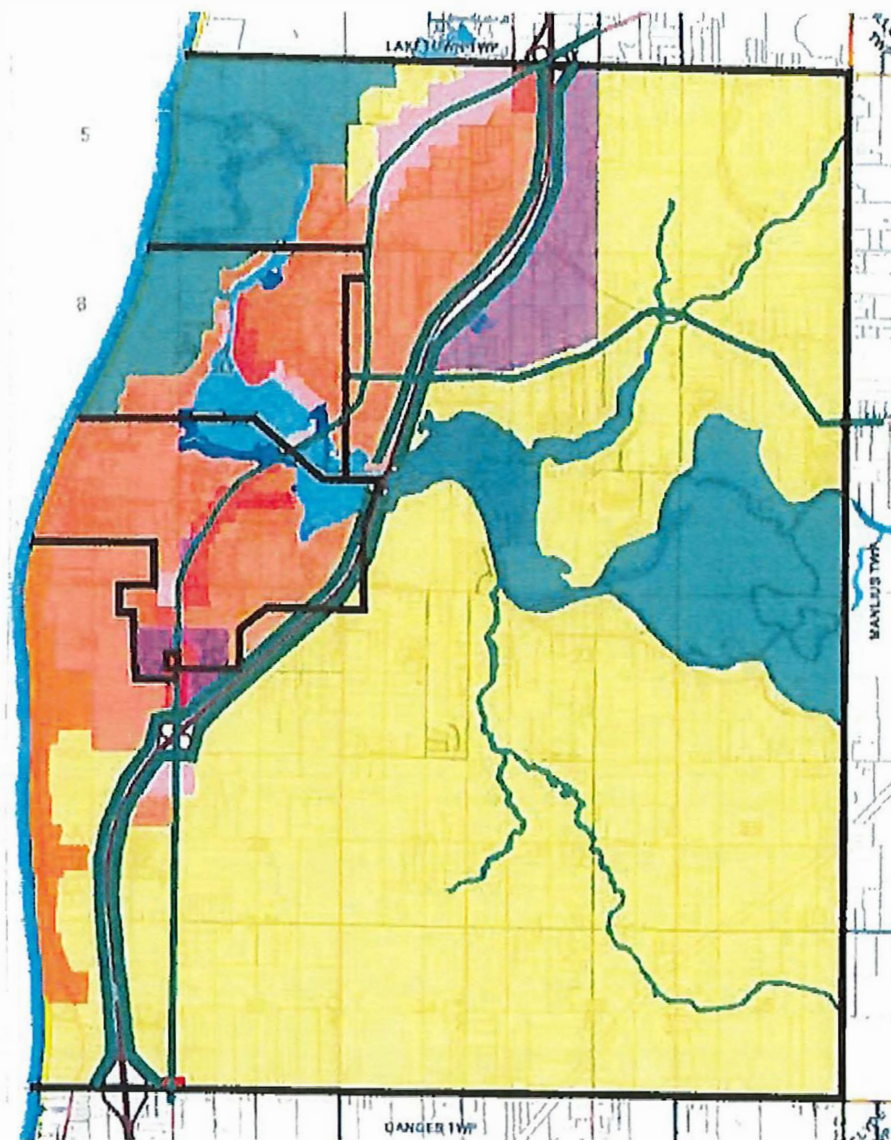
<sup>53</sup> *Id.* at 13-5.

53. The 2005 Master Plan states: "The northwest corner of the Township, along with [ ] most of the land in Saugatuck west of the Kalamazoo lake should be preserved for public open space and the portion that remains in private ownership should be maintained for low intensity uses (like the art colony and church camp)." <sup>54</sup>
54. The 2005 Master Plan and the 2016 master plan state: "Although waterfront lands have a high revenue generating potential, a major attraction of both the Lake Michigan and Kalamazoo River waterfronts is their scenic, natural shorelines composed of forested sand dunes and large wetland areas. Should these natural areas be greatly damaged or destroyed through inappropriate development, then the 'goose that laid the golden egg' will be dead. It is essential that the natural beauty of the waterfront be maintained along the Lake Michigan shoreline, the Kalamazoo River from the channel to Saugatuck, and from the Blue Star Highway Bridge inland." <sup>55</sup>
55. The 300-acre Patty Birkholz Natural Area is immediately adjacent to the proposed marina basin. It is one of only 20 legally-designated natural areas in the State of Michigan, and the City finds its preservation as one of the preeminent natural areas in the State of great importance to the local community and City.
56. The Master Plan for Saugatuck Dunes State Park and Patty Birkholz Natural Area calls for a low-impact nature area.
57. The parking lot for these nature areas was situated to be as far from the natural area as possible to ensure no noise, vibrations, glare, or fumes would be introduced into this sanctuary. The proposed marina basin itself would be contrary to those extra efforts to maintain the natural area in pristine environmental condition and quality.
58. The City finds that the proposed marina basin is contrary to the well-established "public and private uses to which the area is suited."
59. For reference, the City acknowledges that the following is the future land use map proposed by the 2016 Master Plan:

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<sup>54</sup> City of Saugatuck, et al., Tri-Community Master Plan 10-7 (2005).

<sup>55</sup> *Id.* at 8-1 through 8-2; City of Saugatuck, et al., Tri-Community Master Plan 8-1 through 8-2 (2016).



**Legend**

- |   |   |
|---|---|
| <span style="display: inline-block; width: 15px; height: 10px; background-color: yellow; border: 1px solid black;"></span> Rural Low Density Single Family Residential/Agricultural   | <span style="display: inline-block; width: 15px; height: 10px; background-color: red; border: 1px solid black;"></span> Commercial            |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: orange; border: 1px solid black;"></span> Medium to High Density Single and Multi-Family Residential | <span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span> Industrial         |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: pink; border: 1px solid black;"></span> Mixed Use Residential/Commercial                             | <span style="display: inline-block; width: 15px; height: 10px; background-color: teal; border: 1px solid black;"></span> Greenspace, Preserve |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: blue; border: 1px solid black;"></span> Waterfront Mixed Use   | <span style="display: inline-block; width: 15px; height: 10px; background-color: green; border: 1px solid black;"></span> Highway Buffer      |

## CONCLUSION

60. The City, as a "local agency having . . . interest over the particular activity," finds that the proposed marina basin is "contrary to the public interest."
61. The City finds that the cumulative, permanent detrimental impacts of the excavation and construction of the proposed marina basin on property held by the City, adjacent natural areas, and on the Tri-Community tourist-based economy far outweigh any benefits from the construction of the marina basin. The City therefore finds that the canal is not necessary for development of the property at issue.
62. The City finds that the Tri-Community tourist-based economy relies on the preservation of the historical, ecological, and cultural values in the river mouth area.
63. The City finds that the proposed marina basin is contrary to the well-established "public and private uses to which the area is suited."
64. Based on the findings in this Resolution, the City of Saugatuck asks the United States Army Corps of Engineers to make an independent review of the need for the project from the prospective of the overall public interest.
65. Based on the findings in this Resolution, the City of Saugatuck asks the United States Army Corps of Engineers to strongly consider the public interest factors.

YEAS: Council Members: Bekken, Gardner, Leo, Stanton, Trester

NAYS: Council Members: None

ABSTAIN: Council Members: Dean

ABSENT: Council Members: Lewis


**RESOLUTION DECLARED ADOPTED.** Dated: 10/24/2022

  
Garnet Lewis, Mayor

### **CERTIFICATION**

I, Jamie Wolters, the City Clerk of the City of Saugatuck, do hereby certify the foregoing is a true and complete copy of a resolution adopted by the Saugatuck City Council at a regular meeting held on 10/24/2022, in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan, 1976, as amended, for which the minutes of the meeting were kept and will be or have been made available as required by said Act.

Attest:

  
Jamie Wolters, City Clerk

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## **EXECUTIVE SUMMARY**

### **City of the Village of Douglas “Impacts to the Public Interest”**

#### **Comments regarding**

### **NorthShore of Saugatuck’s proposal to construct a Boat Canal**

#### **USACE Reference LRE – 2010-00304-52-517-2**

The financial well-being of Douglas (as well as that of our Tri-Community partners – the City of Saugatuck and Saugatuck Township) relies upon our tourist-based economy. In turn, the economic flourishing of the Tri-Community relies upon the preservation of the investments our community has made in our Critical Dunes, our Wetlands, our Trees, our Historic Sites, and the Traditional Cultural Property – in other words, our historical, ecological, and cultural values.

We believe the construction of the boat canal, as proposed in the 2017 Public Notice for LRE – 2010-00304-52-517-2, will result in cumulative permanent impacts detrimental to our own and the Tri-Community’s tourist-based economy.

While USACE criteria for the Public Interest Factors Review detailed in 33 CFR 320.4 (q) assumes that the boat canal, as proposed, ‘is needed in the market place.’ the City of the Village of Douglas disagrees for the following reasons:

- a) The City’s 137-year history of establishing Parks and Natural Areas to protect the Historic, Ecological, and Cultural Values in the River Mouth Area with the intension to driving the tourist-based economy.
- b) The Tri-Community Master Plan, ‘as a reflection of local factors of the public interest’ clearly lays out the argument that:
  1. Our economy, or market place, is based upon tourism.
  2. What sustains that economy, or market place, is the protection of Historic, Ecological, and Cultural Values. Especially those found in the River Mouth Area comprised of beach, interdunal wetlands, dunes, forested dunes, Kalamazoo River frontage, and historic sites.
  3. When considering development proposals in the River Mouth Area our Master Plan clearly states that protection of the Historic, Ecological, and Cultural Values that sustain our tourist-based economy should be the primary consideration.
  4. While some economic benefits do come from development, any development that harms the Historic, Ecological, Cultural Values in the River Mouth Area is contrary to the Public Interest that supports our tourist-based economy.
- c) The economic vision articulated in the Tri-Community Master Plan supports two zoning ordinances that prohibit the boat canal, as proposed.
- d) The boat canal, as proposed, will

1. Shrink Michigan's Critical Dune Area by 6.5 acres;
2. Drain the globally imperiled interdunal wetlands on the Patty Birkholz Natural Area and destroy a wetland not yet delineated – with no guarantee if or when they will refill;
3. Destroy the historic site of Singapore – a 19th century lumber town buried under the dunes and eligible for the National Register of Historic Places;
4. Diminish and Damage Michigan's first Traditional Cultural Property – the associated Cultural Values – lake sturgeon, burial sites, wild rice -- are at risk;
5. Deforest a significant forest canopy of 'the wooded sand dunes along the Kalamazoo River;'
6. Devalue the communities' investments in immediately adjacent Natural Areas – Saugatuck Harbor Natural Area, Tallmadge Woods, and the Patty Birkholz Natural Area. As Lana Pollack, Chair of the Natural Resources Trust Fund Board when the state awarded the largest ever \$10.5 million grant, wrote: "the proposed development's impact on MNRTF's investment of \$10.5 million still leaves me concerned that our public investment may become mostly the enhanced viewscape for a commercial development."

Based upon the above factors, we ask the USACE District Engineer to recognize the boat canal, as proposed in permit application LRE-2010-00304-52-S17-2, meets the criteria as an 'appropriate case' with which to 'make an independent review of the need for the project from the perspective of the overall public interest.'

These comments submitted by the City of the Village of Douglas clearly illustrate that the cumulative permanent detrimental impacts of the boat canal, as proposed, on the Tri-Community tourist-based economy that relies upon preservation of the Historical, Ecological, and Cultural Values in the River Mouth Area far out outweigh any possible economic benefit. **In summary, the City of the Village of Douglas believes construction of a boat canal as proposed is "Contrary to the Public Interest" and is "Contrary to the Public Uses to which the Area is Suited".**



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**LRE-2010-00304-52-S17-2**

Katie Otanez  
Permit Evaluation Western Branch  
Regulatory Office  
Detroit District, Corps of Engineers  
477 Michigan Avenue  
Detroit, Michigan 48226-2550

Dear Ms. Otanez,

**Subject: City of the Village of Douglas “Impacts to the Public Interest”**  
**Comments regarding**  
**Northshore of Saugatuck’s proposal to construct a Boat Canal**  
**Reference LRE – 2010-00304-52-517-2**

The City of the Village of Douglas believes the excavation of a 1600’ long, 200’ wide, and 18’ deep boat canal, surrounded by publicly-funded natural areas (as presented in the USACE August 2017 Public Notice<sup>i</sup>) is contrary to the public interest<sup>ii</sup> and contrary to the public uses to which the area is suited<sup>iii</sup> given that the construction of the canal as proposed will:

- **Decrease** Michigan’s Critical Dune Area by 6.5 acres;<sup>iv</sup>
- **Drain** the globally imperiled interdunal wetlands on the Patty Birkholz Natural Area;<sup>v</sup>
- **Destroy** the historic site of Singapore;<sup>vi</sup>
- **Damage** the Potawatomi Traditional Cultural Property, risking lake sturgeon, burial sites, and wild rice;<sup>vii</sup>
- **Deforest** a significant tree canopy of wooded sand dunes along the Kalamazoo River;<sup>viii</sup> and
- **Devalue** the Tri-Communities’ more than \$20 million in investments in the adjacent Saugatuck Harbor Natural Area and the Patty Birkholz Natural Area.<sup>ix</sup>

The financial well-being of Douglas (as well as that of our Tri-Community partners – the City of Saugatuck and Saugatuck Township) relies upon our tourist-based economy. \* In turn, the economic flourishing of the Tri-Community relies upon the preservation of our



Critical Dunes, our Wetlands, our Trees, our Historic Sites, and the Traditional Cultural Property<sup>xi</sup> – in other words, our historical, ecological, and cultural values.

For all of these reasons and rationale provided, we believe the construction of the boat canal as proposed will result in cumulative permanent impacts detrimental to our own and the Tri-Community's tourist-based economy.

**The City of the Village of Douglas is, therefore, requesting (in accordance with Section [q] from 33CFR320.4) that the USACE District Engineer overseeing LRE-2010-00304-52-S1-2 make an independent review of the need for the construction of a boat canal by NorthShore of Saugatuck from the perspective of the overall Public Interest in answering the question, "Is this boat canal needed in the marketplace?"<sup>xii</sup>**

In completing this review, we ask that the District Engineer take into account the canal's impact on:

- "community cohesion" as evidenced in our Tri-Community's 137-year conservation history;
- our "Future Land-Use" maps;
- our Tri-Community Master Plan; and,
- Saugatuck Township's local zoning ordinances.

You will find included with this request background and supporting documentation organized as follows:

1. Why consider the City of the Village of Douglas's "Public Interest Comments"
2. Tourism-Based economy driven by Outdoor recreation
3. Land use patterns
4. Economic contribution of tourism
5. Ordinances prohibiting excavations for boat canals
6. Conclusion
7. Endnotes

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In summary, the City of the Village of Douglas believes construction of a boat canal as proposed is “Contrary to the Public Interest” and is “Contrary to the Public Uses to which the Area is Suited”.

## 1) Why consider comments from the City of the Village of Douglas

**The City of the Village of Douglas shares a common vision with Saugatuck Township and the City of Saugatuck, that our economic well-being is contingent upon protecting the Ecological, Historical, and Cultural Values of our Tri-Community Area.**

The parks, beaches (including Douglas Beach), trails, and river frontage of our community are deliberately managed as low-impact natural areas protecting the ecological, historic, and cultural values that drive our tourist-based economy, and are indispensable to the common good, including the economic well-being of Saugatuck, Douglas, and Saugatuck Township.

How the NorthShore of Saugatuck property is developed and managed will directly impact the Natural Areas of our community. And thus, have a direct impact upon the Tri-Communities' tourist-based economy.

Page 1-2 of the 2016 Tri-Community Master Plan states:

"These joint goals and policies are premised on a pledge by Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas to mutually cooperate in guiding future development to advance a common vision. It is intended that these goals and policies be consulted when considering future land use decisions within an individual jurisdiction, as well as those decisions that affect the interests of more than one jurisdiction." Page 1-2

The comments which follow are based upon the joint goals and policies 'premised on a pledge by Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas to mutually cooperate in guiding future development to advance a common vision.' The comments submitted by the City of the Village of Douglas, 'a local agency having jurisdiction or interest over the particular activity,' should be considered 'as a reflection of local factors of the public interest.'<sup>xiii</sup>

## 2) TOURIST-BASED ECONOMY DRIVEN BY OUTDOOR RECREATION –

**The Tri-Communities have a 137-year history of deliberately building a tourist-based economy centered on the Preservation and Conservation of Public Open Space in the River Mouth Area. xiv**

In 1884 the Village of Saugatuck purchased Mt. Baldhead and the lake frontage to the west. The lake frontage would eventually become Oval Beach. Stairs up the eastside of the dune and a pavilion at the bottom were built to lure tourists to the area.

In 1920 Thomas Eddy Tallmadge purchased 105 acres of forested dunes surrounding the Ox-Bow School of Art. To protect the school and land, he made arrangements with the City of Saugatuck to preserve the land as green space if the school was not operating.

In 1936 The City of Saugatuck opened Oval Beach.

In 1957 the National Park Service did a survey of potential park sites along Lake Michigan. The Park Service study wrote:

“By virtue of its fine beaches (Oval Beach) and scenic hinterlands, Saugatuck has a high public use value.... Immediate steps should be taken to safeguard these values in order to meet the recreation demands of this region.”

**Between 1977 and 1988 local citizens worked to established Saugatuck Dunes State Park and Natural Area.** Saugatuck Dunes State Park grew out of the first major project of the Natural Areas Conservancy of West Michigan. In 1977 NACOWMI acquired a 300-acre parcel, known as the Luther-Uhl property, adjacent to the de facto State Park near Saugatuck; de facto because the state had just acquired 550 acres from the Augustinian Seminary that was housed in the Felt Mansion property. The State Department of Corrections kept 40 acres for a prison and gave the remaining land to the Michigan Department of Natural Resources. The DNR had not yet developed a park plan for this land.

Following acquisition, NACOWMI advocated for the Luther-Uhl land to be protected as a natural area for scientific study. However, when the DNR unveiled their state park plan for Saugatuck, it called for a 1,500 car parking lot on the beach and an off-road vehicle area in the heart of what people had just worked so hard to protect. The local response was immediate and unanimously negative.

The DNR withdrew the plan and allowed the formation of a citizen’s advisory committee to draft a master plan for Saugatuck Dunes State Park. This was the first time a citizens’ advisory committee was entrusted to create a State Park Master Plan.

Patty Birkholz, a Parks Commissioner from Saugatuck Township, was appointed Chair of the Committee. Their plan, which called for low-impact nature study and no overnight camping – a very rare prohibition in the state park system -- was unanimously approved by the natural resource commission.

The Master Plan also detailed expansion plans to include acquiring the Denison property, then the McClendon or Singapore Dunes property, now the Peg & Jeff Padnos or NorthShore of Saugatuck Property. The expansion plans called for an expanded natural area and a designated historic site where the buried ghost town of Singapore lies.

That plan was unanimously approved by the Natural Resources Commission in **January 1982**. It required until **October of 1988** for the Natural Area - -the Luther-Uhl property – to be legally designated a Natural Area. It took those six additional years of citizens working with the conservancy community, the DNR, and the State government to make sure this land was truly protected – the way local citizens wanted it protected.

The Department of Natural Resources received over 100 individual letters in **January 2004** supporting a proposed expansion of the Saugatuck Dunes State Park to include the Denison property (which then became the Singapore Dunes LLC property, and most recently the NorthShore of Saugatuck property) as part of the DNR's Land Consolidation Strategy.

The communities of Saugatuck, Douglas and Saugatuck Township came together in a series of meetings between **2003 and 2005** to discuss and debate the land use issues that would determine future development decisions. The outcome of these meetings was the publication of the 2005 Tri-Community Master Plan. A progressively prescriptive economic vision focused on protecting the Historical, Ecological, and Cultural Values that drive our tourist-based economy.

A significant number of citizens contributed to the process by attending two townhall-style meetings, filling out a survey sent to every home in the tri-communities (with a 43% return rate – unheard of for a survey that required an hour to complete), and by participating in interviews and other meetings. The Master Plan cost nearly \$100,000, was a two-year process, and collectively required well over 10,000 work hours for its creation. The Master Plan was unanimously approved by Saugatuck, Douglas and Saugatuck Township, as well as by the Allegan County Commissioners.

Following the publication of the Tri-Community Master Plan, the three municipalities put the Policies of the Master Plan into action:

- Placing Tallmadge Woods into a conservation easement **in 2007**
- In **May 2010** the voters of Saugatuck Township even passed a millage to tax themselves in order to better support protections on local zoning calling for protection of the natural resources. As Township Trustee Jim Hanson wrote:

“Today, the pressure the Township faces in maintaining its rules, regulations and ordinances is great. The Township wants to defend the land use goals in the 2005 Tri-Community Plan and the equitable treatment of all landowners. The only alternative to this defense is to abandon those good public policy goals that most

residents of the area support, and allow the litigator with the deepest pockets to win every time.”

- Assisting in the \$20 million public acquisition of the Saugatuck Harbor Natural Area in 2009. A grant of \$10.5 million from the Michigan Natural Resources Trust Fund was the largest public grant ever extended by this state fund.

In 2010 local organizations applied to have the Wild Heart of Saugatuck, which is the Saugatuck Dunes at the River Mouth Area, added to the National Trust for Historic Preservation’s annual list of America’s 11 Most Endangered Places. Lana Pollack, former Chair of the Natural Resources Trust Fund Board, submitted the following letter to the National Trust to Historic Preservation in support of the designation, primarily in hopes of protecting the state’s investment:

“My own valuation of this area is best demonstrated by the recent MNRTF decision to grant \$10.5 million to protect a portion of the land now representing a significant part of this application. The grant approved in December 2009 is one of the largest MNRTF has ever made and is a particularly impressive commitment given the intense competition from other worthy applicants that year. Support for the grant did not come easily, but not because of a questioned worth of the project – 171 acres of critical dunes with globally imperiled inter-dunal wetlands, habitat that is home to several threatened and endangered species. The project’s value was undoubtedly enhanced by its immediate proximity to Saugatuck’s Oval Beach, the Saugatuck Lighthouse Cottage and the Ox-Bow School of Art. Although MNRTF is focused on saving natural landscapes, we also recognized in this case the historic and cultural context of the particular 171 acres that our grant was supporting.

“The designation that we now seek from the National Trust for Historic Preservation is needed because of the threat of development on the parcel immediately north of the Saugatuck Harbor Natural Area. The current proposal calls for a major marina development with a suggested nine story hotel, restaurants, retail businesses as well as a 70 slip marina near the site of the buried ghost town of Singapore – all prohibited by current zoning. *If completed, the proposed development’s impact on MNRTF’s investment of \$10.5 million still leaves me concerned that our public investment may become mostly the enhanced viewscape for a commercial development.*

*“Fortunately, the history of preservation of the Saugatuck Dunes is strong. In the 1940’s the State of Michigan looked at constructing a State Park at the mouth of the Kalamazoo River. In the 1950’s the National Park Service surveyed the Saugatuck Dunes for its potential as a National Lakeshore. In the 1980’s area citizens worked together to draft the Master Plan for the*



*Saugatuck Dunes State Park and Natural Area. This followed the initial plan from the state DNR that called for paved roads and a parking plot on the beach, which was met with near unanimous resistance. Since that time several additional key parcels have been placed into conservation easements or turned into parks; historic buildings have been acquired by the local Historical Society; and progressive planning has established a Lakeshore Open Space District designed to better protect the historic and ecological treasures along the river and lakeshore.*

*"It was with this in mind – the long and determinedly fought history of protecting the Saugatuck Dunes – that I felt comfortable urging MNRTF to award the \$10.5 million grant. The tenacious commitment of the local community to protect the Saugatuck Dunes' many historic, cultural and ecological resources ultimately held more sway than the threat of a developer's legal war chest to overturn protective zoning controls."*

**In 2016** the updated Tri-Community Master Plan was released. The priority among the three municipalities remains:

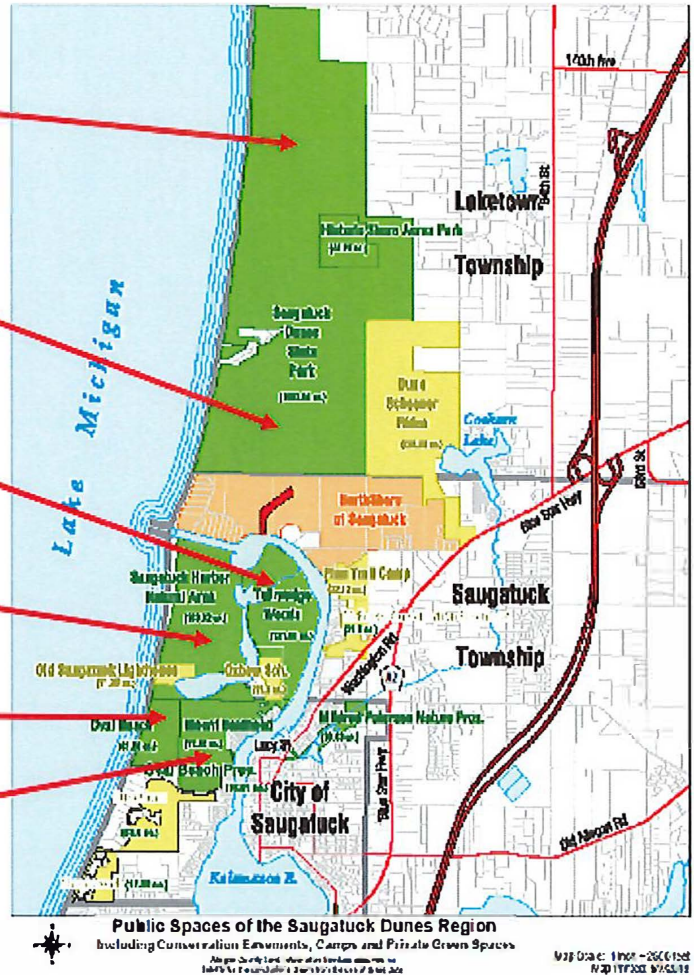
**"Public acquisition of the Denison property on both sides of the Kalamazoo River is the top priority for the Tri-Communities." Pg 13-2, 2005 Edition and 2016 Edition**

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### 3) LAND USE PATTERNS –

The 137-year history of deliberately building a tourist-based economy centered on the Preservation and Conservation of Public Open Space along the lakeshore, the dunes, and in the River Mouth Area has led to the following Land Use Patterns xv

- Saugatuck Dunes State Park –**  
Established 1982. 1000 acres  
(including the Natural Area)
- Patty Birkholz Natural Area –**  
Established 1988. 300 acres
- Tallmadge Woods purchased in**  
1920 to protect Ox-Bow from future  
development. Placed into a  
permanent Conservation Easement  
in 2007. 100 acres
- Saugatuck Harbor Natural Area –**  
acquired for \$20M 2010.  
177 acres
- Oval Beach –**  
Established in 1932. 50 acres
- Mount Baldhead Park – established**  
in 1886. 100 acres



Our 2005 and 2016 Tri-Community Master Plans are very specific in describing the economics behind the Public Interest in maintaining the ‘public uses to which the area is suited.’

“The northwest corner of the Township, along with the most of the land in Saugatuck west of the Kalamazoo lake should be preserved for public open space and the portion that remains in private ownership should be maintained for low intensity uses (like the art colony and church camp).” Pg 10-7, 2005 edition



**“Although waterfront lands have a high revenue generating potential, a major attraction of both the Lake Michigan and Kalamazoo River waterfronts is their scenic, natural shorelines composed of forested sand dunes and large wetland areas. Should these natural areas be greatly damaged or destroyed through inappropriate development, then the “goose that laid the golden egg” will be dead. *It is essential that the natural beauty of the waterfront be maintained* along the Lake Michigan shoreline, the Kalamazoo River from the channel to Saugatuck, and from the Blue Star Highway Bridge inland.” Pg 8-1 – 8-2, 2005 Edition and 2016 Edition**

The 300-acre Patty Birkholz Natural Area is immediately adjacent to the proposed boat canal. It is one of only twenty legally-designated Natural Areas in the State of Michigan. The Master Plan for Saugatuck Dunes State Park and Patty Birkholz Natural Area calls for low-impact nature study and no overnight camping – a very rare prohibition in the state park system -- was unanimously approved by the natural resource commission in 1988. The parking lot was situated to be as far from the Natural Area as possible to ensure no noise, vibrations, glare, or fumes would be introduced into this sanctuary.

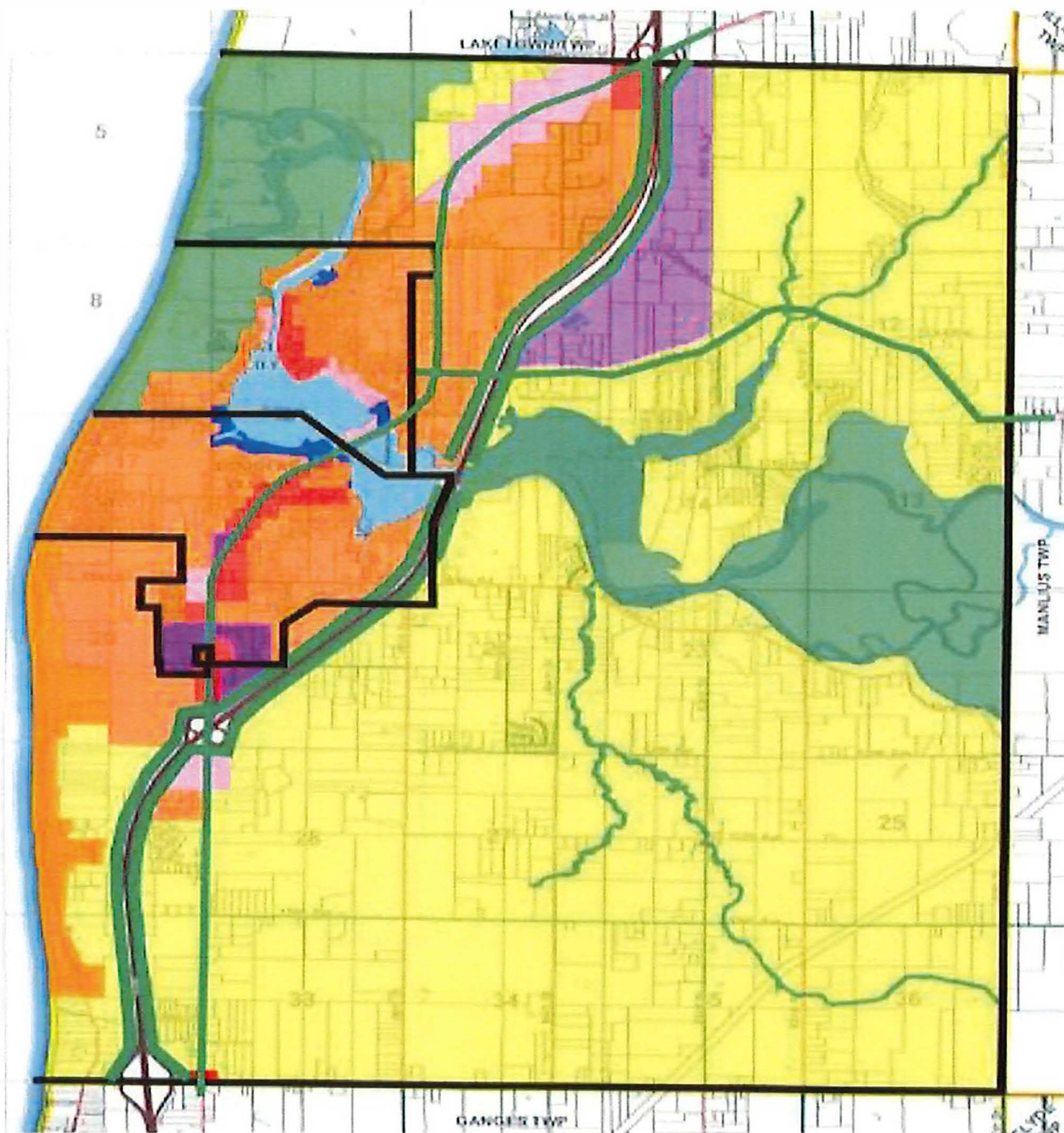
The Master Plan also included detailed expansion plans that included acquiring the Denison property, then the McClendon or Singapore Dunes property, now the Peg & Jeff Padnos or NorthShore of Saugatuck Property. The expansion plans called for an expanded natural area and a designated historic site where the buried ghost town of Singapore lies.

Here is the Future Land Use Map from the 2016 edition of the Tri-Community Master Plan is on the following page.

Map 10-1

# Future Land Use Map

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## Legend

Rural Low Density Single Family Residential/Agricultural  
 Medium to High Density Single and Multi-Family Residential  
 Mixed Use Residential/Commercial  
 Waterfront Mixed Use

Commercial  
 Industrial  
 Greenspace, Preserve  
 Highway Buffer

Tri-Community Master Plan Update  
 2016  
 10-2

## PLEASE NOTE:

Any promise of future conservation easements, trails, land swaps by the property owner of NorthShore of Saugatuck, based upon what happens with permitting, is considered a Quid Pro Quo and is thus not considered a conservation easement permissible for tax reduction. xvi

#### 4) ECONOMIC CONTRIBUTION OF TOURISM –

**The Tri-Communities have articulated in the Master Plan the economic Public Interest in keeping the River Mouth area for ‘low-impact development’ or Public Open Space xvii**

The City of the Village of Douglas recognizes the excerpts from the Tri-Community Master Plan further below ‘as a reflection of local factors of the public interest.’ The following two excerpts emphasize the overwhelming Public Interest articulated in the Master Plan.

“The response rate to the first survey of 43% and 40% to the second survey was very high considering the length (about 1 hour completion time) and type of survey; **thus responses are believed to represent the majority view in each community.**” Pg 1-1, 2016

“These joint goals and policies are premised on a pledge by Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas to mutually cooperate in guiding future development to advance a common vision. It is intended that these goals and policies be consulted when considering future land use decisions within an individual jurisdiction, as well as **those decisions that affect the interests of more than one jurisdiction.**” Pg 1-2, 2016

The following 36 excerpts from the Tri-Community Master Plan are a ‘reflection of local factors of the Public Interest.’ From the perspective of the City of the Village of Douglas, these excerpts represent the majority view of the community. These excerpts clearly make the point that the boat canal, as proposed, is ‘Contrary to the Public Interest.’

Goal: Guide development in a manner which is orderly, consistent with the planned expansion of public facilities, and **strives to preserve the scenic beauty, foster the wise use of natural resources, protect environmentally sensitive areas, and enhance the special character of the Tri-Communities.** Pg 1-4, 2016

Policy: Insure compatible land use planning and zoning across municipal borders and minimize land use conflicts by separating incompatible uses and requiring buffers where necessary. Pg 1-5, 2016

Policy: Support efforts to **foster tourism by preserving the scenic beauty of the environment, expanding recreation opportunities, improving tourist attractions, preserving the historic character of the communities through the preservation of historic structures, expanding cultural and arts opportunities and encouraging**

development of promotional materials which highlight the attractions of the Tri-Communities. Pg 1-6, 2016

**Goal: Encourage planning efforts based on the understanding, knowledge and respect for the Tri-Community's historical and cultural resources. Pg 1-10, 2016**

**Policy: Discourage the development of high intensity residential uses along the waterfront. Pg 1-12, 2016**

**Goal: Protect special environments and open spaces, including but not limited to sand dunes, wetlands, and critical wildlife habitat, from the harmful effects of incompatible development activity by limiting the type and intensity of land development in those areas. Pg 1-12, 2016**

**Policy: Identify development limitations on special environments which classify environments based on their value to the ecosystem, unique attributes, the presence of endangered plant and wildlife species, and other characteristics deemed significant. Pg 1-12, 2016**

**Policy: Encourage acquisition of special environments of significant public value by public agencies or nonprofit conservancy organizations for the purposes of preservation. Pg 1-12, 2016**

**Policy: Prepare and maintain a subarea plan for the Oxbow Peninsula including the "Denison Property". Pg 1-12, 2016 [NOTE: the Denison Property is the NorthShore of Saugatuck Property.]**

**Policy: Promote the preservation of open space and natural areas, as well as limited, carefully planned development along the Kalamazoo River, Kalamazoo Lake, Silver Lake, Goshorn Lake, and Lake Michigan and connecting streams, creeks, and drainage ways to protect and enhance the scenic beauty of these waterfront areas. Pg 1-13, 2016**

In 2002 the City of Saugatuck completed a strategic plan for purposes of future growth and development and efforts involved an examination of local tourism and public opinion. The following data was secured from the plan's survey of visitors to the area, and provides useful information considered applicable to each of the Tri-Communities when considering economic and recreational impacts on the area.

• **Activities - beach (40%), dune rides (12%), and boating (11%)**

**Spending Patterns - \$500 to \$599 (median range), 15% spend +\$1,000. Pg 2-8, 2016**



The primary reasons people visit or live in the three communities are to enjoy the scenery and recreational opportunities and to live in a picturesque, safe place while they commute to nearby (or distant) urban centers. Beach recreation, boating and other water activities, shopping, art galleries and enjoying the scenery are the primary attractions for both tourists and year-around residents. While agriculture, industry and tourism are important economic sectors represented in the Tri-Communities, **tourism is king**. Pg 3-1, 2016

Mature trees represent a valuable resource in maintaining the aesthetic character of the area, not to mention their overall importance to wildlife and the natural environment. **In particular, the wooded sand dunes along the Kalamazoo River and Lake Michigan, and those buffering adjacent uses from I-196, are especially important. They should be managed to insure their long term existence.** Pg 4-23, 2016

A large portion of the lakeshore both north and south of the mouth of the Kalamazoo River is undeveloped or very sparsely developed. A portion of this segment of shoreline is in public ownership as Oval Beach Park. In 2011 the City of Saugatuck completed its acquisition of the 173 acres of natural dunes and 3,650 feet of undeveloped Lake Michigan shoreline, formerly owned by the Denison family, between the south Kalamazoo River pier and Oval Beach City Park. This was made possible through a partnership between the City; the Land Conservancy of West Michigan; a \$10.5 million grant from the Michigan Natural Resources Trust Fund; The Nature Conservancy; The Conservation Fund; and generous private donors. The Saugatuck Harbor Natural Area, as it is now called, is open year round for low impact uses such as hiking, fishing, bird watching and beach combing. Pg 5-7, 2016

The Tri-Community area is rich in cultural, and historical points of interest and many archaeological sites can be found throughout the area. **Leading economists and forward-thinking governmental leaders have recognized the social and economic value of promoting and preserving cultural and historic assets.** The state of Michigan has made community cultural; planning a key part of several of its most publicized and marketed economic development strategies: the “smart growth”; “heritage/cultural tourism”; and “cool cities” initiatives. Pg 5-9, 2016

Archaeological sites are of particular scientific value to the fields of anthropology, ecology and biology, and may have historic or ethnic significance as well. There are 120 archaeological sites scattered throughout the Tri-Community area, mostly related to Ottawa and Potawatomi cultures. Their exact locations have not been disclosed by the Bureau of History to protect them from exploitation. One of these sites, the Hacklander Site, located in Section 23 is

listed on the National Register of Historic Places and has components representing Middle and Late Woodland periods. **A second important site is the old Singapore site located at the north edge of the “new” (1906) harbor channel. Recipients of Federal assistance must ensure that their projects avoid damage or destruction of significant historical and archaeological resources.** The Michigan Bureau of History reviews these projects to assess their impact on archaeological sites. Pg 5-11, 2016

Parks, recreation, and open space are essential to the quality of life of area residents, and are **an important component of the local tourist economy.** They enhance property values, as well as physical and psychological well-being. Pg 7-1, 2016

Parks and open space define the character of the Tri-Communities, create the scenic atmosphere which **stimulates tourism,** and provide the basis for popular local leisure activities. Pg 7-1, 2016

According to the 2004 community opinion survey, following was the response to the question of whether the respondent would support the additional recreation-related activities even if it meant an increase in general property taxes. The greatest support among recreation-related topics was for better water quality with 62.5 %, bike lanes/pathways with 60.5% support and **parks and recreation at 50.9%. When citizens express a willingness to pay higher taxes for a service that is very significant.** Pg 7-18, 2016

Recreation is important to the Tri-Communities and the visual experience of the community is tied to the recreational experience. Residents like to live in the Tri-Communities, in part, because it is a uniquely attractive location. **Tourists visit and spend money in the Tri-Communities based in part on the visual experience. Natural features and open spaces are important components of the Tri-Communities,** contrasting with the concentrated, developed areas of the City of Saugatuck and the City of the Village of Douglas. The compact, strong identities of the City and Village are enhanced when natural, open spaces surround the two communities. Water is one of the natural features surrounding the City and Village and helping to give them form and identity. Wetlands, woodlands, farms and parks are other existing natural features that currently contribute to natural open space. Pg 7-18, 2016

**Tourists have always been attracted to the area, but tourism is now the number one economic activity. Consequently, how the waterfront is used will be of crucial importance to the future of the Tri-Community area.** Pg 8-1, 2016

**Although waterfront lands have high revenue generating potential, a major attraction of both the Lake Michigan and Kalamazoo River waterfronts is their**

scenic, natural shorelines composed of forested sand dunes and Tri-Community Master Plan Update large wetland areas. Should these natural areas be greatly damaged or destroyed through inappropriate development, then the "goose that laid the golden egg" will be dead. It is essential that the natural beauty of the waterfront be maintained along the Lake Michigan shoreline, the Kalamazoo River from the channel to Saugatuck, and from the Blue Star Highway Bridge inland. Pg 8-1 – 8-2, 2016

This Plan seeks to define a balance between competing uses. It places protection of the natural environment as first and foremost in making future land use decisions along the Lake Michigan and Kalamazoo River waterfronts. The ultimate goal is to minimize disruption of the natural environment so that new development and redevelopment is in harmony with the environment, rather than in conflict with it. Alteration of existing natural features should be very limited, and with mitigation to provide the same values and functions nearby. Pg 8-2, 2016

Under the state Wilderness, Wild, and Natural Areas Program (Part 351 of the Natural Resources and Environmental Protection Act of 1994), the DNR is charged with identifying, dedicating and administering wilderness, wild and natural areas. Within the Saugatuck region, the DNR has dedicated the Saugatuck Dunes Natural Area to protect the unique dune ecosystem of open dunes, blowouts, interdunal wetlands and wooded dunes, Pitcher's Thistle occurs within the area and is listed as a threatened species by both the state and federal government. The Saugatuck Dunes Natural Area is within Saugatuck Dunes State Park. Sensitive dune ecosystems also occur in the dune areas on either side of the Kalamazoo River mouth at Lake Michigan. This area is planned for protection but details have yet to be finalized. Management would likely be the responsibility of the City of Saugatuck, Saugatuck Township and the State Park. The entire Kalamazoo River, including the Saugatuck/Douglas area is designated as an area of particular concern by the DNR. Areas of particular concern are those having scarce resources, unusual scenic beauty, unusual economic value, recreational attractions, or some combination of the above. They are only located in coastal areas. Altering the environment in an area of "particular concern" could have a significant impact on the quality of coastal and Great Lakes waters. Pg 8-6, 2016

As has been emphasized throughout this Plan, the natural beauty of the waterfront has much to do with the attraction of the Tri-Community area. Pg 8-25, 2016

Several vistas have public values that deserve protection. These include the entry into and exit from Lake Michigan on the Kalamazoo River, the view from



Mount Baldhead, the view of Kalamazoo Lake from both ends, and approaches to the Kalamazoo River Bridge. Pg 8-25, 2016

#### RECOMMENDATIONS TO GUIDE FUTURE USE

In seeking to balance economic development with environmental protection, the concept of carrying capacity should be a major consideration. If the carrying capacity of land or water is exceeded, then activities cannot be undertaken without unacceptable impacts on users, the environment, or both. Impacts can include increased trip times, decreased safety, pollution, loss of open space, and many other considerations. The key is prevention of overuse by limiting intensity of use on adjoining lands and regulating surface water use.

**Environmental protection must be a leading principle in making future land use decisions along the waterfront. Environmentally sensitive areas such as sand dunes, wetlands, high risk erosion areas, floodplains, and key woodlands should be protected from unnecessary destruction.** Development should complement rather than destroy these areas and their values. By doing so the environmental quality of the air and water will be improved, wildlife habitat will be preserved, scenic values will be protected, and the character of the area will be maintained. Some new intensive shoreline development will be desirable and necessary, but the balance should not be disproportionately on the side of new tax base as it has been for the past three decades. Opportunities to enhance the waterfront should be seized. **Parks and open spaces should eventually be linked with other public places.** Pg 8-15 – 8-26, 2016

Protection mechanisms, like the **Natural River designation**, should be **recognized for the ancillary benefits they bring to the community.** Pg 8-26, 2016

Good land use planning is essential to the future quality of life in the Tri-Communities. Actual future land uses are difficult to predict and guide to achieve desired results. **A future land use map and plan expresses local land use goals and policies and provides a land use scenario which a community may use as a physical guide. Goals and policies, in turn, drive land use and development decisions.** Pg 10-1, 2016

The following planning and design principles are the technical foundation in support of the proposed land use arrangements graphically depicted on the Future Land Use Map. These principles are consistent with the goals and policies in Chapter 1 and should remain the basis for reviewing any subsequent changes to the proposed Future Land Use Map. These planning principles are:

- Protection of public health and safety
- Conservation of natural resources
- Environmental protection
- Minimizing public service costs



- Efficiency and convenience in meeting land use needs
- **Ensuring compatibility between land uses.**

Pg 10-1, 2016

#### Conservation of Natural Resources

Failure to consciously protect nonrenewable natural resources exposes a community to unbridled destruction of those resources which are the foundation for an area's character and quality of life. Conservation of natural resources usually focuses on: land, water, minerals, certain soils (such as prime farmland), wetlands, sand dunes, areas supporting an abundance and diversity of wildlife, and unique forested lands. **Areas where the land and the water meet are the most important. Indiscriminate land subdivision frequently reduces the size or alters the shape of land, thereby compromising the resource value and production potential of those lands.** This occurs frequently in prime agricultural areas and once lost, these lands may never be reclaimed for food production purposes. If widespread, such losses can dramatically alter the character of an area. These changes reflect lost opportunities – usually higher public service costs and gradual degradation of an area's tourism potential.

#### Environmental Protection

This principle aims at preventing pollution, impairment or destruction of the environment. While there is considerable overlap with natural resource conservation issues, environmental protection measures focus primarily on air and water quality, and **the impact of activities where the water meets the land.** Environmental quality is best preserved by planning for appropriate land use activities in and near sensitive environmental areas, and managing development accordingly. Pg 10-3, 2016

#### Ensuring Compatibility Between Land Uses

A central objective of land use planning is to locate future land uses so that they are compatible with one another. This prevents future nuisance situations between adjacent land uses, such as loud sound, ground vibrations, dust, bright lights, restricted air flow, shadows, odors, traffic, and similar impacts. Pg 10-4, 2016

Other natural resource areas include sand dunes, wetlands, floodplains, streams, creeks and drains, the Kalamazoo River, Lake Kalamazoo, and areas at high risk of erosion along Lake Michigan. **These areas are proposed for very limited future development** in keeping with their fragility and importance in buffering Lake Michigan storms, filtering and storing water during periods of flooding, draining stormwater from land, providing habitat for a wide range of plants and animals, and for their wide ranging open space values. **Destroying these resources would destroy the essential qualities which continue to attract residents and tourists to the area.** If conserved and wisely used, waterways and farms will become a natural greenbelt system that continues to enhance the

area for years to come. Local zoning ordinances should be reviewed to ensure they include adequate conservation practices. Pg 10-4, 2016

The R-3 Lakeshore Residential Zoned District is that area of the township where controls are placed upon the use and development of areas adjacent to the shoreline of Lake Michigan **so as to preserve the shoreline as a natural resource** to prevent and/or control erosion and to maintain the aesthetic qualities of the area. Pg 10-12, 2016

#### **All Three Jurisdictions Together**

- **Public acquisition of the Denison property on both sides of the Kalamazoo River is the top priority for the Tri-Communities.** Pg 13-2, 2016

#### **KEY STRATEGIES TO BE IMPLEMENTED**

While the above priority initiatives are being implemented, the matters that come before planning commissions and governing bodies month-to-month will permit many opportunities to implement key policies in this Plan (see policies in Chapter 1). Following are key strategies that should be implemented at every opportunity through local zoning, subdivision regulations and capital improvement programs. Many may first require updates to existing Zoning Ordinances. Most of the following strategies focus on preservation of the existing character of the Tri-Communities:

- **Protect the natural environment of the area AND Protect the visual quality of and visual access to the waterfront.** Pg 13-5, 2016

Our Tri-Community Master Plan is overwhelmingly clear. The excavation of a 1600' long, 200' wide, 18' deep boat canal, surrounded by publicly-funded natural areas, that will:

- Shrink Michigan's Critical Dune Area by 6.5 acres;
- Drain the globally imperiled interdunal wetlands on the Patty Birkholz Natural Area and destroy a wetland not yet delineated – with no guarantee if or when they will refill;
- Destroy the archeological site of Singapore – a 19th century lumber town buried under the dunes and eligible for the National Register of Historic Places;
- Diminish and Damage Michigan's first Traditional Cultural Property – the associated Cultural Values – lake sturgeon, burial sites, wild rice -- are at risk; and,
- Devalue the communities' investments in immediately adjacent Natural Areas – Saugatuck Harbor Natural Area and the Patty Birkholz Natural Area. As Lana Pollack, Chair of the Natural Resources Trust Fund Board when the state awarded the largest ever \$10.5 million grant, wrote: "the proposed development's impact on MNRTF's investment of \$10.5 million still leaves me concerned that our public investment may become mostly the enhanced viewscape for a commercial development."

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threatens our firmly established tourist-based economy and is thus 'Contrary to the Public Interest' and contrary to the well-established 'public uses to which the area is suited.'

The City of the Village of Douglas, as 'a local agency having jurisdiction or interest over' the boat canal, is emphasizing that it is inaccurate in this case for USACE to assume "that appropriate economic evaluations have been completed, the proposal is economically viable, and is needed in the market place." As our Tri Community Master Plan clearly details, the boat canal is contrary to the market place. The USACE district engineer should "make an independent review of the need for the project from the perspective of the overall public interest."

## 5) ORDINANCES PROHIBITING EXCAVATIONS FOR BOAT CANALS –

**Our Master Plan states that the ecologically important dune ecosystem at the River Mouth “is planned for protection but details have yet to be finalized.” xviii Saugatuck Township, however, has two ordinances, updated since the 2005 Tri-Community Master Plan, that prohibit the excavation of the boat canal.**

The Master Plan states that ‘Saugatuck Township, the City of Saugatuck, and the City of the Village of Douglas (agree) to mutually cooperate in guiding future development to advance a common vision.’ The City of the Village of Douglas is not trying to reinterpret what the Saugatuck Township Planning Commission determined regarding the Special Approval Use for a marina. However, as signer of the Tri-Community Master Plan, the City of the Village of Douglas is compelled to emphasize the two township zoning ordinances that impact the River Mouth Area in general, and properties owned in the Public Trust specifically.

Several parcels that are surrounded by Publicly owned parks, and acquired using Natural Resources Trust Fund monies, fall under the jurisdiction of Saugatuck Township. What is approved at NorthShore of Saugatuck, could then be approved on these properties, such as the Ox-Bow School of Art and other privately held parcels on the Old Harbor. To be clear, once again: “Should these natural areas be greatly damaged or destroyed through inappropriate development, then the “goose that laid the golden egg” will be dead.”

The following two zoning ordinances are a reflection of our communities’ history of conservation, the land-use maps both current and future, and the Tri-Community Master Plan. Both have been extensively updated since the publication of the 2005 Tri-Community Master Plan.

Ordinances overseeing development in the designated critical sand dunes were added in 2004 and 2015. These ordinances follow Michigan’s Critical Dune Boundaries: “the critical sand dune area is that portion... or located by the state or by the appropriate state agency as designated critical sand dune areas pursuant to statutory authority.”

### **Section 40-337<sup>xix</sup>**

**Management and regulation of Uses and developments in the designated critical sand dune.**

**Sec. 40-337C.** The only Uses that may be allowed in the critical sand dune area are the following:

**Sec. 40-337C(3).** Such noncommercial recreational uses **as would not have a materially adverse effect upon the natural contours of the land** and its vegetation;

The excavation of a 1600' long, 200' wide, 18' deep boat canal that would remove 6.5 acres from Michigan's Critical Dune Area would have a demonstrably 'materially adverse effect upon the natural contours of the land' within the Township's Critical Dune Area.

Article XII. – Water Access and Dock Density Regulations, were added in 1999 and updated in 2007 and 2014. As the intent and purpose of the ordinances state, "the township has concluded that it is desirable to retain and maintain the physical, cultural and aesthetic characteristics of its Inland Waterways and its portion of Lake Michigan<sup>xx</sup>." The two updates were completed shortly after the publication of the 2005 Tri Community Master Plan to limit development along the waterfront.

Section 40-910(h)<sup>xxi</sup>

**In no event shall a canal or channel be excavated for the purpose of increasing the Water Frontage required by this section.** Canals or channels which interface with an Inland Waterway or Lake Michigan and were lawfully in existence as of the effective date of this section may be cleaned and maintained in accordance with applicable laws of the State of Michigan **so long as they are not enlarged.**

The boat canal, as proposed, would be enlarging a canal already in existence. Further, the boat canal, as proposed, would be adding 3200' of water frontage to the applicant's 1400'.

One point must be made clear regarding the Township Planning Commission decision, or rather lack of a decision on these ordinances. And this places the burden of considering local zoning as a Public Interest Factor on USACE.

The applicant did not ask the Township for a permit to excavate a boat canal, or boat basin. The Township lawyer in a document to the Planning Commission dated April 14, 2017 writes:

**The developer is not seeking Township approval of the boat basin. The developer is seeking approval from the United States Army Corps of Engineers (USACE), the Michigan Department of Environmental Quality (MDEQ), and the United States Environmental Protection Agency (USEPA) for the boat basin.**

That application process is lengthy, includes public notices and preempts most local control of the procedure.' Pg 2<sup>xxii</sup>

Thus, the Township Planning Commission did not consider the excavation of a boat canal (section 90-910(h)) and removal of 6.5 acres of the Critical Dune contours(section 40-337(c)(3)).

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Both zoning ordinances, 40-337(c)(3) and 40-910(h), are a clear reflection of our communities' history of conservation, the Tri-Community Master Plan, and a 'reflection of local factors of the public interest.' Further, both zoning ordinances codify what the community considers to be 'contrary to the public uses to which the area is suited.' Specifically, the excavation of a boat canal and any 'materially adverse effect upon the natural contours of the land.'



## 6) CONCLUSION –

**The cumulative permanent detrimental impacts of the boat canal, as proposed, on the Tri-Community tourist-based economy that relies upon preservation of the Historical, Ecological, and Cultural Values in the River Mouth Area far out outweigh any possible economic benefit. The boat canal, as proposed, is ‘Contrary to the Public Interest’ and contrary to the well-established ‘public uses to which the area is suited.’**

The City of the Village of Douglas is asking, therefore, the US Army Corps of Engineers (USACE) District Engineer overseeing LRE-2010-00304-52-S17-2 to make an independent review of the need for the project from the perspective of overall Public Interest.

In summary our rationale for this request follows:

- While 33 CFR 320.4 (q) assumes that the boat canal, as proposed, ‘is needed in the market place.’ The City of the Village of Douglas disagrees for the following reasons:
  - a) The City’s 137-year history of establishing Parks and Natural Areas to protect the Historic, Ecological, and Cultural Values in the River Mouth Area with the intention to driving the tourist-based economy.
  - b) The Tri-Community Master Plan, ‘as a reflection of local factors of the public interest’ clearly lays out the argument that:
    1. Our economy, or market place, is based upon tourism.
    2. What sustains that economy, or market place, is the protection of Historic, Ecological, and Cultural Values. Especially those found in the River Mouth Area comprised of beach, interdunal wetlands, dunes, forested dunes, Kalamazoo River frontage, and historic sites.
    3. When considering development proposals in the River Mouth Area our Master Plan clearly states that protection of the Historic, Ecological, and Cultural Values that sustain our tourist-based economy should be the primary consideration.
    4. While some economic benefits do come from development, any development that harms the Historic, Ecological, Cultural Values in the River Mouth Area is contrary to the Public Interest that supports our tourist-based economy.
  - c) The economic vision articulated in the Tri-Community Master Plan support two zoning ordinances that prohibit the boat canal, as proposed.
  - d) The boat canal, as proposed, will
    1. Shrink Michigan’s Critical Dune Area by 6.5 acres;
    2. Drain the globally imperiled interdunal wetlands on the Patty Birkholz Natural Area and destroy a wetland not yet delineated – with no guarantee if or when they will refill;



3. Destroy the historic site of Singapore – a 19th century lumber town buried under the dunes and eligible for the National Register of Historic Places;
4. Diminish and Damage Michigan's first Traditional Cultural Property – the associated Cultural Values – lake sturgeon, burial sites, wild rice -- are at risk;
5. Deforest a significant forest canopy of 'the wooded sand dunes along the Kalamazoo River;'
6. Devalue the communities' investments in immediately adjacent Natural Areas – Saugatuck Harbor Natural Area, Tallmadge Woods, and the Patty Birkholz Natural Area. As Lana Pollack, Chair of the Natural Resources Trust Fund Board when the state awarded the largest ever \$10.5 million grant, wrote: "the proposed development's impact on MNRTF's investment of \$10.5 million still leaves me concerned that our public investment may become mostly the enhanced viewscape for a commercial development."

Based upon the above factors, we ask the USACE District Engineer to recognize the boat canal, as proposed in permit application LRE-2010-00304-52-S17-2, meets the criteria as an 'appropriate case' with which to 'make an independent review of the need for the project from the perspective of the overall public interest.'

These comments submitted by the City of the Village of Douglas clearly illustrate that the cumulative permanent detrimental impacts of the boat canal, as proposed, on the Tri-Community tourist-based economy that relies upon preservation of the Historical, Ecological, and Cultural Values in the River Mouth Area far out outweigh any possible economic benefit. By now the point should be abundantly clear, the boat canal, as proposed, is 'Contrary to the Public Interest' and contrary to the well-established 'public uses to which the area is suited.'

## 7) Endnotes

<sup>i</sup> US Army Corps of Engineers, Detroit District, Public Notice LRE-2010-00304-52-S17-2, August 11, 2017.

<sup>ii</sup> US Army Corps of Engineers General Regulatory Policy 33 CFR 320.4 (a)(1).

<sup>iii</sup> US Army Corps of Engineers General Regulatory Policy 33 CFR 320.4 (a)(2)(iii). “The extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work is likely to have on the **public and private uses to which the area is suited.**”

<sup>iv</sup> US Army Corps of Engineers, Detroit District, Public Notice LRE-2010-00304-52-S17-2, August 11, 2017. Page 1, “a total of 241,750 cubic yards of sand would be excavated from a **6.54-acre** upland area approximately 1,639 feet long and up to 200 feet wide”

<sup>v</sup> Potential Effects of Marina Construction as Proposed by North Shores of Saugatuck, LLC on Water Tables and Drawdown Beneath Nearby Back-Dune Wetland Complexes, Anthony Kendall and David Hyndman, March 25, 2019. Page 29, “Our modeling efforts produced a reasonably well-calibrated groundwater model for the region surrounding the proposed marina, which demonstrates that significant drawdown occurs during the marina construction period, and continues at least 60 days following the cessation of dewatering of the marina area. This drawdown occurs despite the presence of sheetpile intended to isolate the surrounding area from dewatering. **Drawdown beneath back-dune wetland complexes reaches as much as 14 feet during the construction period, and 60 days later water tables remain greater than 2 feet below pre-construction levels.** Given the hydrologic characteristics of the area, and the specification in the DEQ permit that construction occur during the winter, it is very likely that water tables will not fully recover during the growing season following construction. Indeed, it could take significantly longer for levels to recover, however that period is, as stated in our previous report, dependent upon the weather conditions before, during, and after construction—all of which remain hypothetical at this point.”

<sup>vi</sup> US Army Corps of Engineers, Detroit District, Public Notice LRE-2010-00304-52-S17-2, July 2, 2018. Page 4 “the undertaking **would have an adverse effect on Area C**, as defined in 36 CFR 800.5(a)(1).” Area C has been identified as part of the buried 19<sup>th</sup> Century lumber town of Singapore.”

<sup>vii</sup> Ethnographic Traditional Cultural Property Study of the Mouth of the Kalamazoo River, Allegan County, Michigan with Recommendations as to its Eligibility For Listing in the National Register of Historic Places, Prepared by Algonquin Consultants, Inc. with Thomas F. King, December 3, 2019. Determination of Eligibility Notification, National Register of Historic Places, National Park Service, Keeper of the Register. November 5, 2020

<sup>viii</sup> Tri-Community Master Plan, 2016. Page 4-23 “Mature trees represent a valuable resource in maintaining the aesthetic character of the area, not to mention their overall importance to wildlife and the natural environment. **In particular, the wooded sand dunes along the Kalamazoo River and Lake Michigan, and those buffering adjacent uses from I-196, are especially important. They should be managed to insure their long term existence.**” Recent drone images reveal the ‘laydown area’ proposed by NorthShore of Saugatuck in both the USACE and EGLE permit applications has been clearcut and excavated.

<sup>ix</sup> Letter to the National Trust for Historic Preservation, Lana Pollack. January 15, 2010

\* Tri Community Master Plan, 2016. Page 8-1. "Tourists have always been attracted to the area, but tourism is now the number one economic activity."

<sup>xi</sup> Tri Community Master Plan. Pages 8-1 – 8-2. "Although waterfront lands have high revenue generating potential, a major attraction of both the Lake Michigan and Kalamazoo River waterfronts is their scenic, natural shorelines composed of forested sand dunes and Tri-Community Master Plan Update large wetland areas. Should these natural areas be greatly damaged or destroyed through inappropriate development, then the "goose that laid the golden egg" will be dead. It is essential that the natural beauty of the waterfront be maintained along the Lake Michigan shoreline, the Kalamazoo River from the channel to Saugatuck, and from the Blue Star Highway Bridge inland."

<sup>xii</sup> US Army Corps of Engineers General Regulatory Policy 33 CFR 320.4(q). "Economics. When private enterprise makes application for a permit, it will generally be assumed that appropriate economic evaluations have been completed, the proposal is economically viable, and is needed in the market place. However, the district engineer in appropriate cases, may make an independent review of the need for the project from the perspective of the overall public interest."

<sup>xiii</sup> US Army Corps of Engineers General Regulatory Policy 33 CFR 320.4(j)(1). "Even if official certification and/or authorization is not required by state or federal law, but a state, regional, or local agency having jurisdiction or interest over the particular activity comments on the application, due consideration shall be given to those official views as a reflection of local factors of the public interest."

<sup>xiv</sup> Dates referenced come from the following sources: A Portrait of Ox-Bow: Architecture-Art-Artists, Judy Bowman Anthrop, 2009. National Park Service website. A New Role for Citizen in State Park Planning: Saugatuck Dunes State Park, Michigan Academician, Patricia L. Birkholz and Robert L. Reinking, 1988. Lana Pollack, Letter to the National Trust for Historic Preservation, 2010. Tri-Community Master Plan, 2016.

<sup>xv</sup> The maps in this section come from Allegan County Land Information Services and the Tri-Community Master Plan, 2016.

<sup>xvi</sup> [Pollard v. Commissioner- Quid pro quo \(landcan.org\)](#). Any promise of future conservation easements, trails, land swaps by the property owner of NorthShore of Saugatuck, based upon what happens with permitting, is considered a Quid Pro Quo and is thus not considered a conservation easement permissible for tax reduction.

<sup>xvii</sup> All passages quoted in this section come from the 2016 Tri-Community Master Plan.

<sup>xviii</sup> Tri Community Master Plan, 2005. Page 10-7. "The northwest corner of the Township, along with the most of the land in Saugatuck west of the Kalamazoo lake should be preserved for public open space and the portion that remains in private ownership should be maintained for low intensity uses (like the art colony and church camp)."

<sup>xix</sup> Saugatuck Township Zoning Ordinance. [DIVISION 6B. - R-3B LAKESHORE TRANSITION ZONED DISTRICT | Code of Ordinances | Saugatuck Township, \(Allegan Co.\), MI | Municode Library](#)

<sup>xx</sup> Saugatuck Township Zoning Ordinance. [ARTICLE XII. - WATER ACCESS AND DOCK DENSITY REGULATIONS | Code of Ordinances | Saugatuck Township, \(Allegan Co.\), MI | Municode Library](#). Sec. 40-906. - Intent and purpose.

(a)The township, after extensive deliberations and discussions, has concluded that the use of water resources situated within the township must be considered within the framework of the township's longterm costs and benefits. Further, the township has concluded that it is desirable to retain and maintain the physical, cultural and aesthetic characteristics of its Inland Waterways and its portion of Lake

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Michigan.(b)Pursuant to its deliberations and discussions, **the township has concluded that a lack of regulation regarding the density of Docks on and general access to Inland Waterways and Lake Michigan within or adjacent to the township has resulted in a Nuisance condition and an impairment of irreplaceable natural resources of the township.** Further, the lack of regulation is resulting in the destruction of property values and constitutes a threat to the public health, safety and welfare of all persons utilizing these Inland Waterways and Lake Michigan and occupying adjacent properties within the township. Consequently, the township desires to adopt reasonable regulations regarding Dock density and general water access **to protect the public health, safety and welfare, as well as the irreplaceable natural resources of the township.**(c)The township has further concluded that regulation of water access and Dock density will help reduce conflicts which occur between residential single-Family use of the waterfront and shared waterfront use.

<sup>xxi</sup> Saugatuck Township Zoning Ordinance. [ARTICLE XII. - WATER ACCESS AND DOCK DENSITY REGULATIONS | Code of Ordinances | Saugatuck Township, \(Allegan Co.\), MI | Municode Library](#)

<sup>xxii</sup> Memorandum from Scott Smith and Nick Curcio of Dickinson/Wright to Saugatuck Township Planning Commission, April 14, 2017