

**OTSEGO COUNTY  
PLANNING COMMISSION / ZONING BOARD OF APPEALS  
JOINT AGENDA**

June 16, 2014  
6:00 PM

**MEETING WILL BE IN THE PLANNING AND ZONING MEETING ROOM LOCATED AT 1322 HAYES ROAD**

**PLANNING COMMISSION:**

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES: From May 19, 2014 meeting

CONSENT AGENDA: None

OTHER:

PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA:

(Please identify yourself for the record. All comments will be limited to two (2) minutes)

PUBLIC HEARINGS:

*Eland Corporation/2121 Dickerson Rd Gaylord, MI 49735/010-016-200-065-04*

*PSUP14-002 request for propane sale and storage yard with a sales office located in a B3/Business & Light Manufacturing Zoning District*

ADVERTISED CASES:

*Eland Corporation/2121 Dickerson Rd Gaylord, MI 49735/010-016-200-065-04*

*PSUP14-002 request for propane sale and storage yard with a sales office located in a B3/Business & Light Manufacturing Zoning District*

UNFINISHED COMMISSION BUSINESS:

1. Otsego County Master Plan report
2. Otsego County Parks & Recreation report

REPORTS AND COMMISSION MEMBER'S COMMENTS

1. 2015-2020 Capital Improvement Committee appointed
2. Sample Checklist to Guide Site Plan Review/Zoning Training

**ZONING BOARD OF APPEALS:**

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES: From June 25, 2013

CITIZEN COMMENT REGARDING ITEMS NOT ON THE AGENDA

PUBLIC HEARINGS: None

NEW BUSINESS:

1. Election of Officers

OLD BUSINESS: None

COMMUNICATIONS:

1. Upcoming ZBA case: Verizon Wireless #8015 Gaylord South/Variance

**BOTH:**

NEW BUSINESS

1. Joint meeting with ZBA members:
  - Discussion-roles of PC and ZBA
  - Online Zoning Ordinance demonstration

ADJOURNMENT

# Otsego County Planning Commission

Proposed Minutes for May 19, 2014

**Call to Order:** 6:05 pm by Chairperson Hartmann

Pledge of Allegiance

**Roll Call:**

Present: Chairperson Hartmann, Vice-Chairperson Jarecki, Secretary Stults, Mr. Borton, Mr. Arndt, Mr. Brown, Ms. Nowak, Mr. Hendershot, Mr. Mang

Absent: Mr. Hilgendorf, Mr. Klee

Staff Present: Mr. Schlaud, Ms. Boyak-Wohlfeil

**Consent Agenda:** None

**Approval of minutes from April 21, 2014:**

Motion made to approve minutes by Mr. Arndt; Seconded by Mr. Brown

Motion approved unanimously.

**Other:** None

**Public participation for items not on the agenda:** None

**Public Hearing:** None

**Advertised Case:** None

**Unfinished Commission Business:**

1. HX/Highway Interchange Zoning District/Article 17/Schedule of Dimensions/Recommendation to BOC

Motion made by Mr. Brown to approve the HX/Highway Interchange Zoning District/Article 17 Schedule of Dimensions setback additions as proposed and also correct the setbacks of the AR/Agricultural Resource and FR/Forest Recreation Districts changing the front setbacks from fifty (50) feet to twenty-five (25) feet, the side setbacks from twenty (20) feet to ten (10) feet with *note (c)* added and the rear setbacks from forty (40) feet to thirty (30) feet with *note (h)* added and also add AR and FR to *note (c)*; Seconded by Ms. Nowak.

Discussion ensued.

Mr. Brown stated the Schedule of Dimensions encompassed all districts not just the Highway Interchange. He wanted the setback issue for the AR and FR districts brought forward again. He stated that after the Board of Commissioners turned down the recommendation the first time, he had spoken with some of the Commissioners afterward stating his views, and he was told they would look at it again if presented.

Chairperson Hartmann stated Mr. Brown's motion went beyond what was on the agenda and the Highway Interchange Zoning District needed to be brought to a close.

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Mr. Schlaud stated the Highway Interchange needed to move forward and Mr. Brown should bring up his motion as a separate item.

Secretary Stults stated he did not think the Highway Interchange Zoning District should be delayed and if the AR/FR setback change were to be brought forward again, it would have to follow the procedures of the Planning Enabling Act and the Zoning Ordinance. It would have to go to Townships for input and another public hearing held. He stated he did not have a problem doing that, it was just the process to follow.

Mr. Arndt stated the setbacks originally were decided on to preserve the rural characteristics of the zoning districts but the twenty (20) to thirty (30) feet did not make that big of a difference, and maybe more of the land could be preserved with the lesser setbacks. He stated the change would not force anyone to stay back, just allow them the opportunity to move forward, closer to the road.

Mr. Mang stated the subject was moot and time was being wasted discussing it because procedure had to be followed. He stated the motion on the floor needed to be voted on to move forward.

Chairperson Hartmann stated because the Board of Commissioners had turned the change down previously, the process must be started all over again. He told Mr. Brown the subject could be brought up again under 'New Business'.

Motion by Mr. Brown voted on; Motion defeated.

Motion made by Mr. Brown to approve the HX/Highway Interchange Zoning District/Article 17 Schedule of Dimensions setback additions as proposed and clarifying the minimum lot area to ten thousand (10,000) feet; Seconded by Secretary Stults.

Motion approved unanimously.

## 2. Revised definition of 'service roads'

Mr. Schlaud stated Township input had been received and a second public hearing will be set up for the 'service roads' definition, possibly in July.

Mr. Mang stated Livingston Township had not sent anything in writing but was in agreement with the revised definition.

## 3. Otsego County Master Plan/Jim Hilgendorf/Committee meeting report

Mr. Mang explained that after talking with Rick Duell from NEMCOG (*North East Michigan Council of Government*) and sending him a highlighted copy of the Master Plan's items to be addressed, he submitted a cost of \$2,000 as a service to Otsego County, to update the text and statistics of the Master Plan.

Chairperson Hartmann stated the Master Plan Committee recommended accepting NEMCOG's proposal and asked John Burt, County Administrator, for the funding.

Motion made by Secretary Stults to follow the Master Plan Committee's recommendation of using NEMCOG to update the Master Plan as outlined in the detailed report returned to the County and ask the Board of Commissioners through John Burt to provide the estimated \$2,000 funding to accomplish the task; Seconded by Mrs. Jarecki.

Mr. Arndt questioned the updating of the Plan with new maps.

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Secretary Stults stated most of the maps *would not* be modified. Specifically, the Land Use Maps would be very expensive to redo and since there has not been any significant change in five (5) years, there was no point in spending the money.

Motion approve unanimously.

## New Business:

### 1. Discussion/Joint meeting with ZBA members

Chairperson Hartmann stated the joint meeting would be held June 16<sup>th</sup> with each committee holding a formal meeting. He asked Mr. Stults to speak along with Mr. Sagasser, ZBA chairperson, and stated a presentation demonstrating the digital Zoning Ordinance would also be on the agenda.

### 2. FR/AR-Article 17/Schedule of Dimensions

Motion made by Mr. Brown to change the minimum front setback of the AR/Agricultural Resource and FR/Forest Recreation Districts from fifty (50) feet to twenty-five (25) feet, the side setbacks from twenty (20) feet to ten (10) feet with *note (c)* added and the rear setback from forty (40) feet to thirty (30) feet with *note (h)* added and also add AR and FR to *note (c)*; Seconded by Mr. Arndt.

Mr. Mang stated Livingston Township had not been in favor of the change when it was sent out for Township input the first time. The Township had sent an email reply to the County listing the reasons against the setback change. He stated he would be voting no.

Mr. Borton stated the Commissioners had discussed the issue when it was first brought forward and because they had not heard of any complaints with the setbacks or the public wanting the setbacks changed, they felt it was better to leave them as is. He also stated the issue would probably be turned down again for the same reasons.

Ms. Nowak stated she felt the change gave people the choice to choose for themselves.

Secretary Stults stated he could understand the setbacks for residential use but it was important to look at all uses in both of those zoning districts; some of the uses needed the greater setbacks.

Chairperson Hartmann questioned if the wording 'residential use' could be added to the setbacks for those zoning districts.

Secretary Stults stated it would be acceptable planning if the setback changes applied to only the residential areas in those zoning districts. It could be done by listing '*residential*' as having the lesser setbacks and the greater setbacks for everything else or through Article 21 by listing the uses with the greater setbacks.

Mr. Brown withdrew his previous motion and made the following in its place:

Motion made by Mr. Brown to change the setbacks in residential areas of the AR/Agricultural Resource and FR/Forest Recreation Districts from a minimum front setback of fifty (50) feet to twenty-five (25) feet, the side setbacks from twenty (20) feet to ten (10) feet with *note (c)* added and the rear setback from forty (40) feet to thirty (30) feet with *note (h)* added and also add AR and FR to *note (c)*; Seconded by Mr. Arndt.

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Mr. Mang stated the word '*residential*' was not in the definition section of the Ordinance. He felt adding family dwelling, duplex dwellings and that basically all of the residential units listed in the AR district covered the definition.

Staff will draw up language to include Sections 9.1.1, 9.1.2 and 9.1.3 pertaining to the setback changes in AR and FR Zoning Districts for residential dwellings only.

Motion passed:           Nine (9) yes  
                                  One (1) no

## Reports and Commission Member's Comments:

### 1. Otsego County Parks & Recreation update

Secretary Stults stated a portion of the wood floor on the west side of the Community Center had been taken up to try to locate the moisture problem but a source had not been found. John Ernst, a local structural engineer, will look into the problem but as it stands, a long term solution will be an expensive fix. The Community Center was closed but it was decided the east side of the floor could still be used along with the balcony area activities, so it will be reopened.

The cabins for the County Park were completed and the site plans finalized for their placement. They will be located to the north of the County Park on the cul-de-sac near the water. Reservations for the cabins were going very well.

Secretary Stults also stated the fireworks were questionable this year because the launching area is currently under water. If they are unable to launch them safely, there will not be a firework show on Otsego Lake this year.

### 2. Michigan Inland Lake Convention

Mr. Brown attended an all-day session for governmental bodies at the Michigan Inland Lake Convention at Boyne Mountain Resort and shared information about federal, state and local jurisdiction over wetlands.

Secretary Stults thanked the Planning Commission on behalf of their involvement and support of the Otsego Lake Township Highway Interchange Project.

### 2. General Information Guide for a Planning Commission or Zoning Board of Appeals/Zoning Training

**Adjournment:** 7:45 pm by Chairperson Hartmann.

Christine Boyak-Wohlfeil, Recording Secretary

Randy Stults, Planning Commission Secretary

# Otsego County Land Use Services

Permit No.: PSUP14-000

1322 Hayes Road  
Gaylord, MI. 49735  
989-731-7420 \*Fax 989-731-7429

## APPLICATION FOR SPECIAL USE PERMIT

Date: 5.20.14

Tax Parcel Number: 010 - 016 - 200 - 065 - 04 Twp: Bozley Sec 16 N 30, R 3 W

### Property location: (REQUIRED)

Address: 2121 Pickerson Rd. City: Gaylord State: MI Zip: 49735

### Applicant:

Name: Todd L. Seidell Architect Phone No. (989) - 731 - 0372

Address: P.O. Box 2189 City: Gaylord State: MI Zip: 49734

### Property Owner: (If different from applicant)

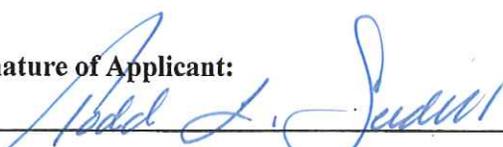
Name: Eland Corporation Phone No. (817) - 223 - 9572

Address: P.O. Box 673 City: Gaylord State: MI Zip: 49734

### Description of project and proposed use:

Propane sales and storage yard with sales office

Signature of Applicant:



Date:

5.20.14

\*All information received by this department is subject to the Freedom of Information Act. Under this Act, persons are allowed to request copies of said information. This includes, but is not limited to all copies of drawing and blueprints.

### Office Use Only

File No. PSUP14-000

Fee amount: \$100.00

Date Application Received 5.23.14

Received By: C.B.W.

### **SECTION 19.3 DATA REQUIRED**

This application for a special land-use permit shall include all the following information:

19.3.1 The Applicant's name, address, and telephone number.

19.3.2 The legal description, addresses, and taxes identification number of the proposed site.

19.3.3 A signed statement that the Applicant is the owner of the proposed site, or is acting as the owner's representative.

19.3.4 A site plan meeting all of the requirements of Section 23.2 of this Ordinance.

19.3.5 A detailed written description of the proposed special land use.

19.3.6 A detailed written statement, with supporting evidence, demonstrating how the proposed special land use will comply with the standards for special land use approval specified in Section 19.7 of this Ordinance.

19.3.7 Any additional information reasonably deemed necessary by the Planning Commission to determine compliance with the standards for special land use approval specified in Section 19.7 of this Ordinance and the impact of the proposed special land use on adjacent properties, public infrastructure, and the County as a whole. This information may take the form of, but is not limited to, traffic impact analysis, environmental impact assessments, market studies (to determine demand and/or use saturation), fiscal impact analysis or reports and/or information from officials representing state, county, or local police, fire, or health departments, the county road commission or Michigan Department of Transportation and/or state, county, or local environmental regulatory agencies.

### **SECTION 19.5 PUBLIC HEARING REQUIREMENTS**

Following receipt of a complete special use permit application, the Planning Commission shall hold a public hearing. The notices for all public hearings before the planning commission concerning requests for special use permits and planned unit developments shall comply with all of the following:

A. The content of the notice shall include all of the following information:

1. A description of the nature of the proposed special use or planned unit development request.

2. A description of the property on which the proposed special use or planned unit development will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.

3. The time, date, and place the proposed special use or planned unit development request will be considered.

4. The address where and the deadline when written comments will be received concerning the proposed special use or planned unit development request.

B. The notice shall be published in a newspaper of general circulation within the County not less than fifteen (15) days before the scheduled public hearing.

C. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for Special Use or Planned Unit Development not less than fifteen (15) days before the scheduled public hearing.

D. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property on which the proposed special use or planned unit development will be located and to the occupants of all structures within three hundred (300) feet of the property on which the proposed special use or planned unit development will be located not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the County. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

Application to include all items required under Article 19, Section 19.1 through 19.13 and Article 23 Section 23.2.

Application for Special Use Permit  
Tax parcel Number: 010-016-200-065-04

**19.3.4 A detailed written description of proposed special land use.**

The proposed special land use will be for the construction and operation of a propane plant. The plant will consist of a 28' x 30' office building, a 30,000 gal horizontal propane storage tank, a loading and unloading header for the 30,000 gal tank, and storage area for small propane tanks awaiting distribution. Future plant expansion may include an additional 30,000 gal tank.

**19.3.6 A detailed written statement, with supporting evidence, demonstrating how the proposed special land use will comply with the standards for special land use approval specified in Section 19.7 of this Ordinance.**

**SECTION 19.7 STANDARDS FOR SPECIAL LAND USE APPROVAL**

The Planning Commission shall approve, or approve with conditions, an application for a special land use permit only upon a finding that the proposed special land use complies with all of the following standards:

19.7.1 The property subject to the application is located in a zoning district in which the proposed special land use is allowed. The property is zoned B3 Business, Light Manufacturing District. As per Section 12.2.3, Above-ground storage of flammable and combustible liquids can be permitted in B3 subject to special conditions. In addition, the adjacent property to the south (Tax #: 010-016-200-065-03) is zoned B3 and has an existing propane plant very similar to what we are proposing.

19.7.2 The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole. Propane distribution plants are a common platform throughout the county for the storage and distribution of propane and will not substantially impact the natural resources or environment based on the history of the existing plants.

19.7.3 The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person. The surrounding properties currently consist of a cement plant to the north and a propane plant to the south. The addition of our propane plant will be consistent with the current development.

19.7.4 The proposed special land used will be designed, constructed, operated, and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned. As stated in 19.7.3 the propane plant will be consistent with current development of the surrounding properties.

19.7.5 The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity. Propane plants similar to the one we are proposing currently exist in Otsego County and do not place excess demands on fire, police, or other public resources.

19.7.6 The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services. The proposed propane plant will be accessed off McCoy and Dickerson Roads which currently accommodates truck traffic for the industrial area to the north. A water well and septic system will be installed on the property so the public system will not be used. Only minor office refuse will be generated at the site and disposed of via a dumpster.

19.7.7 If the proposed special land use includes more than fifteen thousand (15,000) square feet of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity no rate of discharge leaving the property based on twenty-five (25) year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system. NA, the site will include less than 15,000 sq.ft. of impervious surface.

19.7.8 The proposed special land use complies with all specific standards required under this Ordinance applicable to it. As outlined above the special use complies with this ordinance.

OTSEGO COUNTY LAND USE SERVICES DEPARTMENT  
1322 HAYES ROAD  
GAYLORD MICHIGAN 49735  
989-731-7420 \* FAX 989-731-7429

Application for Site Plan Review

Applicant:

Name: Todd L. Seidell Architect Owner  Agent  Other interest ( circle one)

Address: P.O. Box 2189 Gaylord, MI 49734

Phone 989-731-0372 Fax 989-731-6932

Property Owner: (if different from applicant)

Name: Eland Corporation

Address: P.O. Box 673 Gaylord, MI 49734

Phone: 817-223-9572 Fax: 989-448-8195

Property Location:

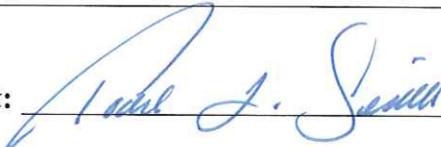
Township Bagley Section 16 Town 30 Range 3 Zoning District B3

Site Address: 2121 Dickerson Rd. Gaylord, MI 49735

Parcel Code: 010 - 016 - 200 - 065 - 04

Description of Project and Proposed Use:

Propane sales and storage yard with sales office

Signature of Applicant:  Date: 5-20-14

\*All information received by this department is subject to the Freedom of information act. Under this act, persons are allowed to request copies of said information. This includes, but not limited to, to copyrighted drawings and blueprints.

The following items are required on all site plans before they can be submitted for review to the various approving entities.

1. The applicant's name, address, and phone number in full.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
2. Proof of property ownership, and whether there are any options on the property, or any liens against it. *Deced*  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
3. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
4. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain See front of application
5. The address and or parcel number of the property.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
6. Name and address of the developer (if different from the applicant).  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain owner
7. Name and address of the engineer, architect and/or land surveyor.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
8. Project title.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
9. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the ordinance.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
10. A vicinity map drawn at a scale of 1" = 2000' with north point indicated.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
11. The gross and net acreage of all parcels in the project.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
13. Project completion schedule/development phases.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain August 1, 2014
14. The site plan shall consist of an accurate, reproducible drawing at a scale of 1" = 50 or fewer feet or less for sites of less than 3 acres and 1" = 100 or fewer feet or less if the site is larger than 3 acres. The site plan shall show the site and all land within fifty (50) feet of the site. If multiple sheets are used, each shall be labeled and the preparer identified. All site plans shall be sealed by a professional engineer, surveyor, architect or landscape architect and each site plan shall depict the following:  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
15. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines, monument locations, and shoreland and natural river district, if any.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

16. Existing topographic elevations and proposed grades in sufficient detail to determine direction of drainage flows.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
17. The type of existing soils at proposed storm water detention and retention basins and/or other areas of concern. Boring logs may be required if necessary to determine site suitability.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
18. Location and type of significant existing vegetation.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
19. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, flood plains and wetlands within fifty (50) feet of the parcel.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
20. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building and typical elevation views of proposed structures.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
21. Proposed location of accessory structures, buildings and uses, including all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain Tank height max 16'-0"
22. Location of existing public roads, rights-of-way and private easements of record and abutting streets. Notation of existing traffic counts and trip generation estimates may be required if deemed appropriate by the Zoning Administrator or Planning Commission.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
23. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations shall be separately depicted with an elevation view.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
24. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carpools, parking areas (including indication of all spaces and method of surfacing), and fire lanes.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
25. Location, size, and characteristics of all loading and unloading areas.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
26. Location and design of all sidewalks, walkways, bicycle paths and areas for public use.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
27. Location of water supply lines and/or wells, including fire hydrants and shut off valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems if applicable.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
28. Location of all other utilities on the site including natural gas, electric, cable TV, telephone and steam.  
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
29. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.  
Yes \_\_\_ No \_\_\_ Na  if "Na" explain \_\_\_\_\_
30. Location, size and specifications of all signs and advertising features with elevation views from front and side.  
Yes \_\_\_ No  Na \_\_\_ if "Na" explain \_\_\_\_\_

31. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.

Yes  No  Na  if "Na" explain \_\_\_\_\_

32. Location and specifications for all fences, walls, and other screening features with elevation views from front and side.

Yes  No  Na  if "Na" explain \_\_\_\_\_

33. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.

Yes  No  Na  if "Na" explain \_\_\_\_\_

34. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.

Yes  No  Na  if "Na" explain \_\_\_\_\_

35. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.

Yes  No  Na  if "Na" explain \_\_\_\_\_

36. Identification of any significant site amenities or unique natural features.

Yes  No  Na  if "Na" explain \_\_\_\_\_

37. Identification of any significant views onto or from the site to or from adjoining areas.

Yes  No  Na  if "Na" explain \_\_\_\_\_

38. North arrow, scale and date of original submittal and last revision.

Yes  No  Na  if "Na" explain \_\_\_\_\_

39. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the site plan.

Yes  No  Na  if "Na" explain \_\_\_\_\_

40. Paid appropriate fees to Otsego County.

Yes  No  Na  if "Na" explain \_\_\_\_\_



PSUP14-002  
 Special Use Permit/Site Plan Review  
 Eland Corporation  
 010-016-200-065-04



**Zoning Legend**

	AR/Agricultural Resource
	PUD/Planned Unit Development
	R2/General Residential
	I/Industrial
	B3/Business & Light Manufacturing
	RR/Recreational Residential
	R1/Residential
	R3/Residential Estates
	B1/Local Business
	B2/General Business
	State Land
	FR/Forest Recreation
	Undefined

9/25/2013

I hereby certify that according to our records all taxes returned to this office are paid for five years preceding the date of this instrument. This does not include taxes in the process of local collection, board of review, PRR denial or tax tribunal.

*Susan L. Normand* COUNTY TREASURER



LIBER 1331 PAGE 693



OTSEGO COUNTY MICHIGAN  
RECEIVED FOR RECORD  
SUSAN DEFFEYTER, CLERK/REGISTER OF DEEDS  
09/25/2013 3:08:24 PM



OTSEGO COUNTY SEPTEMBER 25, 2013 RECEIPT #35472  
STATE OF MICHIGAN \$ 97.90-CO  
REAL ESTATE \$ 667.50-ST  
TRANSFER TAX STRMP # 7997

**WARRANTY DEED**

*KNOW ALL MEN BY THESE PRESENTS:* That Verna E. Snow, as initial Trustee of the Verna E. Snow Revocable Trust, u/a/d May 11, 1994, whose address is P.O. Box 1677, Anna Maria, FL 34216

Convey(s) and warrant(s) to Eland Corporation, a Delaware Corporation, whose address is P.O. Box 673, Gaylord, MI 49734

The following described premises situated in the Township of Bagley, County of Otsego and State of Michigan:

**"SEE ATTACHED LEGAL DESCRIPTION"**

Tax Parcel No. 010-016-200-065-04

For the sum of Eighty Nine Thousand dollars and Zero cents (\$89,000.00), subject to the existing building and use restrictions, easements, and zoning ordinances of record, if any, this conveyance does not include any oil, gas or mineral rights: Seller(s) reserves all oil, gas and mineral rights, if any, unto themselves.

The grantor grants to the grantee the right to make all division(s) under section 108 of the Land Division Act, Act. No. 288 of the Public Acts of 1967. This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

Dated September 20, 2013.

RCUD SEP25'13 AM 1:59

Signed in the presence of

Signed

Verna E. Snow Revocable Trust, u/a/d May 11, 1994

*[Signature]*  
Susan Normand  
*[Signature]*  
Stephen Normand

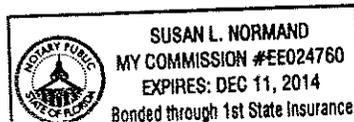
*[Signature]*  
By: Verna E. Snow, as initial Trustee

State of Florida )  
) SS  
County of MANATEE )

RCUD SEP24'13 AM 8:55

Exhibit 4

On this 19<sup>th</sup> day of September, 2013, before me personally appeared Verna E. Snow, as initial Trustee of the Verna E. Snow Revocable Trust, u/a/d May 11, 1994 on behalf of said trust



*[Signature]*  
Notary Public  
MANATEE County, Michigan FL  
My Commission Expires: 12/11/14



**EXHIBIT A**

Land situated in the Township of Bagley, County of Otsego, State of Michigan described as:

That part of the Northwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 16, Town 30 North, Range 3 West, lying west of I-75 Freeway, BEGINNING at a point, on the west line of said Section 16, located South  $1^{\circ}04'44''$  West 100.00 feet from the Northwest corner of said Section 16 and proceeding South  $81^{\circ}32'10''$  East 208.00 feet; thence North  $1^{\circ}04'44''$  West 100.00 feet; thence South  $81^{\circ}32'10''$  East 46.35 feet along the North line of said Section 16; thence South  $3^{\circ}26'18''$  West 492.88 feet along the West line of the I-75 Freeway; thence South  $88^{\circ}55'16''$  West 212.01 feet; thence North  $1^{\circ}04'44''$  West 433.52 feet along the said West line of Section 16 to the Point of Beginning. EXCEPT THEREFROM: A parcel of land located in the Northwest  $\frac{1}{4}$  of Section 16, Town 30 North, Range 3 West, described as: Commencing at the Northwest Corner of Section 16, Town 30 North, Range 3 West; thence South  $81^{\circ}33'35''$  East, 208.00 feet on the North line of said Section 16 to the POINT OF BEGINNING; thence South  $81^{\circ}33'35''$  East 46.35 feet on the North line of said Section 16; thence South  $03^{\circ}24'20''$  West 33.12 feet on the Westerly line of "I-75" (limited access highway); thence North  $81^{\circ}33'35''$  West, 43.70 feet; thence North  $01^{\circ}06'03''$  West, 33.46 feet to the POINT OF BEGINNING.

Property ID #010-016-200-065-04

# Eland Corporation

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P.O. Box 673  
Gaylord, MI 49734

May 8, 2014

RE: Authorization of representative

Dear Sirs;

This letter is to verify that Todd L. Seidell Architect will be acting as Eland Corporation's representative in the Otsego County and Bagley Township permitting of the property located at the intersection of McCoy and Dickerson Road, Gaylord, MI. (Tax ID# 010-016-200-065-04)

Thank You,

A handwritten signature in blue ink, appearing to be 'W. Seidell', is written below the 'Thank You,' text.

**OTSEGO COUNTY  
PLANNING COMMISSION**

**PSUP14-002  
Special Use Permit/Site Plan Review  
010-016-200-065-04**

***Exhibit List***

- Exhibit #1:* Applications for case PSUP14-002 submitted by Applicant
- Exhibit #2:* Otsego County Zoning Map Effective Date March 20, 2010
- Exhibit #3:* Otsego County Zoning Ordinance Effective March 20, 2010/Amended August 2013
- Exhibit #4:* Copy of Warranty Deed-L1331/P693
- Exhibit #5:* Site Plan for case PSUP14-002 submitted by Applicant
- Exhibit #6:* Letter for authorization of representative from Eland Corporation dated May 8, 2014
- Exhibit #7:* Public Hearing Notice
- Exhibit #8:* Letter to Bagley Township Planning Commission dated May 23, 2014
- Exhibit #9:* Letter received June 9, 2014 from Bagley Township Planning Commission
- Exhibit #10:* Map and list of parties notified
- Exhibit #11:* Receipt #01303641 dated May 23, 2014
- Exhibit #12:* General Finding of Fact/PSUP14-002
- Exhibit #13:* Specific Finding of Fact/PSUP14-002
- Exhibit #14:*
- Exhibit #15:*

**OTSEGO COUNTY  
PLANNING COMMISSION**

**PUBLIC HEARING NOTICE**  
June 16, 2014

The Otsego County Planning Commission will hold a public hearing on Monday, June 16, 2014 at 6:00pm in the Planning and Zoning Meeting room located at 1322 Hayes Rd Gaylord, Michigan.

The purpose of the public hearing will be to obtain citizen comment on the following:

Eland Corporation, owner, has requested a Special Use Permit for property located in Bagley Township at 2121 Dickerson Rd Gaylord, MI 49735. The proposed use of the property is a propane sales and storage yard with a sales office included. The property is located in a B3/Business & Light Manufacturing Zoning District. Above-ground storage of flammable and combustible liquids, chemicals and hazardous liquids is a permitted use subject to special conditions in the B3 Zoning District.

Parcel identification number: **010-016-200-065-04**  
**2121 Dickerson Rd**  
**Gaylord, MI 49735**

**Legal Description:**

COMM @ NW COR, TH S01°01'44"W 100 FOR POB, TH S81°32'10"E 208', TH N01°04'44"W 100', TH S81°32'10"E 46.35', TH S03°26'18"W 492.88', TH S88°55'16"W 212.01', TH N01°04'44"W 433.52' TO POB. SEC 16, T30N R3W.

All citizens are welcome to attend the meeting or provide written comment. If written comments are provided the comments must be received at the Otsego County Land Use Services Office by noon (12:00 pm) the day of the meeting.

Any citizen who has questions regarding this application or needs assistance to attend this meeting should contact the Director of Land Use Services at (989) 731-7420.



*Otsego*  
**COUNTY**  
M I C H I G A N

**Department of  
Land Use Services**  
1322 Hayes Rd • Gaylord, MI 49735  
Phone (989)731-7420 • Fax (989)731-7429  
[www.otsegocountymi.gov](http://www.otsegocountymi.gov)

---

May 23, 2014

Bagley Township  
PO Box 52  
Gaylord, MI 49734

**ATTENTION: CLERK**

Pursuant to Article 27 of the Otsego County Zoning Ordinance, I am forwarding the application for a Special Use Permit Subject to Special Conditions.

The owner representative's contact information is below should you want them present at your meeting. They can be notified at:

Todd L Seidell Architect  
PO Box 2189  
Gaylord, MI 49734  
989.731.0372

If you have any questions, please contact us and we will be glad to assist you. We look forward to your input concerning this matter. Thank you for your participation in County Zoning.

Sincerely,

Vern Schlaud  
Otsego County Land Use Director

cbw

encl

*Bagley Township*  
Otsego County Michigan

Bagley Township Planning Commission  
PO Box 52  
Gaylord, Michigan 49734

Subject: Report of Public Hearing Results and Recommendation, Special Use Hearing

Case: County SUP NS, Propane Storage/Transit Facility  
TIN: 010 016 200 065 04

Date and Location:: June 5, 2014, Bagley Township Hall,  
7:00 PM

Noticed: On Site

Delivery: Initial by email, written copies follow.

**1. New case.** Meeting opened at 7:00PM by Arndt, case announced to attendees. The meeting was not recorded. Notes here are paraphrased from the discussion and commission conclusions at the hearing. The Applicant's representative presented a new set of plans at the meeting, addressing essential issues in section 16 and landscaping and paving issues.

Members Present: Arndt, Beckett, Schwandt, Giles, Supervisor

Absent: Parsell, Trigger

Representing the Applicant Todd Seidell for the Eland Corporation, owner

Other Attendees: None from the general public

**Applicant's representative was invited to speak** and brief the commission on the project. Mr. Seidell did so explaining the building will remain as presented in the original plans, and the new site plans reflect the addition of paved parking, landscaping along McCoy Road and detail on the catchment basin and fencing.

**Meeting was opened for public comment.** There being no live humans present to make public comment nor relevant correspondence for the record, the meeting was closed to public comment **at 7:20 PM.**

Commissioners Arndt, Schwandt, and Beckett had visited the property and discussed the proposed use.

Commissioners reviewed **general and specific recommendations** from the county staff and were in general agreement with those conclusions. Inspection reflected a similar propane distribution center directly south and contiguous to the proposed site, and a natural gas transit site directly north and contiguous to the proposed site.

**Commissioners noted the proposed 8 foot fencing** around the proposed facility and noted that the probable maximum height of proposed fencing exceeds most of the existing uses in section 21.10.2, but held the opinion that the provisions of 21.10.5 (commission discretion) should be invoked to allow higher fencing if objections as to the height arose. This site does not border any residential use.

**The commission reviewed the parking requirements (21.27)** and found that the existing parking on the adjusted plans was adequate according to the ZO. Non permeable site coverage presented no issues requiring adjustments. Seidell confirmed the soil test calculations supporting the catchment basin as shown on the adjusted plans.

**The commission reviewed section 21.18 (landscaping)** in light of the updated plans and agreed that the proposed landscaping along McCoy Road was reasonable and did not require special conditions.

**Safety concerns were discussed** with respect to the LNG tankage planned. The state controls the types of safety devices and buffers, as well as the construction of the tanks, but the representative explained the multiple layers of safety valves and shutoff systems, as well as the concrete cradles and anchoring of tanks to the satisfaction of the commission.

**Lighting planned** on the SE corner of the site is about 200 feet from the border of McCoy ROW. The configuration and orientation of the light is not expected to impact traffic on McCoy Road and there is no residential use within range of the potential security light.

**Members did not recommend specific conditions not reflected in the current zoning requirements considering the zoning and location, other similar uses in the immediate area and the general provisions of the master plan which support the planned use.**

7:50PM Discussion ended.

**Chair accepted a motion from Beckett to recommend approval of the planned use without conditions as presented in the updated site plan. The motion was seconded by Trigger.**

**All in favor**

**None opposed.**

**Motion Passes.**

**2. Certain Planning Commission business related to update of the master plan is set forth in separate internal Bagley Township document.**

There being no further business, the meeting was adjourned at 9:14 PM.

Respectfully Submitted,

477232221

Kenneth R. Arndt  
Chairman

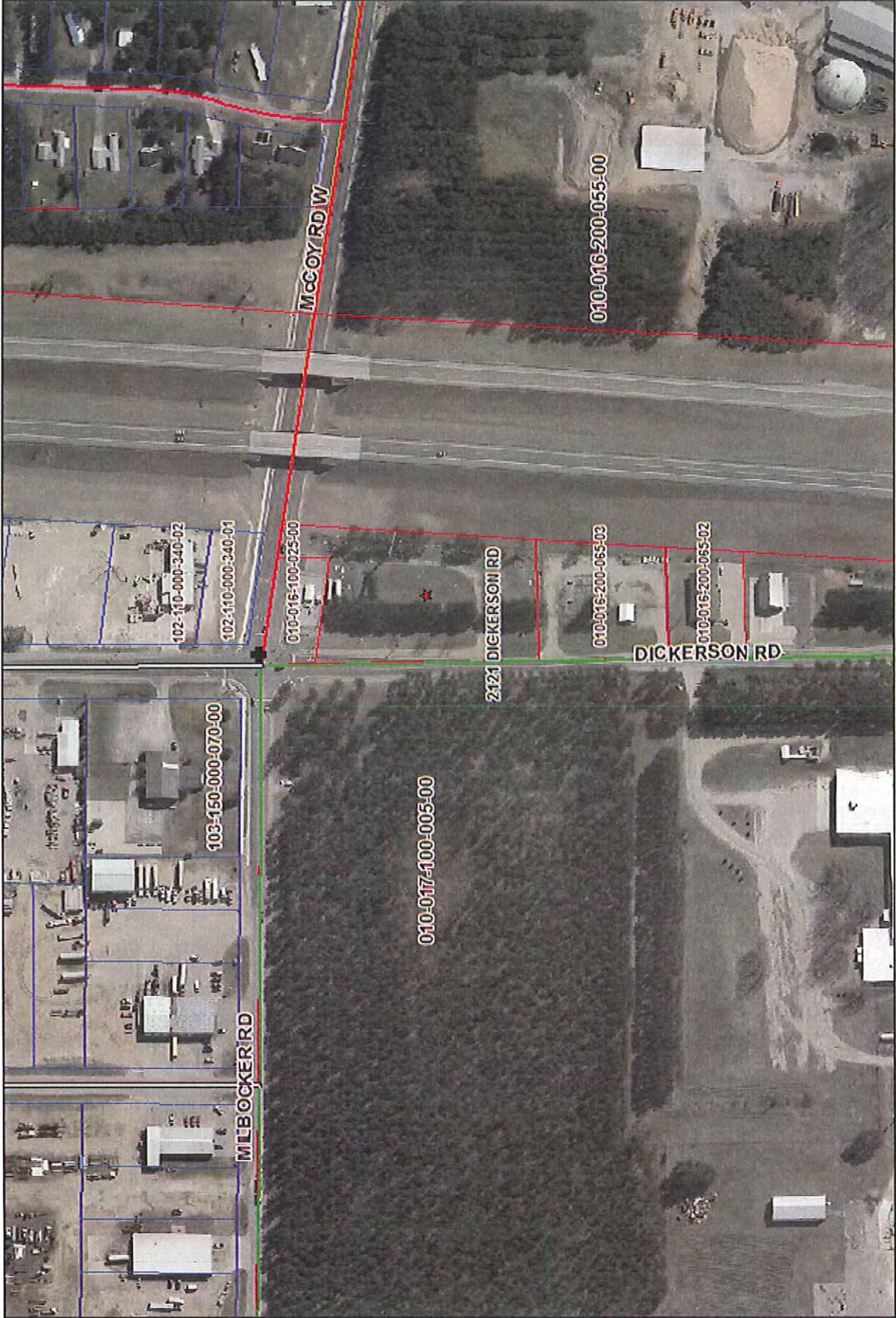
Approved for the Board:

For:

Wg/voice

William Giles  
Supervisor

PSUP14-002  
Special Use Permit/Site Plan Review  
Eland Corporation  
010-016-200-065-04



- 010-016-100-025-00
- 102-110-000-340-01
- 010-016-200-065-03
- 102-110-000-340-02
- 010-016-200-065-02
- 103-150-000-070-00
- 010-017-100-005-00

**OWNERS WITHIN THREE HUNDRED ( 300) FEET**

**PSUP14-002**

PID	PROPERTY ADDRESS	OWNER	OWNER ADDRESS	OWNER CITY	OWNER STATE	OWNER ZIP CODE
010-016-100-025-00	2005 Dickerson Rd	MichCon Gas Co	PO Box 33017	Detroit	MI	48232
010-016-200-065-03	2035 Dickerson Rd	Shell Gas Bulk LLC	5857 S Warner Ave	Fremont	MI	49412
010-016-200-065-02	2055 Dickerson Rd	2055 Dickerson LLC	220 Arrow Cove	Midland	MI	48642
010-017-100-005-00	2212 Dickerson Rd	Georgia-Pacific Corporation	PO Box 105681	Atlanta	GA	30348-5681
010-016-200-055-00/						
102-110-000-340-01	1971 Dickerson Rd	County of Otsego/Road Commission	PO Box 537	Gaylord	MI	49734-0537
102-110-000-340-02	1947 Dickerson Rd	Gilde Development LLC	1947 Dickerson Rd	Gaylord	MI	49735
103-150-000-070-00	1020 Milbocker Rd	Krompotich, Mildred Trust	2110 Sawyer Rd	Gaylord	MI	49735

OTSEGO COUNTY LAND USE SERVICE  
 1322 HAYES RD  
 GAYLORD, MI 49735  
 PH.989-731-7400  
 FAX 989-731-7419  
 INSPECTION LINE 989-731-7401



**Otsego**  
**COUNTY**  
 M I C H I G A N

**Paid By**

SEIDELL, TODD L. - ARCHITECT  
 PO BOX 2189  
 GAYLORD, MI 49734

RECEIPT NUMBER  
**01303641**  
 05/23/2014

Type	Record	Category	Description	Amount
Permit	PSUP14-002	PLAN REVIEW	Special Use Permit, Planning	\$ 700.00

<b>Total</b>	<b>\$ 700.00</b>
Cash	
Check	\$ 700.00
Credit	
Transferred	
<b>Tendered</b>	<b>\$ 700.00</b>
<b>Change</b>	<b>\$ 0.00</b>
<b>To Overpayment</b>	<b>\$ 0.00</b>

Expiration of permit: A permit will remain valid as long as work is progressing and inspections are requested and conducted. A permit will become invalid if the authorized work has not commenced within 6 months of issuance or if the authorized work is suspended or abandoned for a period of 6 months.

**OTSEGO COUNTY  
PLANNING COMMISSION**

**PSUP14-002  
Special Use Permit/Site Plan Review  
010-016-200-065-04**

**GENERAL FINDINGS OF FACT**

1. This is a proposal for a propane sales and storage yard. *Exhibit #1, Exhibit #5*
2. The property is located in a B3/Business & Light Manufacturing Zoning District. *Exhibit #2*
3. The proposed use is a permitted use subject to special conditions in the B3/Business & Light Manufacturing Zoning District. *Exhibit #3*
4. The property is currently under the ownership of Eland Corporation. *Exhibit #4*
5. Eland Corporation has authorized Todd L Seidell Architect as the case representative. *Exhibit #6*
6. The Public Hearing Notice was published in the Herald Times on May 30, 2014 *Exhibit #7*
7. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #8, Exhibit #9*
8. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #10*
9. The Planning Commission has the authority to approve a Special Land Use request after review and compliance with the Otsego County Zoning Ordinance. (Section 19.7) *Exhibit #3*
10. The required fees have been collected by Otsego County Land Use Services. *Exhibit #11*
11. The site plan requirements of Article 23 have been reviewed by Otsego County Land Use and all requirements pertaining to the proposed development have been addressed by the Applicant. *Exhibit #5, Exhibit #11, Exhibit #12*

***Exhibit #12***

**OTSEGO COUNTY  
PLANNING COMMISSION**

**PSUP14-002  
Special Use Permit/Site Plan Review  
010-016-200-065-04**

**SPECIFIC FINDINGS OF FACT**

**FINDINGS UNDER ARTICLE 21:**

**SECTION 21.10 FENCING**

21.10.2

<u>Specific Nonresidential Uses Requiring Fences</u>	<u>Minimum height for fence or wall</u>	<u>Function(s)</u>	
		<u>Screen/protect</u>	<u>Obscure</u>
Drive-in restaurants, gasoline stations and vehicle repair	6'0"	X	X
Hospital and funeral home service entrances	6'0"		X
Institutional playgrounds	6'0"	X	X
Parking lots	6'0"		X
Utility buildings and substations	6'0"	X	X
Public swimming pools	6'0"		X
Junk yards	8'0"	X	X
Open storage areas of any use	6'0"		X

Note: These uses in 21.10.2 are required to be fenced or screened in all cases regardless of the use orientation to residential zoning districts or residential uses.

21.10.3 Protective and adequate fencing shall be required around all outdoor swimming pools, and shall not be less than four (4) feet, six (6) inches above the established grade.

21.10.4 All plans for fences or walls must be approved by the Zoning Administrator for construction specifications designed to fulfill the primary function of protection and/or screening. All fences shall be maintained in a pleasing appearance.

21.10.5 The Planning Commission shall be empowered to modify fence and wall requirements as deemed necessary by conditions affecting a particular development, or to waive requirements where general welfare concerns are not served by compliance with these standards, such as the existence of permanent natural features, where there is sufficient visual or protective separation, or where there is nothing to separate. Waivers shall not be granted where such characteristics are of a temporary nature or because the adjacent area is not yet developed.

**HAS – HAS NOT BEEN MET**

## **SECTION 21.18 LANDSCAPING**

### **21.18.1 Purpose**

The purpose of this section is: to protect and enhance property values, economic welfare and community attractiveness; to provide beneficial climatic impacts by cleaning the air and providing shade; to protect health, safety and welfare by reducing air and water borne pollutants, flooding and noise; to mitigate adverse effects of sighting different uses near one another through buffering; to facilitate preservation of existing valuable trees and other vegetative cover; to provide wildlife habitat and environmental standards within developed areas; to protect privacy.

### **21.18.2 General Performance Standards:**

This, Section 21.18 Landscaping, requirements shall not apply to single family residences located on individual lots. The Section shall apply to residential plats and site condominiums.

All areas not covered by buildings, parking or other structures shall be treated with landscape materials including street trees, shrubs and groundcovers consistent with these provisions. The selected combination of plant materials shall be a harmonious combination of deciduous and evergreen trees, shrubs, vines and/or ground covers so arranged to present an aesthetically pleasing whole.

#### **21.18.2.1 Landscape Materials:**

All landscape materials planted pursuant to the provisions of this section shall be healthy and compatible with the local climate, site soil characteristics, drainage, and available water supply.

Trees and shrubs should be at least, at the time of planting, the sizes as outlined in this section and shall be consistent with the current American Standard for Nursery Stock as set forth from time to time by the American Association of Nurserymen.

Deciduous trees shall be not less than one and one-half (1 ½) inches in diameter for single family residential uses and two and one-half (2 ½) inches in diameter for other uses.

Coniferous trees should be at least six (6) feet in height. Shrubs shall be of a size generally known in the nursery industry as requiring at least a five (5) gallon container.

All planting beds constructed pursuant to Sections 21.18.2, 21.18.5 and 21.18.6 shall be mulched with mulch cover at least three (3) inches deep to retain moisture around roots.

Trees shall be planted on the project sites so as to allow for their desired mature growth.

Access to or view of fire hydrants shall not be obstructed from any side.

Plantings shall be designed so as to not conflict with power lines or impede fire safety services.

#### **21.18.2.2 Irrigation & Maintenance Performance Standards:**

All uses with the exception of single family residential, which are landscaped with live plants, pursuant to this Section shall be equipped with a watering system which will provide sufficient water to maintain plants in a healthy condition.

21.18.2.2.1 Whenever the landscaped area required by Sections 21.18.3, 21.18.5 and 21.18.6 is two thousand (2,000) square feet or more of living plants whether or not the plants are contiguous, the site shall have a permanent irrigation system capable of meeting the typical watering requirements of all the plant materials on site.

21.18.2.2.2 Whenever there is less than two thousand (2,000) square feet of landscaped area required by Sections 21.18.3, 21.18.5 and 21.18.6 on a site, there should be at least one reliable water source available during the growing season. The hose bib or other water source shall be within fifty (50) feet from a border of the plants.

21.18.2.2.3 All irrigation systems shall be maintained in good working condition.

21.18.2.2.4 Irrigation requirements may be adjusted in part or in whole by the Zoning Administrator for landscape areas having established healthy plant material, or where irrigation is deemed unnecessary for plant health and survival.

All plants required by this Section shall be maintained in a live and healthy state. Dead or unsalvageable unhealthy plants shall be replaced with the size and type of plants required on the site development plan and by this Section. Plant materials including grasses and herbaceous plants uses on berms, along road sides, etc. shall be routinely

maintained during growing seasons. When growing in close proximity to residential land uses, grasses and common weeds shall be maintained at a height of ten (10) inches or less. All fences, walls and similar structures shall be maintained in good condition. Chipped paint, missing fence pieces, leaning or fallen portions of a fence or other forms of deterioration shall immediately be replaced or repaired. Replacement of plants may be delayed whenever the Zoning Administrator determines that extenuating circumstances beyond the owner's control prevent the immediate replacement of the dead or unhealthy plants within a time established by the Zoning Administrator. In any event, the dead or salvageable plants shall be replaced within nine (9) months of the time the plants are clearly dead.

#### 21.18.2.3 Existing Vegetation:

If there is no practical alternative in terms of sighting buildings and other development, trees and other plants may be removed.

Significant shrubs, grasses and trees are to be preserved within areas not required for development.

Healthy, younger mature plants shall be preserved which would normally succeed older plants.

Natural vegetation shall be preserved within areas below an ordinary high water mark of a lake, stream or other water body.

Existing vegetation to be preserved shall be protected during construction with barriers as required and approved by the Zoning Administrator.

The application of landscape standards within this Ordinance may be adjusted in part or in whole by the Zoning Administrator to allow credit for established healthy plant material to be retained on or adjacent to the site if such an adjustment is consistent with the intent of this Ordinance.

21.18.2.4 Berms constructed pursuant to Section 21.18.3 shall be constructed with slopes not to exceed one to three (1:3) gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm.

Berm slopes shall be protected with sod, seed, shrubs or other form of natural ground cover.

#### 21.18.3 Buffer Yards:

Buffer yards shall be constructed to mitigate problems associated with traffic, noise, vibration, odor, glare, dust, smoke, pollution, water vapor, conflicting land uses and density, height, mass, layout of adjacent uses, loss of privacy, unsightly views and other potentially negative effects of development. Buffering may be achieved using landscape, building fences and berm or a combination of the above techniques.

Buffer yards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line.

Buffer yards shall not be located on any portion of an existing or dedicated public or Private Street or right-of-way.

Tables I and II shall be used to determine buffer yard dimensions and plant materials specifications. Table I is used to determine the type of Buffer yard (A, B, C, D, E, EX, or NA) which will be required between districts or users.

Once the type of Buffer yard is obtained, Table II outlines the plant material specifications for alternative widths and specifications and treatments (walls, berms, etc.) of buffer yard. Each property line should be analyzed independently to determine the appropriate buffer yard required.

The buffer yard tables are to be considered minimum standards. Increased landscaping requirements may be imposed by the Zoning Administrator or the Planning Commission if it is determined any of the following conditions exist.

The type of required buffer yard will not sufficiently mitigate noise, glare, fumes, smoke, dust or unsightly views within the site.

The scale of the project in regard to mass and height indicates the need for a buffer yard developed specifically for the project.

The proposed use is next to an existing sensitive use such as a school, church or residential area.

#### 21.18.4 Roadside Greenbelt Buffers:

Unless as otherwise required by Section 21.18.3, required front yards shall be landscaped with a minimum of one (1) tree, not less than one and one-half (1½) inches in diameter for single family residential uses and two and one half (2½) inches in diameter of other use, for each one thousand (1000) square feet, or major portion thereof, of front yard abutting a road right-of-way. The remainder of the greenbelt shall be landscaped provided however, rock or other inorganic ground cover shall not exceed twenty (20) percent of the yard area.

Access ways from public rights-of-way through required landscaped strips shall be permitted, but such access ways shall not be subtracted from the square foot dimension used to determine the minimum number of trees required.

#### 21.18.5 Screening of Unsightly Areas:

Unsightly areas, including but not limited to outside storage areas, utility boxes and open areas where machinery or vehicles are stored or repaired, shall be screened from public sidewalks, streets and other areas from which the property is visible. Such screening shall not be located as to interfere with required maintenance activities of utility boxes.

Whenever plants are used as a screen, they should provide an effective opaque screen within three (3) years of the time they are planted.

The materials and colors of the screen should blend with the site and the surroundings.

#### 21.18.6 Parking Lot Screening:

Unless otherwise required by Section 21.18.3 or 21.18.4, a no-building buffer strip not less than ten (10) feet wide shall be required on the perimeter of all parking lots containing twenty-seven hundred (2,700) square feet or more of parking area where not adjacent to buildings. Said buffer strip shall be used for landscaping, screening or drainage as required herein.

Landscaping design standards:

21.18.6.1 Any required planting strip shall be a minimum of ten (10) feet in width.

21.18.6.2 One (1) street tree shall be planted adjacent to the public right-of-way for each twenty-four (24) lineal feet of frontage. (This requirement shall not duplicate the requirements of Sections 21.18.4 or 21.18.3.)

21.18.6.3 Where screens of non-living material are used, at least one (1) shrub or vine shall be planted on the right-of-way or property line side for each ten (10) lineal feet of screen or fraction thereof.

21.18.6.4 Parking lots with more than two (2) parking aisles shall require landscaped areas of at least ten (10) square feet of interior landscaping for each parking space, interior being defined as the area within the perimeter of the paved surface.

21.18.6.4.1 Landscaped areas shall be a minimum of seventy-five (75) square feet with a minimum dimension of ten (10) feet. Interior landscape areas shall be designed so as to cause minimum interference with snow removal. Each interior landscape area shall include one (1) or more canopy trees based on the provision of one (1) tree per each one hundred (100) square feet of interior landscape area.

**HAS – HAS NOT BEEN MET**

### **SECTION 21.19 LIGHTING, OUTDOOR**

Outdoor light fixtures are electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. Such devices shall include search, spot and flood lights for buildings and structures, recreation areas, parking lot lighting, landscape lighting, billboards and other signs (advertising or other), street lighting, product display area lighting, building overhangs and open canopies.

All outdoor lighting fixtures including pole mounted or building mounted yard lights, dock lights, and shoreline lights other than decorative residential lighting such as low level lawn lights, shall be subject to the following regulations:

21.19.1 Lighting shall be designed and constructed in such a manner:

21.19.1.1 To insure that direct or directly reflected light is confined to the area needing it and that it is not directed off the property,

21.19.1.2 That all light sources and light lenses are shielded,

21.19.1.3 That any light sources or light lenses are not directly visible from beyond the boundary of the site,

21.19.1.4 That light from any illuminated source shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.

21.19.2 Lighting fixtures shall be a down-type having one hundred (100) percent cut off. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as may be certified by photometric test. A United States flag, Michigan flag or a flag of a veteran's organization chartered by the United States Government shall be allowed to have light illuminating them from below

- 21.19.3 There shall be no blinking, flashing, or fluttering lighting, including changes in light intensity, brightness or color, except that lights may be controlled by a dimmer which can be periodically adjusted for conditions and signs as allowed in 21.38.2.1. Beacon lights are not permitted except where required by law.
- 21.19.4 No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- 21.19.5 Decorative lights during holiday seasons shall be allowed.
- 21.19.6 Modification of these outdoor lighting standards may be permitted by the Zoning Board of Appeals for temporary uses of not more than ten (10) days per year, following these provisions as closely as possible.

**HAS – HAS NOT BEEN MET**

**SECTION 21.21 LOADING AND UNLOADING (OFF-STREET)**

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way. Such space shall be computed separately from the Off-Street Parking Requirements and shall be provided as follows:

- 21.21.1 Within a B1 or B2 District, loading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per front foot of building.
- 21.21.2 Within an I District, loading spaces shall be laid out in the dimensions of at least ten by fifty (10 x 50) feet, or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height. Loading dock approaches shall be provided with durable and dustless surface. All spaces in I Districts shall be provided in the following ratio of spaces to floor area:

<b>GROSS FLOOR AREA (In square feet)</b>	<b>LOADING AND UNLOADING SPACE REQUIRED</b>
0 - 1,400	None
1,401 - 20,000	One (1) space
20,001 - 100,000	One (1) space plus one (1) space each 20,000 sq. ft., in excess of 20,000 sq. ft.
100,001 - and over	Five (5) spaces

- 21.21.3 All loading and unloading in I Districts shall be provided only in the rear yard, interior side yard, or exterior side yards that have a common relationship with an industrial district across a public thoroughfare.

**HAS – HAS NOT BEEN MET**

**SECTION 21.27 PARKING**

There shall be provided in all districts at the time of erection or enlargement of any main building or structure or use, automobile off-street parking space with adequate access to all spaces.

- 21.27.1 Off-street parking for other than residential uses shall be either on the same lot or within four hundred (400) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.
- 21.27.2 Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.
- 21.27.3 In the instance of dual function of off-street parking spaces where operating hours of uses do not overlap, the Zoning Board of Appeals may grant an exception by reducing the total number of spaces required.
- 21.27.4 The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited on required off-street parking lots.
- 21.27.7 For the purpose of computing the number of parking spaces required, the definition of USABLE FLOOR AREA shall govern.
- 21.27.8 For those uses not specifically mentioned in the Off-street Parking Schedule, requirements for off-street parking facilities shall be in accord with a use which the Board of Appeals considers as being similar in type.

21.27.9 Entrance drives to the property and off-street parking area shall be no less than twenty-five (25) feet from a street intersection (measured from the road right-of-way) or from the boundary of a different Zoning District.

**21.27.10 Off-street Parking Schedule**

The minimum number of off-street parking spaces required by use shall be in accordance with the following schedule:

**MINIMUM PARKING SPACES REQUIRED**

**Commercial**

Planned Shopping Center	1 per 200 sq. ft. of usable floor area
Auto Wash-Automatic	5 per wash stall plus 1 per employee
Auto Wash-Automatic-Drive-in	1 for each 2 employees
Auto Wash-Self Service	1 per employee
Barber or Beauty Shop	1 per employee plus 1 per service chair
Dance Hall, Rinks or Assembly Building (no fixed seats)	1 per 3 persons at maximum capacity
Drive-in Business	1 per employee plus drive-in stalls and/or lanes to serve patrons
Banks	1 per 200 sq. ft. of usable floor area
Doctor or Dentist Office	1 per 50 sq. ft. of waiting room plus 1 per service chair
<b>Business Office</b>	<b>1 per 200 sq. ft.</b>
Billiard Hall	2 per game table
Bowling Alley	5 per lane
Taverns	1 per 100 sq. ft. of usable floor area
Restaurants	1 per 3 persons at maximum seating capacity

**NOTES**

- a. Sq. ft. refers to square feet of usable floor area unless otherwise noted.
  - b. 1 unit per measure shall be interpreted to mean 1 per each unit, as 1 per "each" three (3) persons.
  - c. Space requirements are cumulative; hence, a country club may require parking for the golf use as well as restaurant or bar use.
  - d. Employees, refers to all permanent staff and part time equivalents in the largest working shift.
- Maximum capacity is the maximum occupancy permitted by applicable building, fire, or health codes.

**21.27.11 Parking Area Design Standards**

The layout of off street parking facilities shall be in accord with the following minimum requirements:

<u>Parking Pattern</u>	<u>Maneuvering Lane width</u>	<u>Parking Space width</u>	<u>Parking Space length</u>
Parallel	12ft	8ft	23ft
30-53°	12ft	9ft	20ft
54-74°	15ft	9ft	20ft
75-90°	20ft	9ft	20ft

All spaces shall be provided access by maneuvering lanes. Backing directly onto a street shall be prohibited. Adequate ingress and egress to a parking lot by means of clearly defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than residential use shall not be across land zoned for residential use.

Each entrance and exit to and from any off street parking lot located in an area zoned for other than residential use shall be at least twenty-five (25) feet from adjacent property located in any residential district.

Buffer yards shall be required per standards set by Section 21.18. A buffer yard without buildings shall be required not less than ten (10) feet wide on the perimeter of all parking lots. Said buffer yard shall be uses for landscaping, screening and/or drainage as required by this ordinance.

All parking areas containing twenty-seven hundred (2700) square feet or more shall provide snow storage area. Snow storage shall be provided on the ratio of ten (10) square feet per one hundred (100) square feet of parking area.

Parking area is calculated at two hundred seventy (270) square feet per parking space. Snow storage areas shall be located in such a manner that they do not interfere with the clear visibility of traffic on adjacent streets and driveways

One (1) street tree shall be planted adjacent to the public right-of-way for each twenty-four (24) lineal feet of frontage.

Parking lots with more than two (2) parking aisles shall require landscaped areas of at least ten (10) square feet of interior landscaping for each parking space, interior being defined as the area within the perimeter of the paved surface.

Landscaped areas shall be a minimum of seventy-five (75) square feet with a minimum dimension of ten (10) feet. Interior landscape areas shall be designed so as to cause minimum interference with snow removal. Each interior landscape area shall include one (1) or more canopy trees based on the provision of one (1) tree per each one hundred (100) square feet of interior landscape area.

21.27.12 Federal and State requirements regarding handicapped parking and access shall apply.

**HAS – HAS NOT BEEN MET**

#### **SECTION 21.28 PERFORMANCE STANDARDS**

No use otherwise allowed shall be permitted within a Use District which does not conform to the following standards of use, occupancy, and operation, which standards are hereby established as the minimum requirements to be maintained within said area:

##### **21.28.1 Smoke, Dust, Dirt, and Fly Ash**

It shall be unlawful for any person, firm or corporation to permit the emission or discharge of any smoke, dust, dirt, or fly ash in quantities sufficient to create a nuisance within the unincorporated areas of Otsego County.

##### **21.28.2 Open Storage**

The open storage of any equipment, vehicles and all materials including wastes, shall be screened from public view, from public streets, and from adjoining properties. Scrap, junk cars and other junk materials shall not be piled or stacked as open storage to a height in excess of twenty (20) feet, and must meet the requirements of Article 21.3.1 and Article 19.

##### **21.28.3 Glare and Radioactive Materials**

Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful rays shall be permitted in such a manner as not to extend beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electromagnetic radiation such as x-ray machine operations, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

##### **21.28.4 Fire and Explosive Hazards**

The storage, utilization, or manufacture of materials or products ranging from combustible to moderate burning, as determined by the appropriate community fire protection authority, is permitted subject to compliance with all other yard requirements, Article 19, performance standards previously mentioned, and providing that the following conditions are met:

21.28.4.1 Said materials or products shall be stored, utilized or produced within completely enclosed buildings or structures having incombustible exterior walls.

21.28.4.2 The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with the State Rules and Regulations as established by Public Act No. 207 of 1941 as amended.

**HAS – HAS NOT BEEN MET**

#### **SECTION 21.38 SIGNS AND BILLBOARDS**

**A. Signs for Single Business: A single business on one (1) lot or combination of lots in the B1, B2, B3, I and/or HX District may install accessory signs in accordance with the following regulations:**

1. Accessory Signs - In B1, B2, B3 and/or I Districts may be permitted at the rate of two (2) per use, except that at least one (1) sign shall be affixed to or be within two (2) feet of and be parallel with the wall of the main building. One (1) sign may be a freestanding or pylon sign.
2. Signs mounted on and parallel with the wall of the main building shall not exceed a total area of 2.5 feet times the length of the mounting wall.
3. Freestanding signs intended for local or passerby traffic shall not exceed a height of twelve (12) feet measured from the average grade at the base of the sign to the top of the sign. No freestanding sign shall exceed an area of thirty-two (32) square feet and no such sign shall be longer than three (3) times its width.
4. Pylon signs, designed and intended to attract traffic from a major expressway or highway, are approved but shall not exceed a height of thirty-five (35') feet and must be constructed and mounted by approval methods set forth in the State Construction Code provided they meet the Airport Zoning Ordinance standards.

#### Placement of Signs and Setbacks

Signs in any zoning district must be placed at least ten (10) feet back from any right-of-way or lot line.

**HAS – HAS NOT BEEN MET**

#### SECTION 21.42 TRASH RECEPTACLES/DUMPSTERS

21.42.2 Commercial Trash Receptacles / Dumpsters may be placed upon a parcel of land in such a manner to facilitate loading and unloading. They may be placed no closer than ten (10) feet to any adjoining property. All Trash Receptacles shall be properly maintained with working lids and the lids shall be maintained in a closed position.

**HAS – HAS NOT BEEN MET**

#### FINDINGS UNDER ARTICLE 19:

**19.7.1** The property subject to the application is located in a zoning district in which the proposed special land use is allowed.

**HAS – HAS NOT BEEN MET**

**19.7.2** The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.

**HAS – HAS NOT BEEN MET**

**19.7.3** The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

**HAS – HAS NOT BEEN MET**

**19.7.4** The proposed special land used will be designed, constructed, operated, and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.

**HAS – HAS NOT BEEN MET**

**19.7.5** The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

**HAS – HAS NOT BEEN MET**

**19.7.6** The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

**HAS – HAS NOT BEEN MET**

**19.7.7** If the proposed special land use includes more than fifteen thousand (15,000) square feet of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity no rate of discharge leaving the property based on 25-year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system.

**HAS – HAS NOT BEEN MET**

**19.7.8** The proposed special land use complies with all specific standards required under this Ordinance applicable to it.

**HAS – HAS NOT BEEN MET**

#### **SECTION 19.8 - CONDITIONS**

The Planning Commission may attach reasonable conditions to the approval of a special use permit. These conditions may include those necessary to insure that public services and facilities affected by a proposed special land use will be capable of accommodating increased service and facility loads caused by the special land use, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all the following requirements.

19.8.1 Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed special land use, and the community as a whole.

19.8.2 Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use.

19.8.3 Be necessary to meet the intent and purpose of the zoning ordinance, be rated to the standards established in the ordinance for the special land use under consideration, and be necessary to insure compliance with those standards.

**OTSEGO OCOUNTY  
ZONING BOARD OF APPEALS  
MEMBERS**

MEMBERS	TERM EXPIRATION
Philip Alexander/Secretary PO Box 724 Gaylord, MI 49734 <a href="mailto:alexan17@msu.edu">alexan17@msu.edu</a>	12.31.2015
Christa Bono 1712 Baden Strasse Gaylord, MI 49735 <a href="mailto:christabono@gmail.com">christabono@gmail.com</a>	12.31.2016
Duane Hoffman/Vice Chairperson 1233 W Martin Lake Dr Gaylord, MI 49735 <a href="mailto:duanejanet@centurytel.net">duanejanet@centurytel.net</a>	12.31.2014
Michael Mang/PC Representative 156 S Estates Dr Gaylord, MI 49735 <a href="mailto:mangs@charter.net">mangs@charter.net</a>	12.31.2015
Michael McCarthy 10337 Birchview Ln Johannesburg, MI 49751 <a href="mailto:mike.mccarthy@motion-ind.com">mike.mccarthy@motion-ind.com</a>	12.13.2016
Kevin Sagasser/Chairperson 699 S Wisconsin Ave Gaylord, MI 49735 <a href="mailto:ghender@avci.net">ghender@avci.net</a>	12.31.2014
Dan Wagar 4815 Vacationland Dr Gaylord, MI 49735 <a href="mailto:dwagar@gmail.com">dwagar@gmail.com</a>	12.31.2015
Richard Sumerix/Alternate Member 3262 Nina Rd Gaylord, MI 49735 <a href="mailto:collectproinc@hotmail.com">collectproinc@hotmail.com</a>	

## Sample Checklist to Guide Site Plan Review Decisions

In making rational, defensible decisions and in setting forth conditions for site plan approval, uniform site plan review criteria should be employed. Following is an example of typical criteria currently in use. These criteria presume that an ordinance contains other standards similar to those cited, which also must be complied with to gain zoning approval.

The site plan is reviewed in order to determine:

1. That the proposed use conforms to the uses permitted in that zoning district.
2. That the dimensional arrangement of building(s) and structure(s) conform to the required yards, setbacks and height restrictions of the ordinance.
3. That the proposed use conforms to all use and design provisions and requirements (if any) as found in the zoning ordinance for specified uses.
4. That there is a proper relationship between the existing and proposed streets and highways within the vicinity to assure the safety and convenience of pedestrian and vehicular traffic.
5. That the proposed on-site buildings, structures and entry ways are situated and designed to minimize adverse effects (upon owners and occupants of adjacent and surrounding properties) by providing for adequate design of ingress/ egress, interior / exterior traffic flow, storm drainage, erosion, grading, lighting and parking, as specified by the zoning ordinance or other county or state law.
6. That natural features of the landscape are retained where they can enhance the development on the site, or where they furnish a barrier or buffer between the project and adjoining properties (used for dissimilar purposes) or where they assist in preserving the general safety, health and appearance of the neighborhood (e.g. controlling erosion or the discharge of storm water, etc).
7. That adverse effects upon adjoining residents or owners of the proposed development and activities are minimized by appropriate screening, fencing, or landscaping (as provided or required in the zoning ordinance).
8. That all buildings and structures are accessible to emergency vehicles.
9. That the site plan as approved is consistent with the intent and purposes of the zoning ordinance which are to promote public health, safety and general welfare, to encourage the use of lands in accordance with their character and adaptability, to avoid the overcrowding of population, to lessen congestion on the public roads and streets, to reduce hazards of life and property, and to facilitate existing community land use and development plans.
10. Special standards are increasingly common as relate to lighting; access and highway noise management; groundwater, floodplain, wetland, sand dune, high risk erosion, soil sedimentation and waterbody protection. Some communities have special standards related to exterior building materials and compatibility of new structures to the physical features of adjoining structures.

# Otsego County Zoning Board of Appeals

Proposed Minutes for June 25, 2013/Regular Meeting

**Call to Order:** 6:00 pm by Chairperson Sagasser

Pledge of Allegiance

**Roll Call:**

Present: Chairperson Sagasser, Vice Chairperson Wagar, Secretary McCarthy, Mr. Alexander, Ms. Bono, Mr. Stults, Mr. Hoffman, Mr. Sumerix /*Alternate Member*

Absent: None

Staff Present: Mr. Schlaud, Ms. Boyak-Wohlfeil

Others Present: John Burt, Otsego County Administrator, Jeff Ratcliffe, Otsego County Economic Alliance Director

Public Present: Annette & Thomas Yasin, Mary Ellen & John Gerald Gleason, Larry & Pat Beckett, John & Lou Anne Pisha, Norman & Nancy Beliger, Nora Corfis, Ron Hees, Ken Arndt, Bagley Township Planning Commission Chairperson, Bill Giles, Bagley Township Supervisor and Ron Kirkpatrick, the Bennethum's Attorney

**Approval of Minutes from September 25, 2012:**

Motion made to approve the minutes as written by Vice Chairperson Wagar; Seconded by Ms. Bono

Motion approved unanimously.

**Citizen Comment Regarding Items not on the Agenda:** None

**Public Hearing:**           **ZBA13-001**  
Covenant Hospitality Real Estate LLC/Jeff & Cheryl Bennethum  
3917 Old 27 South  
Gaylord, MI  
#010-021-300-145-01

Legal Description:  
COMM @ S1/4 COR, TH N89°40'30"W 1242.75FT, TH N03°15'27"E 307.59FT FOR POB,  
TH N03°15'27"E 297.98FT, TH S86°41'12"E 172.09FT, TH S02°38'15"W 298.00FT, TH N86°41'12"W  
175.32FT TO POB. SEC 21, T30N R3W. PARCEL A, 06 SPLIT/COMBO FROM 010-021-300-140-00.

**Nature of request:** Covenant Hospitality Real Estate LLC/Jeff & Cheryl Bennethum is requesting a variance from the requirements of the Otsego County Zoning Ordinance, specifically Section 14/Schedule of Dimensions. The request is for a lot line variance in connection with a parcel division.

Public Hearing: Open 6:04 pm

Mr. Bennethum stated he owns and has operated Bennethum's Restaurant since 2006. He and his wife Cheryl live in the residence behind the restaurant and they and their children run the family business. Mr. Bennethum sought refinancing through a program from the Small Business Administration (SBA). After being preapproved by MBank of Gaylord and the SBA and financing was set to go, Mr. Bennethum was notified a SBA finance ruling had taken place. The residence could not be included as part of the financing. Mr.

# Otsego County Zoning Board of Appeals

## Proposed Minutes for June 25, 2013/Regular Meeting

Bennethum hired Wade Trim for a survey and contacted Jason Woodcock, Bagley Township Assessor concerning a parcel division. He was told the parcels did not meet the zoning ordinance requirements. Mr. Bennethum is requesting a lot line variance in connection with his parcel division to obtain his financing.

Chairperson Sagasser opened the floor for public comment.

Mr. John Gleason, Otsego Lake Township full time resident since 1998, stated he volunteered his consulting services to Mr. Bennethum and praised the restaurant's food and overall dining experience. He was in support of the variance.

Mr. Ken Arndt, Bagley Township Planning Commission chairperson, stated the township planning commission's approval of the variance was based on a Declaration of Deed Restriction encumbering both parcels regardless of what happens to either piece of property. He stated the parcels could never be separated and was in support of the variance.

Mr. Bill Giles, Bagley Township Supervisor, stated the township board agreed with its planning commission's recommendation and also was in support of the variance.

Mr. Jeff Ratcliffe, Otsego County Economic Alliance Director, presented a letter to the Zoning Board of Appeals addressing the ordinance issues and pointed out this was a paper transaction separating the parcels but also binding them back together. He stated he was in support of the variance.

Mr. Ron Hees, as president of Michaywe Owners Association in 2000, stated he had hired Jeff Bennethum as a general manager and Mr. Bennethum and his family helped reopen the restaurant and pool and get the golf course back in shape. He vouched for the character of the Bennethum family and was in support of the variance.

Mr. Tom Yasin, full time resident of Otsego County since 1994, stated Bennethum's Restaurant had much to offer the County. He was in support.

Public Hearing: Closed 6:24 pm

### **New Business:**

#### **1. ZBA13-001**

Covenant Hospitality Real Estate LLC/Jeff & Cheryl Bennethum  
3917 Old 27 South  
Gaylord, MI  
#010-021-300-145-01

A request for a lot line variance in connection with a parcel division.

Mr. Alexander asked for the specific dimensions of the variance requested. Mr. Schlaud stated according to Article 14/Schedule of Dimensions, the setback in a B2 zoning district for the front is thirty (30) feet, side is ten (10) feet and rear is twenty (20) feet but the Zoning Administrator could approve a twenty-five percent (25%) modification for nonconforming lots.

Mr. Stults stated it was not the ZBA's responsibility to determine the exact variance being requested. The application should have stated the variance they were asking for.

Chairperson Sagasser referred to the information given and stated it was fairly simple to figure out.

# Otsego County Zoning Board of Appeals

## Proposed Minutes for June 25, 2013/Regular Meeting

Mr. Schlaud stated there was a setback deficiency for both parcels, Parcel A1 and Parcel A2. According to the survey, there is 15.08 feet between the restaurant and residence. With the proposed property line division, there is 7.54 feet setback for each parcel. A variance of 12.46 feet for Parcel A1 and a variance of 12.46 feet for Parcel A2 would be needed.

Chairperson Sagasser stated two (2) variances would be needed, one (1) for the restaurant (Parcel A1) and one (1) for the residence (Parcel A2). He asked Mr. Bennethum if he was requesting two variances of 12.46 feet each and Mr. Bennethum stated yes.

Mr. Stults stated another variance of 26.04 feet would be needed for the minimum lot width. According to the Schedule of Dimensions the minimum lot width for the B2 zoning district is one hundred (100) feet. Parcel A2 has a lot width of 73.96 feet. He also stated the width to depth of the lot should be considered and that the zoning ordinance states a nonconforming lot cannot be created.

Ms. Bono stated the Declaration of Deed Restriction prevents the parcels from being sold separately and there was no way the nonconforming parcel could be split into two (2) conforming lots.

Chairperson Sagasser stated a third variance would be needed. He asked Mr. Bennethum if he was requesting a lot width variance of 26.04 feet for Parcel A2 and Mr. Bennethum stated yes.

Chairperson Sagasser requested the letter from Jeff Ratcliffe, Otsego County Economic Alliance Director be added to the list of exhibits.

Mr. Alexander asked that the public comment be added as well.

### **EXHIBIT LIST for CASE #ZBA13-001**

- Exhibit #1:* Application for non-use variance submitted by Covenant Hospitality Real Estate LLC/Jeffrey & Cheryl Bennethum dated 3.13.2013
- Exhibit #2:* Application for parcel division submitted by Covenant Hospitality Real Estate LLC/Jeffrey & Cheryl Bennethum dated 3.13.2013
- Exhibit #3:* Certificate of Survey by Wade Trim for Jeff Bennethum
- Exhibit #4:* Otsego County Zoning Ordinance 2003-02 updated April 2013
- Exhibit #5:* Otsego County Zoning Map dated July 2007
- Exhibit #6:* Warranty Deed recorded in Otsego County
- Exhibit #7:* Agreement for Maintenance and Operation of Shared Well and Septic System
- Exhibit #8:* Receipt #01300276 dated 3.14.2013
- Exhibit #9:* Letter for Township Participation sent to Bagley Township dated 3.22.2013
- Exhibit #10:* Public Hearing Notice/Public Hearing Notice Postponement
- Exhibit #11:* List of parcels notified of Public Hearing w/Maps
- Exhibit #12:* ZBA13-001 Staff Review
- Exhibit #13:* Response letter from Bagley Township dated 4.15.2013/Received 5.20.2013
- Exhibit #14:* Covenant Hospitality Real Estate LLC/Deed Restriction Document/Received 6.6.2013
- Exhibit #15:* Otsego County Economic Alliance Letter dated 6.25.2013/Jeff Ratcliffe, Director
- Exhibit #16:* Public Comments/Six (6) in support of Mr. Bennethum/Gleason, Arndt, Giles, Ratcliffe, Hees, Yasin

The following Finding of Fact were presented and amended:

### **GENERAL FINDING OF FACT**

1. The property is owned by Covenant Hospitality Real Estate LLC/Jeff & Cheryl Bennethum. *Exhibit #6*
2. The property is located in Bagley Township, Otsego County. *Exhibit #3, 6*
3. The property is located at 3917 Old US Hwy 27 South Gaylord, MI. *Exhibit #3, 6*
4. The property is zoned B2/General Business. *Exhibit #5*

# Otsego County Zoning Board of Appeals

## Proposed Minutes for June 25, 2013/Regular Meeting

5. The property owners are requesting a 12.46 foot variance for the rear setback on Parcel A1/C, a 22.46 foot variance for the front setback on Parcel A2/D and a dimensional variance of 26.04 feet on Parcel A2/D. *Exhibit #1, 2, 3*
6. The requirements of Article 24/Township Participation have been met. *Exhibit #9*
7. The public hearing was published in the local paper as required by the Michigan Zoning Enabling Act. *Exhibit #10*
8. All property owners within three hundred feet (300') have been notified of the variance request. *Exhibit #11*
9. All required fees have been collected by Otsego County Land Use Services. *Exhibit #8*
10. The 'Declaration of Deed Restriction' is a legal document of permanent restrictions encumbering both parcels:  
Parcel A1/Parcel C: Restaurant and Parcel A2/Parcel D: Residence. *Exhibit #14*

### SPECIFIC FINDING OF FACT

#### ARTICLE 11 B2/GENERAL BUSINESS

1. The Zoning Board of Appeals finds that restaurants are a permitted use in the B2 zoning district. *Exhibit #4, 5*
2. The Zoning Board of Appeals finds that existing residences are a permitted use in the B2 zoning district. *Exhibit #4, 5*

#### ARTICLE 14/SCHEDULE OF DIMENSIONS

1. The Zoning Board of Appeals finds the minimum lot area in a B2 zoning district is ten thousand (10,000) square feet. *Exhibit #4*
2. The Zoning Board of Appeals finds the minimum front setback in a B2 zoning district is thirty (30) feet taking into consideration *Note e*: Off-street parking may be permitted in the front yard, except that a ten (10) foot wide landscaped buffer is maintained between the front lot line or right-of-way line, and the parking area. *Exhibit #4*
3. The Zoning Board of Appeals finds that the minimum side setback in a B2 zoning district is ten (10) feet taking into consideration *Note c*: On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the residential side in B1, B2 & B3 Districts. *Exhibit #4*
4. The Zoning Board of Appeals finds that the minimum rear setback in a B2 zoning district is twenty (20) feet taking into consideration *Note a*: Lots within five hundred (500) feet of lakes, ponds, flowages, rivers, streams: See Article 15/Lots Near Water, *Note d*: Loading and unloading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per linear foot of front building wall. Loading space shall not be counted as required off-street parking. Loading zones may be located in other non-required yards if screened or obscured front view from public streets and residential districts and *Note f*: No building shall be placed closer than forty (40) feet to the outer perimeter of such district or property line when said use abuts a residential district boundary. *Exhibit #4*
5. The Zoning Board of Appeals finds that the minimum lot width in a B2 zoning district is one hundred (100) feet taking into consideration *Note k*: Specific allowable uses have greater minimum lot widths as required in the Zoning District allowable use lists. *Exhibit #4*
6. The Zoning Board of Appeals finds the minimum front, side and rear setbacks and maximum lot coverage modifications of up to twenty-five percent (25%) may be approved by the Zoning Administrator for nonconforming lots, as described in Article 18.26.1 and 18.26.2. *Exhibit #4*

Mr. Hoffman questioned whether one of the setbacks was a side lot line or a front lot line.

Mr. Stults clarified it as a front lot line reading the definition from the Otsego County Zoning Ordinance.

Chairperson Sagasser stated one of the variances would need to be changed to 'a 22.46 foot variance from the front setback of Parcel A2' instead of 'a 12.46 foot variance from the side lot line of Parcel A2'. He asked Mr. Bennethum to amend his variance request to include the change. Mr. Bennethum did so.

### ARTICLE 18/SPECIFIC REQUIREMENTS FOR CERTAIN USES

#### SECTION 18.26 NONCONFORMITIES

1. The Zoning Board of Appeals finds that **Section 18.26.1 INTENT** states:  
It is recognized that there exists within the district established by this Ordinance and/or by subsequent amendments, lots, buildings, structures and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

It is the intent of this Ordinance to permit these legal nonconforming lots, buildings, structures or uses to continue until they are removed but not to encourage their survival. Minimum front, side and rear setbacks, minimum lot width, and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator upon a written finding that such a modification will have no adverse impact on the use or development of adjoining lots or threaten the public health or safety in any way. *Exhibit #4*

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2. The Zoning Board of Appeals finds that **Section 18.26.2 INTENT** states:

A nonconforming lot is a lot that the boundaries of which are recorded in a plat, deed or land contract executed and delivered prior to the effective date of this Ordinance and the width, depth, and/or area of which does not meet minimum dimensional requirements of the District in which it is located.

A single family-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the District; provided that yard dimensions and other requirements not involving area or width or both, of the rear setbacks, and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator. Modifications greater than twenty-five percent (25%) may be obtained only by approval of the Board of Appeals.

Where two (2) or more adjoining nonconforming lots are in existence under single ownership, such lots shall be used only in combinations, which most closely satisfy the minimum lot size standards prescribed for the District in which said lots are located.

For definition purposes, "most closely" shall apply in situations where, for example, two (2) lots combined do not meet the minimum, but a third (3<sup>rd</sup>) lot would exceed the minimum by a greater amount than two (2) lots would fall short; hence, only two (2) lots need to be combined in this case. *Exhibit #4*

3. The Zoning Board of Appeals finds that **Section 18.26.3 NONCONFORMING USE OF LAND** states:

Nonconforming uses of land may be continued so long as they remain otherwise lawful, subject to the following provisions:

18.26.3.1.1 No such nonconforming use shall be enlarged or increased, nor extended to occupy greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance. *Exhibit #4*

4. The Zoning board of Appeals finds that **Section 18.26.5 NONCONFORMING USES OF STRUCTURES AND LAND** states:

Nonconforming uses of structures and land may be continued so long as they remain otherwise lawful, subject to the following provisions:

18.26.5.1 No such nonconforming use of land or building shall be moved in whole or in part to any other portion of the lot or parcel occupied, other than to remove or lessen nonconforming conditions. *Exhibit #4*

Motion made by Mr. Alexander to approve the General Finding of Fact and Specific Finding of Fact as written and amended; Seconded by Mr. Hoffman.

Roll call vote:

Sagasser-Yes, Wagar-Yes, McCarthy-Yes, Alexander-Yes, Bono-Yes, Stults-Yes, Hoffman-Yes

Motion approved unanimously.

Mr. Stults reminded everyone that a variance stays with the property forever and also that the standard is '*practical difficulty*'. He read the definition from the Zoning Ordinance.

### ARTICLE 23/BOARD OF APPEALS

The Zoning Board of Appeals finds that **Section 23.6 DIMENSIONAL OR NON-USE VARIANCE** states:

Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve "practical difficulties" within the meaning of this Ordinance, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this Ordinance, and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Ordinance shall be granted unless it appears that there is clear and convincing evidence that all the following facts and conditions exist.

The following were read and voted on by roll call vote:

**23.6.1** That the requested variance will not be detrimental to the public welfare or otherwise injurious to other properties in the same zoning district.

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Bagley Township provided written support of the variance request and all six (6) public comments made during the hearing were in favor of granting the variance.

Motion made by Mr. Alexander to approve Section 23.6.1; Seconded by Vice Chairperson Wagar:

Roll call vote:

Sagasser-Yes, Wagar-Yes, McCarthy-Yes, Alexander-Yes, Bono-Yes, Stults-Yes, Hoffman-Yes

Motion approved unanimously.

**23.6.2** That the requested variance is necessary for the applicant to receive a right available to other properties in the same zoning district.

Chairperson Sagasser read Bagley Township's response stating that the SBA's new ruling excluded the applicant from consideration and Mr. Sagasser concurred.

Motion made by Ms. Bono to approve Section 23.6.2; Seconded by Vice Chairperson Wagar:

Roll call vote:

Wagar-Yes, McCarthy-Yes, Alexander-Yes, Bono-Yes, Stults-No, Hoffman-No, Sagasser-Yes

5-Yes

2-No

Motion approved.

**23.6.3** That special physical conditions or unique circumstances exist with this property and do not generally apply to other properties in the same zoning district.

Chairperson Sagasser stated the use of the Bennethum's property has been the same for years and the SBA's recent ruling was a unique circumstance.

Motion made by Mr. Stults to approve Section 23.6.3; Seconded by Mr. Hoffman:

Roll call vote:

McCarthy-Yes, Alexander-Yes, Bono-Yes, Stults-Yes, Hoffman-Yes, Sagasser-Yes, Wagar-Yes

Motion approved unanimously.

**23.6.4** That the special conditions or circumstances are not the result of actions by the applicant or predecessor in title.

Chairperson Sagasser stated the special circumstances were certainly not the result of the applicant but of the SBA's requirements.

Ms. Bono stated the property was of a nonconforming nature since way back when.

Motion made by Vice Chairperson to approve Section 23.6.4; Seconded by Secretary McCarthy:

Roll call vote:

Alexander-Yes, Bono-Yes, Stults-No, Hoffman-No, Sagasser-Yes, Wagar-Yes, McCarthy-Yes

5-Yes

2-No

Motion approved.

**23.6.5** That the requested variance is the minimum variance necessary that will make possible the reasonable use of the land.

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Chairperson Sagasser stated in his opinion this was the minimum variance possible and with the deed restrictions added to the property, he felt the requirements were met.

Mr. Stults stated he did not agree. The use of the land would be the same, maybe financing would not be available but the variance would have nothing to do with the use of the land changing.

Mr. Alexander stated he thought this was the minimum variance and it was very well stated and documented. The applicants were not asking for anything more than what was absolutely necessary.

Motion made by Vice Chairperson to approve Section 23.6.5; Seconded by Secretary McCarthy:

Roll call vote:

Bono-Yes, Stults-No, Hoffman-No, Sagasser-Yes, Wagar-Yes, McCarthy-Yes, Alexander-Yes

5-Yes

2-No

Motion approved.

The following motion was made by Ms. Bono; Seconded by Vice Chairperson Wagar:

I move that the property owner's variance be approved for a setback of 12.46 feet on the rear of Parcel A1, a 22.46 foot variance on the front setback of Parcel A2 and a 26.04 foot variance on the lot width of Parcel A2.

Roll call vote:

Stults-Yes, Hoffman-Yes, Sagasser-Yes, Wagar-Yes, McCarthy-Yes, Alexander-Yes, Bono-Yes

Motion approved unanimously; *Variance granted.*

### 2. Expiring Terms/Reappointment

- a. Bono
- b. McCarthy
- c. Stults

Ms. Bono and Mr. McCarthy agreed for reappointment to another term expiring December 31, 2016. Mr. Stults' reappointment depends on Planning Commission elections this fall.

### 3. Election of Officers

Mr. Sagasser nominated for Chairperson by Mr. Alexander; Support by Mr. McCarthy.

Vote unanimous.

Mr. Sagasser elected Chairperson.

Mr. Hoffman nominated for Vice Chairperson by Mr. Wagar; Support by Ms. Bono.

Vote unanimous.

Mr. Hoffman elected Vice Chairperson.

Mr. Alexander nominated for Secretary by Ms. Bono; Support by Mr. Wagar.

Vote unanimous.

Mr. Alexander elected Secretary.

### Old Business:

1. Status of definition of Agriculture and allowance of building for retail trade

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The definition of *Agriculture* was left as is and language for *18.1.3.1* was changed to read ‘*up to a maximum of four thousand (4000) square feet*’.

2. **Status of Section 9.2.4 and Section 18.20** discrepancies between ten (10) acres and forty (40) acre requirement

*Section 9.2.4* was amended to contain matching language as written in *Section 18.20.2*.

Mr. Alexander stated that the Zoning Board of Appeals did not recommend these changes to the Board of Commissioners as indicated in the April 26, 2013 letter to the Otsego County Board of Commissioners. The ZBA only referred them to the Planning Commission.

**Communications:** None

**ZBA Member Items:** None

**Adjournment:** 8:05 pm

Christine Boyak-Wohlfeil, Recording Secretary

**OTSEGO COUNTY**  
**PLANNING COMMISSION MEMBERS**

MEMBERS	TOWNSHIP	TERM EXPIRATION
Kenneth Arndt 2476 Manorwood Dr Gaylord, MI 49735 <a href="mailto:kenneth.arndt@arndtandassoc.com">kenneth.arndt@arndtandassoc.com</a>	Bagley	12.31.2014
Ken Borton 7682 White Cloud Trl Gaylord, MI 49735 <a href="mailto:kborton@avci.net">kborton@avci.net</a>	Otsego County Board of Commissioner Representative	
Willard Brown 764 Meridian Line Rd Johannesburg, MI 49751 <a href="mailto:wishlb@outlook.com">wishlb@outlook.com</a>	Charlton	12.31.2016
Paul Hartmann/Chairperson 2633 Soaring Dr Elmira, MI 49730 <a href="mailto:paul.hartmann09@gmail.com">paul.hartmann09@gmail.com</a>	Elmira	12.13.2015
Gary Hendershot 10217 Player's View Gaylord, MI 49735 <a href="mailto:ghender@avci.net">ghender@avci.net</a>	Hayes	12.31.2016
Jim Hilgendorf PO Box 752 Lewiston, MI 49756 <a href="mailto:hilgendorf_james@yahoo.com">hilgendorf_james@yahoo.com</a>	Otsego County School Board Representative	08.25.2015
Judith Jarecki/Vice Chairperson 8485 Old Vanderbilt Rd Vanderbilt, MI 49795 <a href="mailto:jjarecki@voyager.net">jjarecki@voyager.net</a>	Corwith	12.31.2015
Charles Klee 224 Marquardt Rd Gaylord, MI 49735 <a href="mailto:chuckselectricofgaylord@yahoo.com">chuckselectricofgaylord@yahoo.com</a>	Dover	12.31.2014
Michael Mang 156 S Estates Dr Gaylord, MI 49735 <a href="mailto:mangs@charter.net">mangs@charter.net</a>	Livingston	12.31.2015
Frances Nowak 1472 Big Lake Rd Gaylord, MI 49735 <a href="mailto:emeraldlake08@aol.com">emeraldlake08@aol.com</a>	Chester	12.31.2014
Randy Stults/Secretary 1145 N Shore Dr Gaylord, MI 49735 <a href="mailto:rstults@chartermi.net">rstults@chartermi.net</a>	Otsego Lake	12.31.2016