

# OTSEGO COUNTY PLANNING COMMISSION

AGENDA  
September 17, 2012  
6:00 PM

**MEETING WILL BE IN THE PLANNING AND ZONING MEETING ROOM LOCATED AT 1066 CROSS STREET.**

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGEANCE
4. APPROVAL OF MINUTES: From July 16, 2012 meeting.
5. CONSENT AGENDA: None
6. PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA:  
(Please identify yourself for the record. All comments will be limited to two minutes)
7. PUBLIC HEARINGS: Austin & Angela Behling PSPR12-003 Agricultural Equipment Auction.
8. ADVERTIZED CASES: Austin & Angela Behling PSPR12-003 Agricultural Equipment Auction.
9. UNFINISHED COMMISSION BUSINESS:
  - a. David Drews: PZ11-240 Maitland-A&G Vacation Properties LLC, Master Deed review.
  - b. Mining: Patricia Osburn discussion on criteria for issuing a mining permit near water.
  - c. Forest Recreation set-back requirements.
  - d. PC-2003-09-CH-SUP Northern Processing final report.
  - e. Planting buffer Section 18.18 approval of revised table I.
10. NEW BUSINESS:
  - a. Definition of Agriculture or Agricultural Use, The ZBA has requested a clarification on the wording. "An Agricultural building does not include a building used for retail trade" (See ZBA minutes from 7-31-2012 mtg.)
  - b. Request from ZBA: Section 9.2.4 Livestock auction yards requires a minimum of ten (10) acres with a minimum width of 600 feet, Section 18.20 requires a minimum of 40 acres site size. The request is for the Planning Commission to draft language that has corresponding language in both sections of the zoning ordinance. (See ZBA minutes from 7-31-2012 mtg.)
  - c. Request from ZBA: The ZBA has requested the Planning Commission revise section 18.1.3.1 to clarify the maximum amount of accessory building allowed. (See ZBA minutes from 7-31-2012 mtg.)
  - d. Election of Officers.
  - e. Re-appointment of members with expiring terms.
11. REPORTS AND COMMISSION MEMBER'S COMMENTS
12. ADJOURNMENT

# Otsego County Land Use Services

Permit No.: \_\_\_\_\_

1068 Cross Street  
Gaylord, MI. 49735  
989-731-7420 \*Fax 989-731-7429

## APPLICATION FOR SPECIAL USE PERMIT

Date: 8-8-2012

Tax Parcel Number: 060-020-300-005-03 Twp: Amira Sec 20 N 31, R 4 W

### Property location: (REQUIRED)

Address: V/L M-32 West ~ (7962) M-32 City: Amira State: MI Zip: \_\_\_\_\_

### Applicant:

Name: Austin + Angela Behling Phone No. (231) - 330 - 5401

Address: 01624 S. Wilson Rd City: Boyetown State: MI Zip: 49712

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

Name: same Phone No. ( ) - \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### Description of project and proposed use:

Property <sup>primarily</sup> ~~mainly~~ used for agricultural functions ~~to include~~ crop farming.  
Special use permit requested to conduct <sup>consignment</sup> auctions on this  
property.

Signature of Applicant:

Angela Behling

Date:

8-8-2012

\*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. \_\_\_\_\_

Fee amount: \_\_\_\_\_

Date Application Received \_\_\_\_\_

Received By: \_\_\_\_\_

OTSEGO COUNTY LAND USE SERVICES DEPARTMENT  
1068 CROSS STREET  
GAYLORD MICHIGAN 49735  
989-731-7420 \* FAX 989-731-7429

Application for Site Plan Review

Applicant:

Name: Austin & Angela Bekling Owner / Agent / Other interest (circle one)

Address: ~~7962 M-32~~ 01624 S. Wilson Rd Boyne City, MI 49712

Phone 231-330-5401 Fax 231-547-4636

Property Owner: (if different from applicant)

Name: Same

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Property Location:

Township Elmira Section 20 Town 31 Range 4 Zoning District AR

Site Address: 27962 M-32

Parcel Code: 060 - 020 - 300 - 005 - 03

Description of Project and Proposed Use:

Property primarily used for agricultural functions... crop farming  
Special use permit requested to conduct conservation activities

Signature of Applicant: Austin & Angela Bekling Date: 8-8-2012

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731

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.  
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 \_\_\_\_\_
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 \_\_\_\_\_
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 \_\_\_\_\_
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 \_\_\_\_\_

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, carports, 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 Joe Ferrigan indicated the self-prepared site

40. Paid appropriate fees to Otsego County.

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

plan  
adequate



# Property Site plan

Site located @ 7962 M-32 Elmira - northeast corner of M-32 & Flott Rd. - 40 acres.

Austin & Angela Behling 01624 S. Wilson Rd. Boyne City, MI 49712 (231) 330-5401  
Total acreage is 40 surrounded by red outline and zoned as Agricultural.

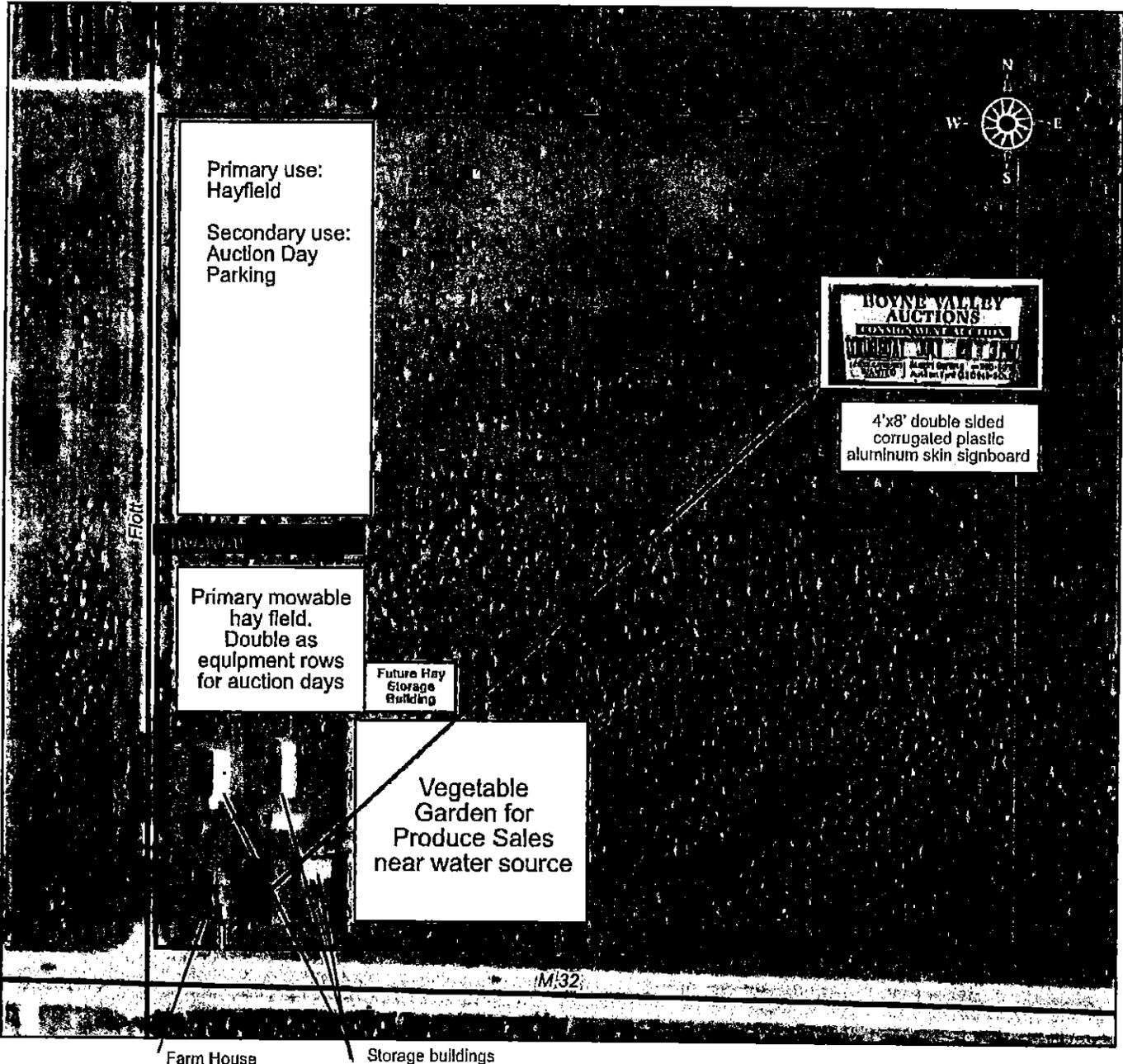
Project request for special use approval of auctions to be held on this 40 acre parcel.

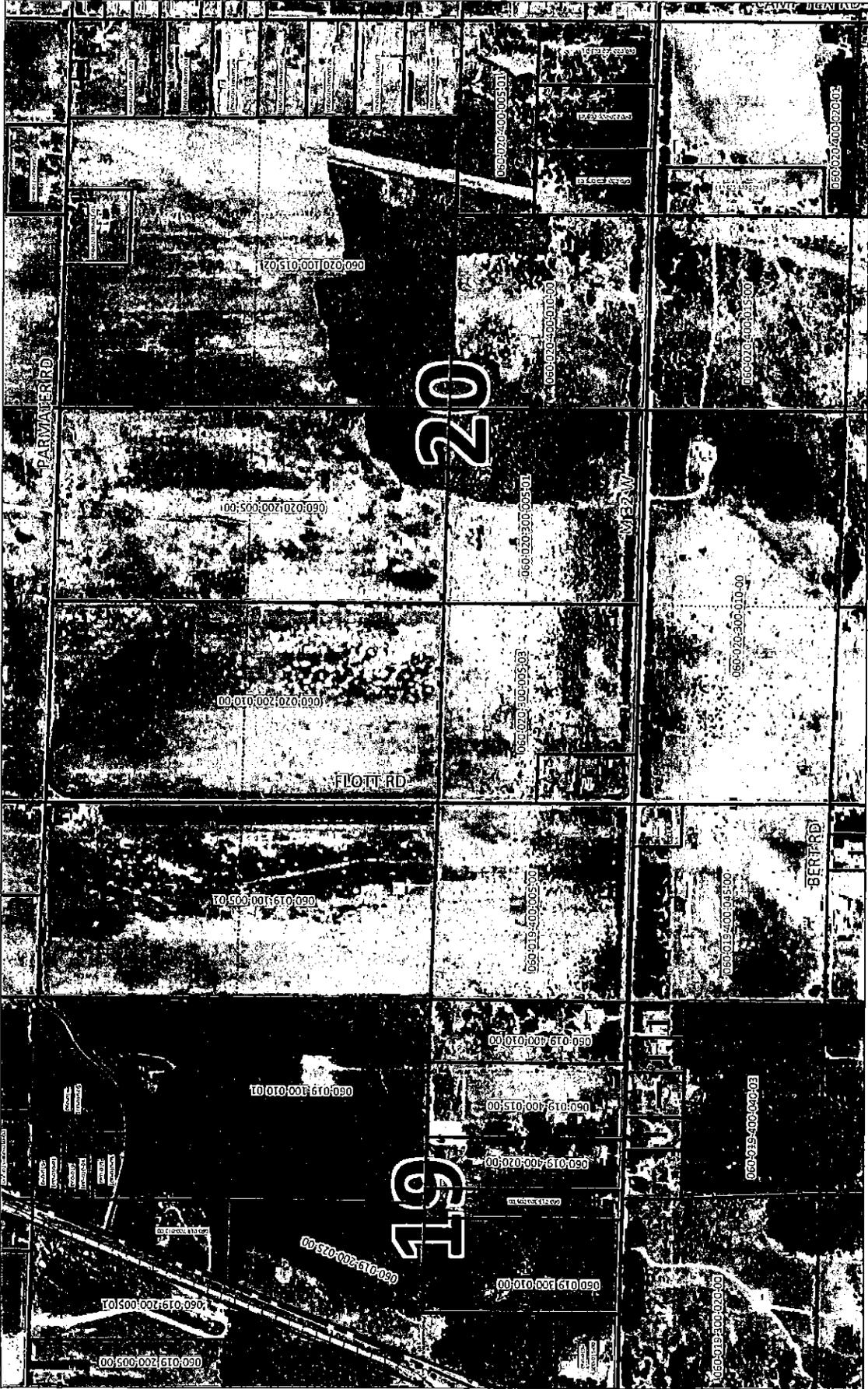
- Primary Land Use - Farmland - Hay & Vegetable Crops
  - use plan - access from Flott Rd. to field area
  - clear pine trees and return maximum acres to farmland
  - building needed for equipment & crop storage
- Secondary Land Use - Equipment Auctions
  - use plan - access from Flott Rd. for parking
  - (minimize M-32 traffic dangers)

Property has natural green belts established

Majority of remaining field area including grey shading is to be primary hay field seeding.

Prepared by Angela Behling  
8-10-2012





20

19

PARMAUER RD

FLOTT RD

MEYER

BERNARD

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7-5-12



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, PRE denial or tax tribunal.

E. Allan Ruzgul COUNTY TREASURER  
060-020-005-03



OTSEGO COUNTY MICHIGAN  
RECEIVED FOR RECORD  
SUSAN DEFEYTER, CLERK/REGISTER OF DEEDS  
07/05/2012 8:58:01 AM

RCVD JUL 3 12 PM 3:18

LAND CONTRACT  
THIS CONTRACT, MADE June 29, 2012

DATE

*BETWEEN Mitchell Dobrzelewski and Peter Dobrzelewski, Successor Co-Trustees's of the Dobrzelewski Self-Trusteed Living Revocable Trust, created by a certain Trust Agreement dated December 7,1993 of 4921 Hayes Tower Road, Gaylord, Michigan 49735 hereinafter referred to as the "Seller" and Austin Behling, a married man of 1624 Wilson Rd, Boyne City, Michigan 49712 hereinafter referred to as the "Purchaser."*

**WITNESSETH**, That in consideration of the mutual covenants to be performed between the respective parties hereto as hereinafter expressed and the sum hereinafter stated to be duly paid by the Purchaser to the Seller, as hereinafter specified, it is agreed between the parties hereto as follows:

1. **Sale.** The seller hereby sells and agrees to convey to the Purchaser all that certain piece or parcel of land situated in the Township of Elmira, County of Otsego, and State of Michigan, commonly known as and described as follows, to wit:

Land situated in the Township of Elmira, Otsego County, Michigan, described as follows:

A parcel of land on part of the Southwest 1/4, Section 20, Town 31 North, Range 4 West, Elmira Township, Otsego County, Michigan described by Certificate of Survey dated June 18, 2012, Job No. GSU6443-01G, AG 9839 and further described as: Beginning at the West 1/4 corner of said Section 20; thence South 88° 29' 23" East 1312.51 feet along the East-West 1/4 line of said Section 20; thence South 00° 03' 32" West 1324.04 feet along the West 1/8 line of said Section 20; thence North 88° 28' 13" West 982.19 feet along the South 1/8 line of said Section 20; thence North 00° 02' 42" East 659.97 feet; thence North 88° 27' 52" West 330.00 feet; thence North 00° 02' 42" East 663.60 feet to the Point of Beginning. SUBJECT TO an easement for State Highway M-32 as shown on Sheet 1 of 2 of Certificate of Survey by Wade Trim (Job No. GSU6443-01G). This conveyance does not include any oil, gas or mineral rights: Seller(s) reserves all oil, gas and mineral rights, if any, unto themselves.

Together with all easements and rights benefiting the premises, whether or not such easements and rights are of record, and all tenements, hereditaments, improvements and appurtenances, including all lighting fixtures, plumbing fixtures, shades, venetian blinds, curtain rods, storm windows, storm doors, screens, awnings, if any, and on the premises, and the right to make all division(s) under Section 108 of the Land Division Act, Act No. 288 of Public Acts of 1967, subject to all recorded easements, conditions, encumbrances and limitations and to all applicable building and use restrictions, zoning laws and ordinances, if any, affecting the premises.

2. **Price and Terms.** Said Purchaser hereby purchases said premises from the Seller and agrees to pay the Seller therefore the sum of Sixty Thousand dollars and Zero cents ( \$60,000.00 ) in the manner following: Twelve Thousand dollars and Zero cents ( \$12,000.00 ) on delivery of this contract, the receipt whereof is hereby confessed and acknowledged by said Seller, and the remaining Forty Eight Thousand dollars and Zero cents ( \$48,000.00 ) which is secured by this contract, together with interest on the whole sum that shall be from time to time unpaid at the rate of Six ( 6 %) per cent, per annum, payable as follows: One Thousand dollars and zero cents (\$1,000.00) due on the 29<sup>th</sup> day of each month starting on July 29, 2012 and the same amount on the same day of each and every month thereafter, until the principal and interest shall be fully paid. Interest to be computed monthly and deducted from payment and balance of payment to be applied on principal, said Purchasers to have the right to pay larger installments than above provided for and to pay the whole or any part of the balance remaining unpaid on this contract at any time before the same, by the terms hereof, becomes due and payable. Interest shall commence to run on the unpaid balance of principal as of June 29, 2012 and payments shall be made at until Purchaser is given written notice to the contrary. Notwithstanding the prepayment of any installments, the Purchaser is not relieved of the requirement that the Purchaser make the monthly payments described above.

3. **Taxes and Insurance.** Said Purchaser shall promptly pay, when due, all taxes and assessments of every nature which shall become a lien on said premises after the date hereof, and any installments of special assessments becoming due after the date hereof, and shall, during the continuance of this contract, maintain liability insurance on the premises, naming the Seller as an additional insured, keep insured the buildings now on said premises, or which shall hereafter be placed thereon, in the name of said Seller against loss by fire and windstorm, in such company or companies and for such amount as the Seller shall approve, and forthwith deposit all policies of insurance with the Seller, with loss, if any, payable to the Seller, as Seller's interest may appear under this contract. Should the Purchaser fail to pay any tax or assessment, or installment thereof, when due, or keep said buildings insured, the Seller may pay the same and have the buildings insured, and the amounts thus expended shall be a lien on said premises and may be added to the balance then unpaid hereon and be due at once and bear interest until paid at the rate of the per cent per annum above specified in Paragraph 2.

In case of damage as a result of which said insurance proceeds are available, the Purchaser may, within sixty (60) days of said loss or damage, give to the Seller written notice of Purchaser's election to repair or rebuild the damaged parts of the premises, in which event said insurance proceeds shall be used for such purpose. The balance of said proceeds, if any, which remain after completion of said repairing or rebuilding, or all of said insurance proceeds if the Purchaser elects not to repair or rebuild, shall be applied first toward the satisfaction of any existing defaults under the terms of this contract, and then as a prepayment upon the principal balance owing, and without penalty, not withstanding other terms of paragraph 2 to the contrary. No such prepayment shall defer the time for payment of any remaining payments required by said contract. Any surplus of said proceeds in excess of the balance owing hereon shall be paid to the Purchaser (Following paragraph applies unless deleted.) Notwithstanding the

AT 23/4

SOARING DR

PEREGRINE DR

M 32 W

ALDER DR

CAMP TEN DR

WAWANUK RD

FLOTT RD

BERT RD

WEBSTER RD



provisions of the foregoing paragraph, the Seller herein shall, while this contract is not in default, pay all taxes (but not special assessments) levied on the above described premises and premiums on insurance on the buildings on said premises and the amounts so paid shall be added to the principal then unpaid thereon. It is understood that \$ zero is included in each monthly payment as a credit to cover taxes and insurance premiums as they mature. The monthly payment required shall be increased from time to time, as necessary, to cover any increase in cost of taxes and insurance incurred over such costs as of the time of execution of this contract.

4. **Maintenance.** All buildings, trees or other improvements now on said premises, or hereafter made or placed thereon, shall be a part of the security for the performance of this contract and may not be removed therefrom. Purchaser shall not commit, or suffer any other person to commit, any waste or damage to said premises or the appurtenances and shall keep the said premises and all improvements in as good condition as they are now.

5. **Enforcement on Default.** If the Purchaser shall fail to perform any of the covenants or conditions contained in this contract on or before the date on which the performance is required, the Seller may: (a) give the Purchaser a written notice specifying the default and informing the Purchaser that if the default continues for a period of fifteen days after service of the notice that the Seller will without further notice declare the entire balance due and payable, and proceed according to the common law or the statutes of the State of Michigan; or (b) not declare the entire balance due and payable, and proceed according to the common law or the statutes of the State of Michigan including but not limited to the right of Seller to declare a forfeiture in consequence of the nonpayment of any money required to be paid under the contract or any other breach of the contract, but in the event the Seller elects to proceed under this sub-paragraph the Seller shall give the Purchaser a written notice of forfeiture specifying the default which has occurred and shall give the Purchaser a period of fifteen days after service of the notice of forfeiture to cure the default.

6. **Deed and Evidence of Title.** If the Purchaser shall, in the time and manner above specified, make all the payments herein provided for, and shall observe and perform all the conditions and agreements herein made, the Seller shall thereupon by good and sufficient warranty deed, convey the premises to the Purchaser on the conditions herein agreed upon. Seller shall deliver with said deed a complete abstract of title and tax history of the premises certified to date of conveyance and showing a marketable title, subject to easements, conditions, encumbrances and limitations of record, in the Seller, or a fee simple title insurance policy guaranteeing title to the premises in the name of Purchaser; provided, however, that the warranty deed, the abstract and the tax history shall be limited so as to except acts or negligence of parties other than the Seller subsequent to the date of this contract.

In the event that evidence of title in the Seller, by abstract of title or title insurance, has been furnished the Purchaser current with the date of this contract, Purchaser agrees that except for the costs resulting from acts, negligence, or death of the Seller, the cost of additional evidence of title shall be the obligation of the Purchaser.

7. **Possession.** Possession of said premises may be taken by said Purchaser on and retained for so long as no default is made by said Purchaser in any terms or conditions hereof.

8. **Assignment or Sale.** Purchaser further agrees that, notwithstanding any other provision herein contained, this land contract shall become immediately due and payable in the event Purchaser shall sell, assign, transfer or convey his interest or any part of his interest in the subject property by assignment, sub-land contract, or any other manner, without first securing the written consent of the Seller.

9. **Notices.** Until endorsed on this contract to the contrary, each of the parties hereto agrees that notices required hereunder may be sent to Seller at 4921 Hayes Tower Road, Gaylord  
Purchaser at 1624 Wilson Road, Boyne City, MI 49712

and when mailed, postage prepaid, to said address, shall be binding and conclusively presumed to be served upon said parties respectively. Notice of forfeiture of this contract shall be served as provided by law.

10. **Pronouns.** If more than one joins in the execution hereof as Seller or Purchaser, or either be of the feminine sex, or a corporation, the pronouns and relative words herein used shall be read as if written in plural, feminine or neuter respectively.

11. **Time of Essence.** It is expressly understood and agreed by the parties hereto that time shall be deemed as of the very essence of this contract and all stipulations and agreements herein contained shall apply to and bind the heirs, executors, administrators, successors, executors, administrators, successors and assigns of the parties hereto.

12. **Condition of Premises.** Purchaser agrees that the Seller has made no representations or warranties and makes no representations or warranties as to the condition of the premises, the condition of the buildings, appurtenances and fixtures locate thereon, and/or the location of the boundaries.

13. **Rents and Profits.** Notwithstanding any other provision herein contained or any provision of law, the parties expressly agree that in the event of default not cured by the Purchaser within fifteen (15) days after notice of intent to forfeit the contract is served upon Purchaser, Seller shall have the right to possession of the subject property, and to receive all rents and profits relative to the subject property from and after the date set in said notice for curing such default and such right of Seller shall continue during any period that forfeiture or foreclosure proceedings may be pending and during any period of redemption. Purchaser further agrees that Seller shall have the right to the appointment of a receiver to receive such rents and profits and such receiver may be Seller or an agent of Seller.

14. **Attorney Fees.** In the event of default, in addition to any remedies or rights of Seller, Purchaser shall pay to Seller, Seller's reasonable and actual attorneys' fees and expenses incurred by Seller in enforcement of any rights of Seller hereunder, which sums shall be payable prior to Purchasers being deemed to have corrected any such default.

15. **Late Payment Charge.** If Purchaser shall fail to pay, within ten (10) days after due date, any installment due hereunder, Purchaser shall be required to pay an additional charge of five (5%) percent of the late installment. Such charge shall be paid to Seller at the time of payment of the past due installment. The charge is deemed by the parties to cover Sellers administrative costs resulting from Purchaser's delinquency.

16. **Other Provisions.**

See attached Exhibit A

Also Seller gives permission to add a building for storage.

Responsibility for Accidents. So long as this Contract shall be in force and effect, or so long as Purchaser shall be in possession of the Premises, Purchaser assumes all risk and responsibility for any liability arising out of or in connection with any accident, injury or damage to person or property arising from the use and control of the Premises and improvements thereon, and shall indemnify Seller and hold it harmless therefrom.

Handwritten initials: CW, MD, AB

*Balloon Payment (Optional).* Notwithstanding any provision to the contrary contained herein. Purchaser shall pay the entire balance of principal and interest due hereunder on or before the expiration of 5 years from the date hereof. Purchaser will not have a prepayment penalty if paid off early.

This contract made the 29th day of June, 2012



LIBER 1291 PAGE 492

In Witness Whereof, the parties hereto have executed this Land Contract on the day and year first above written.

SELLER(S):  
Dobrzelewski Self-Trusteed Living Revocable Trust, created  
by a certain Trust Agreement dated December 7, 1993

Mitchell Dobrzelewski  
By: Mitchell Dobrzelewski, Successor Co-Trustee

Peter Dobrzelewski  
By: Peter Dobrzelewski, Successor Co-Trustee

PURCHASER(S):

Austin Behling  
Austin Behling

STATE OF Michigan )  
COUNTY OF Otsego )ss

The foregoing instrument was acknowledged before me this 30 day of June, 2012  
by Mitchell Dobrzelewski and Peter Dobrzelewski, Successor Co-Trustees of the Dobrzelewski Self-Trusteed Living Revocable Trust, created by a certain Trust Agreement dated December 7,1993, on behalf of said trust

**RITA L. JOHNSON** Rita L. Johnson  
NOTARY PUBLIC, STATE OF MICHIGAN Notary Public,  
COUNTY OF OTSEGO Otsego County, Michigan  
MY COMMISSION EXPIRES 3/13/2013 My Commission expires  
ACTING IN OTSEGO COUNTY

STATE OF Michigan )  
COUNTY OF Otsego )ss

The foregoing instrument was acknowledged before me this 30 day of June, 2012  
by Austin Behling, a married man

**RITA L. JOHNSON** Rita L. Johnson  
NOTARY PUBLIC, STATE OF MICHIGAN Notary Public,  
COUNTY OF OTSEGO Otsego County, Michigan  
MY COMMISSION EXPIRES 3/13/2013 My Commission expires  
ACTING IN OTSEGO COUNTY

Drafted By Assisted by: Peter Dobrzelewski, Successor Co-Trustees Dobrzelewski Return To: Vendor  
Self-Trusteed Living Revocable Trust 115349 4921 Hayes Tower Road  
4921 Hayes Tower Road Gaylord, MI 49735  
Gaylord, MI 49735  
Alpine Title & Escrow



ADDENDUM TO PURCHASE AND SALES AGREEMENT FOR REAL PROPERTY

THIS ADDENDUM is attached to and made a part of a certain Purchase Agreement dated 6-15-2012

between the undersigned parties. The address of the property is commonly known as:

(Parcel 1) 7972 N. 32, GAYLORD MT 49735  
060-020-300-00503

The following terms are incorporated into the above-referenced Purchase and Sales Agreement:

1) Sellers are giving permission to Buyers to remove any trees necessary to clear for farming.

2. SELLER AGREES TO PROVIDE LIABILITY INSURANCE IN THE AMOUNT OF AT LEAST \$1,000,000 DURING TIME PROPERTY IS USED FOR ACTION BUSINESS IN ADDITION TO REGULAR PROPERTY/LIABILITY INSURANCE COVERAGE.

MD  
AB

This is Addendum number A

Receipt of a copy hereof is acknowledged by the undersigned parties:

Purchaser(s) Dated: 6-28-12  
Quinn Reilly

Seller(s) Dated: 6/30/12  
Robert  
Matthew J. Hill

Mr. Michael A. Jaroneski  
P.O. Box 275  
East Jordan, MI 49729  
(231) 582-5598

Property Parcel ID No. 060-020-300-005-04

I Michael Jaroneski am the owner of record on the above listed property parcel, there are no options or liens against this parcel.

Austin & Angela Behling are officially acting on my behalf and have full permission to apply for the special use permit to conduct auctions using this property parcel.

Michael A Jaroneski

Michael A. Jaroneski



PSPR 12-003

# OTSEGO COUNTY PLANNING COMMISSION PUBLIC HEARING NOTICE

September 17, 2012

The Otsego County Planning Commission will hold a public hearing on Monday, September 17, 2012 at 6:00pm in the Planning and Zoning Meeting room located at 1068 Cross Street Gaylord, Michigan.

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

Austin and Angela Behling (owners) have requested a Special Use Permit for property located at 7972 M-32 West, Elmira, MI 49730. The proposed use of the property is an Agricultural Equipment Auction. The property is located in an AR Zoning District. An Agricultural Equipment Auction is considered a comparable use subject to special conditions in the AR Zoning District per Zoning Board of Appeals decision, July 31, 2012.

Parcel identification number: **060-020-300-005-03** and **060-020-300-005-04**

#### Legal Description:

W 1/2 OF THE N 1/2 OF SW 1/4 EXCEPT COMM AT THE W 1/4 CORNER OF SEC 20, S 00 DEG 02'42"W 663.08 FT ALG THE W SEC LINE TO THE POB, TH S 88 DEG 27'52" E 330 FT, TH S 0 DEG 02'42" W 660.00 FT, TH N 88 DEG 27'52"W 330.00 FT, TH N 00 DEG 02'42" E ALG THE WEST LINE OF THE SEC TO THE POB SEC 20 T31N R4W 2011 SPLIT FROM 060-020-300-005-02

AND

COMM AT THE W 1/4 CORNER OF SEC 20, S 00 DEG 02'42"W 663.08 FT ALG THE W SEC LINE TO THE POB, TH S 88 DEG 27'52" E 330 FT, TH S 0 DEG 02'42" W 660.00 FT, TH N 88 DEG 27'52"W 330.00 FT, TH N 00 DEG 02'42" E ALG THE WEST LINE OF THE SEC TO THE POB SEC 20 T31N R4W 2011 SPLIT FROM 060-020-300-005-02

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**  
1068 Cross St • Gaylord, MI 49735  
Phone (989)731-7420 • Fax (989)731-7429  
[www.otsegocountymi.gov](http://www.otsegocountymi.gov)

August 30, 2012

Elmira Township  
PO Box 117  
Elmira, MI 49730

Pursuant to Article 24 of the Otsego County Zoning Ordinance, I am forwarding the application for a Special Use Permit Subject to Special Conditions.

If you require the applicants, Austin and Angela Behling, be present at your meeting, you can notify them at:

01624 S Wilson Rd  
Boyne City, MI 49712  
231.330.5401

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.

Sincerely,

  
Joseph S Ferrigan  
Otsego County Land Use Director

cbw

encl



PID	PROPERTY ADDRESS	OWNER	OWNER ADDRESS	OWNER CITY	OWNER STATE	OWNER ZIP CODE
060-019-400-050-00		Wolverine Power Supply	PO Box 229	Cadillac	MI	49601
060-019-400-045-00		Adgate Trust-Keeler	965 Hager Dr Apt 137	Petoskey	MI	49770
060-019-400-005-00		Lori Leonard	159 Brentwood	Gaylord	MI	49735
060-019-100-005-01	2962 Flott Rd	Casimer & Martha Makarewicz	2962 Flott Rd	Elmira	MI	49730
060-020-200-010-00		Sattler-Chagnon-Green-McReynolds	PO Box 1293	Birmingham	MI	48012
060-020-200-005-00		Anna R Burdo Trust	21223 Briar Ct	St Clair Shores	MI	48081
060-020-300-005-01		Peter & Zarin Dobrzelewski	3474 N Sherman Rd	Ludington	MI	49437
060-020-300-010-00		Eugene Dobrzelewski Trust	14509 Club Cir Dr SE	Grayling	MI	49738

**OTSEGO COUNTY  
PLANNING COMMISSION  
Case No. PSPR12-003  
060-020-300-005-03/060-020-300-005-04**

*Exhibit List*

- Exhibit #1:* Application for case PSPR12-003 and site plan 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 May 2012
- Exhibit #4:* Copy of Land Contract/Consent Letter
- Exhibit #5:* Public Hearing Notice
- Exhibit #6:* Letter to Elmira Township Planning Commission Dated August 30, 2012
- Exhibit #7:* Letter dated September , 2012 from Elmira Township Planning Commission/Application and site plan review check list
- Exhibit #8:* Map and list of parties notified
- Exhibit #9:* Receipt # 01201427 dated August 29, 2012
- Exhibit #10:* General Finding of Fact/PSPR12-003
- Exhibit #11:* Specific Finding of Fact/PSPR12-003
- Exhibit #12:* Staff recommendations
- Exhibit #13:* Copy of July 31, 2012 meeting minutes and ZBA decision
- Exhibit #14:*
- Exhibit #15:*
- Exhibit #16:*

**OTSEGO COUNTY  
PLANNING COMMISSION**

**PSPR12-003**

060-020-300-005-03/060-020-300-005-04

**GENERAL FINDINGS OF FACT**

1. This is a proposal to allow an Agricultural Equipment Auction. *Exhibit #1*
2. The property is located in an AR Zoning District. *Exhibit #2*
3. The proposed use is permitted as a comparable use subject to special conditions in the AR Zoning District. *Exhibit #3*
4. The property is currently under the ownership of Austin and Angela Behling. *Exhibit #4*
5. The Public Hearing Notice was published in the Herald Times on September 1, 2012. *Exhibit #6*
6. The requirements of Article 24 of the Otsego County Zoning Ordinance have been met. *Exhibit #7*
7. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #8*
8. The Planning Commission has the authority to approve a Special Land Use request after review and compliance with the Otsego County Zoning Ordinance. (Section 16.7) *Exhibit #3*
9. The required fees have been collected by Otsego County Land Use Services. *Exhibit #9*
10. The site plan requirements of Article 20 have been reviewed by Otsego County Land Use and all requirements pertaining to the proposed development have been addressed by the Applicant. *Exhibit #10*
- 11.
- 12.
- 13.
- 14.

## Specific Finding of Fact for PSPR12-003

### FINDINGS UNDER ARTICLE 16:

A. The proposed use is one listed as a special land use for that district in which said use is proposed to be located.

1. The standards of the district in which the special land use is to be located are fulfilled.

**HAS – HAS NOT BEEN MET**

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

1. Summarization or outline, of the proposed development including area of the site, the number of lots or units, and the density, and related information as applicable.

2. Description of any hazardous substance or polluting materials to be used, stored, or produced.

**HAS – HAS NOT BEEN MET**

C. The proposed use will not involve uses, materials, processes, or equipment that will create a substantial negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odor, or the accumulation of scrap material that can be seen from the highway or adjoining land owned by others.

1. Adequate allowance shall be made for vehicles to park, enter, and exit the use safely, and there shall be no visibility impediments to drivers created by signs, buildings, land uses, plantings, etc.

2. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means.

3. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.

4. All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at access and egress points to intersecting roads, including the use of service drives as appropriate, and minimize the negative visual impact of such parking areas.

**HAS – HAS NOT BEEN MET**

D. The proposed use will be designed, constructed, operated and maintained so it will not diminish the opportunity for surrounding properties to be used and developed as zoned.

**HAS – HAS NOT BEEN MET**

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

**HAS – HAS NOT BEEN MET**

- F. 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**

- G. If the proposed use includes more than 15,000sf of impervious surface then the following Storm Water management systems must be employed:
1. Preserve natural drainage characteristics of the site and enhance aesthetics of site.
  2. Employ storm water disposal through evaporation and infiltration where possible.
  3. Shall not discharge storm water directly into wetlands or surface waters in order to minimize erosion hazards and prevent sediment delivery to natural and/or impounded waters of the County. Storm water discharges must not substantially reduce or increase the natural retention or storage capacity of any wetland, water body, or water course, or result in increased flooding stream bank erosion, or water pollution.
  4. Shall not increase the quantity or rate of discharge from the site based on 25 year storm criteria and shall insure that all storm water conveyances on the land surface are designed to transport storm water at a non-erosive velocity. Removal of storm waters shall not adversely affect neighboring properties or the public storm drainage system, or increase off-site sedimentation. Storm water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in paved areas.
  5. Design the storm water management system using DNR standards.
  6. Identify the party responsible for maintenance of the storm water system.

**HAS – HAS NOT BEEN MET**

- H. The proposed use shall comply with all Specific Standards required by the Zoning Ordinance.

**HAS – HAS NOT BEEN MET**

**FINDINGS UNDER ARTICLE 18:**

**SECTION 18.10 FENCING**

Open Storage areas of any use shall be fenced and screened

18.18.5 Screening of unsightly areas: 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.

**HAS – HAS NOT BEEN MET**

**SECTION 18.19 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:

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

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

18.19.1.2 That all light sources and light lenses are shielded,

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

18.19.1.4 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.

18.19.2 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

18.19.3 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 18.38.2.1. Beacon lights are not permitted except where required by law.

18.19.4 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.

18.19.5 Decorative lights during holiday seasons shall be allowed.

18.19.6 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 18.21 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:

18.21.1 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.

18.21.2 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:

**HAS – HAS NOT BEEN MET**

## **SECTION 18.27 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.

18.27.1 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.

- 18.27.2 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.
- 18.27.3 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.
- 18.27.4 The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited on required off-street parking lots.
- 18.27.8 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.
- 18.27.9 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.

**HAS – HAS NOT BEEN MET**

**SECTION 18.38 SIGNS AND BILLBOARDS**

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.

1. 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.
2. 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.
3. 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 18.41 SPEAKERS AND SOUND DEVICES, OUTDOOR**

Uses requiring outdoor speakers, outdoor public address systems or similar sound devices shall not be permitted without the written consent of the Planning Commission who shall determine that no public nuisance will be established and that no unreasonable adverse impact will fall on an adjacent property. The Planning Commission may require the installation of various screening and landscaping to minimize the impacts of such speakers on adjoining properties.

**HAS – HAS NOT BEEN MET**

**SECTION 16.8 - 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.

16.8.1 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.

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

16.8.3 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.

**CONDITIONS PLACED UPON PSPR12-003**

- 1.
- 2.
- 3.
- 4.
- 5.

**Suggested Motion for approval of PSPR12-003:**

A motion based upon all evidence provided to the Otsego County Planning Commission including:

1. Applicant provided information including the application, site plan and site plan compliance check list and narrative describing the proposed use.
2. General finding of fact for PSPR12-003
3. Specific finding of fact for PSPR12-003

**That PSPR12-003 is approved (with the following conditions, if necessary):**

- 1.
- 2.
- 3.
- 4.

08.28.2012

Staff Review

Austin and Angela Behling  
01624 S Wilson Rd  
Boyne City, MI 49712

Otsego County Land Use Permit Number: PSPR12-003

Parcel Identification Number: 060-020-300-005-03/060-020-300-005-04  
7972 W M-32  
Elmira, MI 49730

Description of project:

Property will primarily be used for agricultural functions/crop farming. A Special Use Permit is requested to conduct consignment equipment auctions on property.

**Subject parcels are zoned AR Agricultural and under Section 9.2, Subsection 9.2.4 Livestock Auctions, was found to be a comparable use per Zoning Board of Appeals decision, July 31, 2012.**

**Article 18 Specific Requirements for Certain Uses**

**SECTION 18.20 LIVESTOCK AUCTION YARD**

18.20.1 Special Use Permit may be granted by the Planning Commission in AR Zone.

**The subject parcel is located in the AR Agricultural Zoning District.**

18.20.2 Minimum forty (40) acres site size.

**The subject property consists of forty (40) acres.**

**Article 16 Permitted Uses Subject to Special Conditions**

**SECTION 16.2-APPLICATION AND FEES**

**Application has been received and the required fees have been paid.**

**SECTION 16.3-DATA REQUIRED**

**Application for a Special Land-Use Permit shall include all the following information:**

16.3.1 The applicants name, address, and telephone number. **/Complies**

16.3.2 The legal description, address, and tax identification of the proposed site. **/Complies**

16.3.3 A signed statement that the applicant is the owner of the proposed site, or is acting as the owner's representative. **/Complies**

16.3.4 A site plan meeting all of the requirements of Section 20.2 of this Ordinance. **/Complies**

- 16.3.5 A detailed written description of the proposed special land use. **/Complies**
- 16.3.6 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 16.8 of this Ordinance. **/Owners will be in attendance to offer an explanation.**
- 16.3.7 Any additional information reasonably deemed necessary by the Planning Commission to determine compliance with the standards for special land use approval specified in Section 16.8 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 16.4- ZONING ADMINISTRATOR'S REVIEW

- 16.4.1 The zoning administrator shall review the application and information submitted under Section 16.3 of this Ordinance to determine if all required information was supplied. If the zoning administrator determines that all required information was not supplied, he or she shall send written notification to the Applicant of the deficiencies. The application for the special use permit cannot proceed until all required information has been supplied.

**Application contains all of the required information.**

- 16.4.2 Once all required information is submitted, the zoning administrator shall forward the application to the Planning Commission for its review under the procedures of this Article, and will notify the township in which the property is located of the application.

**Elmira Township has been notified.**

#### SECTION 16.5 – 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:

#### **THESE REQUIREMENTS SHALL BE COMPLIED WITH PRIOR TO COUNTY PLANNING COMMISSION REVIEW**

- 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 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.

#### SECTION 16.6 – REVIEW AND APPROVAL AUTHORITY

Following the public hearing the Planning Commission shall review the special land use request and shall approve, deny, or approve with conditions the special use permit based on the standards for special land use approval specified in Section 16.8 of this Ordinance. The Planning Commission's decision shall be in writing and shall include findings of fact, based on the evidence represented at the public hearing, on each standard.

THESE ARE THE STANDARDS THAT YOU SHOULD BASE YOUR DECISION UPON.

#### SECTION 16.7- 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:

- 16.7.1 The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
- 16.7.2 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.
- 16.7.3 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.
- 16.7.4 The proposed special land use 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.
- 16.7.5 The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

- 16.7.6 The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
- 16.7.7 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.
- 16.7.8 The proposed special land use complies with all specific standards required under this Ordinance applicable to it.

CONDITIONS SHOULD ONLY BE PLACED UPON A PROPOSED SPECIAL USE PERMIT IF IT IS NECESSARY TO BRING A PROPOSED PROJECT INTO CONFORMANCE WITH ORDINANCE REQUIREMENTS, NOT TO PLACE ADDITIONAL BURDEN UPON A DEVELOPER.

#### SECTION 16.8-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.

- 16.8.1 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.
- 16.8.2 Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use.
- 16.8.3 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.

#### SECTION 16.9 – COMPLIANCE WITH APPROVED SPECIAL USE PERMT REQUIRED

Unless amended pursuant to Section 16.12 of this Ordinance, an approved special land use shall be developed, constructed, maintained, and operated in strict compliance with the approved special use permit and any conditions of approval. In the event public or site improvements were designed by an architect or engineer, the Applicant shall, following completion of construction, providing a statement prepared by his or her architect or engineer certifying that all public and and/or site improvements were constructed in compliance with the approved special land use permit and any conditions of approval.

# Otsego County Zoning Board of Appeals

Proposed Minutes for July 31, 2012/Regular Meeting

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

Pledge of Allegiance

**Roll Call:**

Present: Mr. Wagar, Mr. Alexander, Secretary McCarthy, Ms. Bono, Mr. Stults, Vice Chairperson Sagasser

Absent: Chairperson Hoffman

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

Public Present: Angie & Austin Behling

**Approval of Minutes from September 27, 2011:**

Minute corrections include: page one (1) last two paragraphs, 'Barau' should be '*Burau*'; '...Bagley Township Planning Commission had approved the variance' should be '*...Bagley Township had recommended approval of the variance*'; and page five (5) from 'Mr. Alexander requested the motion to interpret Zoning Ordinance...' to '*Mr. Alexander requested the discussion to interpret Zoning Ordinance...*'.

Motion made to approve the minutes by Mr. Alexander as corrected; Support by Mr. Sagasser.

Motion approved unanimously.

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

Mr. Stults requested '*Election of Officers*' be added to the agenda as it states in the ZBA Bylaws elections be held in April or the following meeting thereafter.

Ms. Bono requested an update of the Burau case/ZBA Case #11-001.

Mr. Stults also requested the status of the interpretation of Article 18 Section 18.1.3.1 be added to the agenda.

Motion made by Mr. Stults to amend agenda; Support by Ms. Bono.

Motion approved unanimously.

**Public Hearing:** None

Mr. Stults requested consent to move number one (1) under **New Business** to accommodate Mr. & Mrs. Behling.

Ms. Bono supported.

Vice Chairperson Sagasser agreed to move **New Business** and postpone **Old Business**.

1. AR Zoning District/Use Subject to Special Conditions

Mr. Ferrigan stated Mr. & Mrs. Behling requested the Otsego County Zoning Board of Appeals classify an Equipment Auction as a comparable use to a Livestock Auction Yard and allow Equipment Auction as a *Use Subject to Special Conditions* in an Agricultural Zoning District.

Mrs. Behling stated their primary use of the property was farmland/hay use and the farm equipment auction was only a secondary use. She supplied maps of their property depicting the purpose of each area. She stated they would hold approximately one (1) auction a month, excluding the winter months, and the entrance for the auction yard would be off of Flott Road. They also planned on opening a fruit and vegetable stand on M-32.

# Otsego County Zoning Board of Appeals

Proposed Minutes for July 31, 2012/Regular Meeting

Mr. Stults read *Section 18.44 Unlisted Property Use*, establishing procedure whether the Zoning Board of Appeals find a comparable use or not. He also stated their ruling would change *all* Agricultural zoned areas, not just this particular piece of property.

Mr. Alexander questioned the definition of Agriculture not allowing a building for retail trade.

Ms. Bono stated she considered an auction different from a retail business because it entails a temporary, minimal amount of sale days and product is not always available.

Mr. Stults commented on the acreage differences in Section 9.2.4 and Section 18.20.

Mr. Ferrigan and Mr. Stults agreed that the Zoning Ordinance language should be addressed concerning the inconsistency. The Planning Commission is encouraged to clarify the Zoning Ordinance language, *either ten (10) or more acres or forty (40)*.

Mr. Alexander also requested the definition of *Agriculture* be clarified.

Vice Chairperson Sagasser suggested focusing on the comparability of an Equipment Auction and a Livestock Auction and discussion ensued.

Mr. Stults discussed the differences.

Vice Chairperson Sagasser stated the need to be detailed in the Zoning Board of Appeals interpretation of a Farm Equipment Auction concerning agricultural equipment.

Mr. Ferrigan suggested the Board weigh the similarities and the differences to make a determination.

Mr. Stults made the following motion; Support by Ms. Bono.

*The Zoning Board of Appeals makes the determination that Agricultural Equipment Auctions are a comparable use to Article 9.2.4 'Livestock Auction Yards' and therefore, under Article 9.2.24 and Article 18.44, Agricultural Equipment Auctions are a permitted use subject to special conditions and the conditions of Livestock Auction Yards in the Agricultural Resource District (AR).*

Roll call vote:

Mr. Wagar-Yes, Mr. Alexander-Yes, Mr. McCarthy-Yes, Ms. Bono-Yes, Mr. Stults-Yes, Mr. Sagasser-Yes

(6)-Yes (0) No: Motion passes

Vice Chairperson Sagasser stated a Farm Equipment Auction was a comparable use.

Mr. & Mrs. Behling were told to call Mr. Ferrigan's office to proceed with the next step.

## Old Business:

### 1. Status of Article 18 Section 18.1.3.1 Interpretation

As per the advice from the Otsego County's legal counsel, Haider Kazim, the Planning Commission recommends changing the wording, '...up to a maximum of a four thousand (4000) square foot building' to '*...up to four thousand (4000) square feet.*'

# Otsego County Zoning Board of Appeals

Proposed Minutes for July 31, 2012/Regular Meeting

2. Bureau Case Update/ZBA Case #11-001  
Mr. Ferrigan stated Mr. Bureau has connected two (2) existing buildings and was now in compliance.

## **New Business:**

1. AR Zoning District/Use Subject to Special Conditions  
*Agenda amendment (see above)*
2. Expiring Terms/Reappointment
  - a. Mr. Alexander: Reappointed; Term ending December 31, 2015
  - b. Mr. Wagar: Reappointed; Term ending December 31, 2015
3. Election of Officers  
Mr. Stults made a motion to close nominations; Support by Ms. Bono.  
Motion approved unanimously.

Mr. Sagasser nominated for Chairperson by Mr. Alexander; Support by Mr. Wagar  
Vote unanimous.  
Mr. Sagasser elected Chairperson.

Mr. Wagar nominated for Vice Chairperson by Mr. Alexander; Support by Mr. McCarthy  
Vote unanimous.  
Mr. Wagar elected Vice Chairperson.

Mr. McCarthy nominated for Secretary by Mr. Alexander; Support by Mr. Sagasser  
Vote unanimous.  
Mr. McCarthy elected Secretary.

**Communications:** None

## **ZBA Member Items:**

Mr. Ferrigan stated the Land Use Services Department may be moving in the near future to the old AT&T building on Hayes Road.

**Adjournment:** 7:55 pm

Christine Boyak-Wohlfeil, Recording Secretary

# Otsego County Planning Commission

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Minutes for January 23, 2012

**Call to Order:** 6:01 pm by Chairperson Stults

Pledge of Allegiance

**Roll Call:**

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

Absent: Mr. Hilgendorf, Mrs. Jarecki, Mr. Hartmann, Mr. Klee

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

Others Present: John Burt, Otsego County Administrator

Public Present: David Drews, Northern Michigan Engineering, Sandra and Sie Meadows, Sara Honsowetz, John Ruft, Allen Burger

**Consent Agenda:** None

**Approval of minutes from November 28, 2011:**

Mr. Borton requested a correction to the statement at the top of page five (5), 'Motion approved by majority....,' Chairperson Stults suggested adding, '*Motion approved by voice vote.*'

Motion made to approve minutes as corrected by Mr. Hendershot; Seconded by Ms. Nowak.

Motion approved unanimously.

**Other:** None

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

**Unfinished applicant business:** None

**Public Hearing:**

Applicant: David Drews, Northern Michigan Engineering

Owner: Maitland-A&G Vacation Properties LLC

PZ11-240/Single Family Site Condominium

Parcel #010-029-200-010-06

Kokozen/Section 29/Bagley Township

W Otsego Lake Dr/Kokozen Ave Gaylord, MI

Parent Parcel 3.86 acres

Proposed division: Parcel 1 1.06 acres

Parcel 2 1.06 acres

Parcel 3 1.27 acres

# Otsego County Planning Commission

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Minutes for January 23, 2012

Mr. Ferrigan stated Mr. Drews, representing Edward Maitland and Roger Zatkoff of Maitland-A&G Vacation Properties, is proposing a site condominium in lieu of a land division because no divisions are available at this time. Mr. Ferrigan recommended waiving the requirements of Article 16 and reviewing the proposal under the guidance of Article 21. The proposal is simple and must follow the requirements of the Zoning Ordinance. The property will have a Master Deed placed on it stating any restrictions.

Mr. Mang read the following motion:

A motion for PZ11-240 to waive the requirements for Article 16, based upon the determination that creating three (3) single lots that exceed the minimum lot size and setback requirements of Article 14 for the RR zoning district will not create any significant public harm or harm to adjacent properties; And review PZ11-240 as a Planned Unit Development subject to the requirements of Article 21.

Motion seconded by Mr. Arndt.

Motion approved unanimously.

Mr. Drews explained Mr. Maitland and Mr. Zatkoff's desire to propose a future use for the property, stating they have no intention of building at this time. He presented a proposed site plan featuring three (3) single-family dwellings with access off West Otsego Lake Dr on Kokozen Access Rd. The site plan included approximate setbacks, well and septic systems and driveway access from Kokozen Ave. A Master Deed shall contain language restricting tree removal and site improvements and will follow the requirements of the Zoning Ordinance.

Public Hearing: Open: 6:33 pm

Sandra Meadows inquired about the proposed access road on the adjoining property (Parcel E) as she had considered purchasing it. Mr. Drews recommended title insurance, stating it would disclose any easements and such. She also asked about improvements to Kokozen Access Road and Mr. Drews stated it would remain as is.

Sara Honsowetz, Otsego Lake property owner, was concerned about additional lake access granted to these back lots. Mr. Drews stated Mr. Maitland and Mr. Zatkoff already owned property on the lake but lake access did not transfer to the new owners. She asked about future hearings for final approval and Chairperson Stults stated they would not notify anyone individually but future agendas would be available to the public on the County website. Mrs. Honsowetz questioned if multi dwellings were possible and if the waiver of Article 16 played a significant role. Mr. Drews stated the intent was for three (3) single-family dwellings and any changes of use would start the process from the beginning. Chairperson Stults stated the process would be the same regardless of the waiving of Article 16.

Public Hearing: Closed: 6:41 pm

Number one (1) *PZ11-240/Site Condominium* under **New Business** moved to follow Public Hearing.

PZ11-240 Site Condominium/Bagley Township/Section 29  
#010-029-200-010-06/Kokozen  
*W Otsego Lake Dr/Kokozen Ave Gaylord, MI*

# Otsego County Planning Commission

Minutes for January 23, 2012

Mr. Arndt, speaking on behalf of Bagley Township, stated he had inspected the site and found it heavily wooded with size and frontage meeting zoning requirements. Bagley Township recommended approval based on three (3) conditions: 1) District 3 Health acceptance of well and septic plan, 2) An enforceable access maintenance plan on the primary access road to the proposed sites, and 3) Acceptable access defined by the Otsego County Road Commission. Mr. Drews stated they would provide an agreement for maintaining access for the three (3) proposed sites but did not want the owners responsible for the road itself.

Mr. Mang agreed with Mr. Arndt the site was heavily wooded and a very nice location. He inquired whether Ash Street is a County Road and if there was legal public lake access on that road. Mr. Drews stated he would check to see if Ash Street was a public or private road and if it did provide public lake access, it would remain that way.

Chairperson Stults also inspected the site and stated the heavily wooded site needed a Master Deed to maintain its appearance. He had concerns about the signage meeting the requirements of the Zoning Ordinance and access for emergency vehicles was something to consider. Mr. Drews will check with EMS about the name of the access road to avoid future confusion.

Mr. Ferrigan read aloud a letter received January 19, 2012 from Eric & Sara Honsowetz voicing their concerns. Mrs. Honsowetz stated her concerns had been addressed.

Mr. Ferrigan presented the following list of exhibits and general finding of facts:

List of Exhibits:

- Exhibit 1:* Application for case PZ11-240 and site plan submitted by Applicant
- Exhibit 2:* Otsego County Zoning Map dated, *July 2007*
- Exhibit 3:* Otsego County Zoning Ordinance effective date, *March 20, 2010*
- Exhibit 4:* Otsego County Equalization property search detail report
- Exhibit 5:* Letter signed by Edward Maitland granting, David Drews of Northern Michigan Engineering, authorization to represent himself and Mr. Roger Zatkoff as to the site plan submittal and presentation for the proposed Kokozen Estates property development  
Stamped, *Received 11-1-2011*
- Exhibit 6:* Public Hearing Notice
- Exhibit 7:* Letter to Bagley Township Planning Commission from Otsego County Land Use requesting their review and written comments on PZ11-240, dated *November 9, 2011*
- Exhibit 8:* Map and list of parties within three hundred (300) feet of the parcel that were notified of the public hearing
- Exhibit 9:* Receipt #01101722 for payment of the fees for case PZ11-240 dated, *October 10, 2011*
- Exhibit 10:* Written comment regarding the review of #PZ11-240 from Bagley Township Planning Commission dated, *November 21, 2011*
- Exhibit 11:* Generic Draft Master Deed and Exhibit A-Bylaws submitted by David Drew dated, *January 9, 2012*
- Exhibit 12:* Land Use Services review of case PZ11-240 dated, *January 23, 2012*
- Exhibit 13:* Letter received by fax dated, *January 20, 2012* from Eric and Sara Honsowetz regarding PZ11-240, expressing their concerns about property values, who will be responsible for property maintenance and concern over the potential of more people using what is no more than a trail that is not maintained by the county

# Otsego County Planning Commission

Minutes for January 23, 2012

## General Finding of Facts of PZ11-240:

1. This is a proposal to create three (3) single-family building sites; each site will be a minimum of 1.06 acres. *(Exhibit #1)*
2. The property is located in the RR Zoning District. *(Exhibit #2)*
3. The minimum lot size allowed in the RR Zoning District is .46 acres. *(Exhibit #3)*
4. The proposed use is a principle use permitted (single-family dwellings) in the RR Zoning District. *(Exhibit #3)*
5. The property is currently under the ownership of Maitland-A&G Vacation Properties LLC *(Exhibit #4)*
6. The applicant, David Drews of Northern Michigan Engineering, has permission to represent the landowners for the proposed development of this Site Condominium project. *(Exhibit #5)*
7. A Public Hearing Notice published in the Gaylord Herald Times on *January 7, 2012*. *(Exhibit #6)*
8. The requirements of Article 24 of the Otsego County Zoning Ordinance have been met. *(Exhibits #7 & #10)*
9. All property owners within three hundred (300) feet were properly notified of the Public Hearing. *(Exhibit #8)*
10. The Planning Commission has the authority to approve site plans after review and compliance with the Otsego County Zoning Ordinance, Section 20.5. *(Exhibit #3)*
11. The required fees have been collected by Otsego County Land Use Services. *(Exhibit #9)*
12. The site plan requirements of Article 20 have been reviewed by Otsego County Land Use and all requirements have been addressed by the Applicant. *(Exhibit #1)*
13. Article 15 was reviewed and no specific requirements pertaining to PZ11-240 were found.

Motion to approve the exhibit list and general findings of fact made by Mr. Borton; Seconded by Mr. Colosimo.

Motion approved unanimously.

Mr. Ferrigan read aloud the highlighted Staff recommendations on pages eleven (11), twelve (12) and thirteen (13), to be removed as conditions because they are addressed in the Zoning Ordinance. The Master Deed will reflect the requirements of the Zoning Ordinance.

Mr. Borton read the following motion:

A motion that preliminary approval for PZ11-240 is given. Final approval may be granted when the Applicant produces a Master Deed that contains all of the requirements and that Master Deed is reviewed by the Otsego County Planning Commission for compliance.

Motion seconded by Mr. Arndt.

Motion approved unanimously.

## Unfinished Commission Business:

1. Proposed Mining Language:

Mr. Ferrigan suggested forwarding the Mining language information to all the Townships for their feedback before any further Planning Commission discussion.

#A.  
Unfinished  
Business

# Otsego County Planning Commission

Minutes for January 23, 2012

Motion made to refer the revised language to the Townships by Ms. Nowak; Seconded by Mr. Hendershot.

Motion approved unanimously.

## Reports and Commission Member's Comments:

1. Committee report on assisted living facilities (Mr. Arndt/Mrs. Jarecki)

Mr. Arndt stated the report was almost complete and he and Mrs. Jarecki would present it at the next Planning Commission meeting. He will send the report to Mr. Ferrigan so it could be mailed ahead of time for all Planning members to review.

2. Executive Committee Report

The Committee discussed ways to shorten the length of meetings and the suggestions will be implemented.

3. Chairperson Stults stated the Otsego County Recreation Plan had been approved by the DNR and would be available online with a copy in Mr. Ferrigan's office.

A budget amendment to provide funds for Planning Commission meetings for actual planning when a paying case is not scheduled was proposed. Chairperson Stults recommended members contact their County Commissioner for support.

The Michigan Chapter of the American Planning Association is holding a Planning and Zoning Essential Seminar on February 27, 2012 in Traverse City from 4:00-7:00 pm. Chairperson Stults stated it was very informative and recommended attending. Information can be obtained through Mr. Ferrigan. Mr. Mang also stated there were opportunities through MAP (Michigan Association for Planners Planning) for online classes. Chairperson Stults stated he and Mr. Ferrigan were members and the class could be viewed in the meeting room by Planning Commission members without cost.

Chairperson Stults presented a letter of resignation from Mike Colosimo, Charlton Township. He thanked him for his service and said he would pass it along to fill the vacancy.

**Adjournment:** 8:05 pm by Chairperson Stults.

Christine Boyak-Wohlfeil, Recording Secretary

Ken Borton, Planning Commission Secretary



**HEALTH  
DEPARTMENT**  
of Northwest Michigan

August 7, 2012

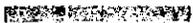
*Administrative Office*  
220 W. Garfield Ave.  
Charlevoix, MI 49720  
231 547 6523  
231 547 6238 - fax

209 Portage Dr.  
Bellaire, MI 49615  
231 533 8670  
231 533 8450 - fax

205 Grove St.  
Mancelona, MI 49659  
231 587 5052  
231 587 5313 - fax

3434 M-119, Suite A  
Harbor Springs, MI  
49740  
231 347 6014  
231 347 2861 - fax

95 Livingston Blvd.  
Gaylord, MI 49735  
989 732 1794  
989 732 3285 - fax



Dental Clinics North  
*Administrative Office*  
220 W. Garfield Ave.  
Charlevoix, MI 49720  
231 547 6523  
231 547 6238 - fax

Hospice of Northwest  
Michigan  
220 W. Garfield Ave.  
Charlevoix, MI 49720  
800 551 4140  
231 547 1164 - fax

Northern Michigan  
Regional Lab  
95 Livingston Blvd.  
Suite D  
Gaylord, MI 49735  
989 732 1794  
989 732 3285 - fax

Mr. David Drews  
Northern Michigan Engineering, Inc  
PO Box 1763  
Gaylord, Michigan 49734

Re: Proposed Kokozen Estates Site Condominium, Units 1-3, Section 29,  
Bagley Township, Otsego County, file no. 99530

Dear Mr. Drews:

In accordance with Section 71a of Act 59, Public Acts of 1978, as amended, the proposed Kokozen Site Condominium (Units 1 through 3) has been reviewed and is granted **conditional approval** from the Health Department of Northwest Michigan. This approval is conditioned upon the restrictions and conditions contained within this correspondence.

As proposed, this site condominium consists of 3 single-family residential units on approximately 3 acres of land. The units range in area from 1.01 to 1.15 acres. It has been determined that public water supply and wastewater disposal systems will not be available to serve this proposal in the foreseeable future. Individual units will be entirely dependent upon individual on-site water supplies and individual on-site sewage treatment and disposal systems. Mr. Thomas D. Zipp, PE (Lic. No. 38295) of Northern Michigan Engineering has submitted a Site Condominium Site Report that certifies the suitability of the site for on-site water supply and wastewater treatment/disposal.

Soil data submitted by Northern Michigan Engineering has been reviewed and confirmed as to its accuracy by this agency. The typical soil conditions encountered were predominantly sandy textured soils. The soil conditions are considered to be suitable for on-site sewage treatment and disposal systems.

Northern Michigan Engineering has also provided an assessment of the suitability of proposed on-site individual water supplies. The review and submittal of water well records from the area and collection of water samples from a representative well located near the project.



Water samples collected from have confirmed the chemical and bacteriological suitability of the water withdrawn from the aquifer. Our review of this assessment concurs with the position of the consulting engineer in that water of adequate quantity and quality appears to be available to serve the development.

The proposed site condominium subdivision is granted conditional approval by this agency subject to the following restrictions. **The wording of these restrictions is to be made part of the recorded master deed under the heading "Water supplies and wastewater treatment and disposal systems".**

1. All units are restricted to single-family residential use only.
2. The initial & replacement drainfield and well locations as depicted on the approved condominium subdivision plan dated 7-6-12, Mr. Thomas D. Zipp, PE (Lic. No. 38295), Northern Michigan Engineering shall be preserved for that use by the unit co-owner.
3. Initial and replacement drainfield areas are to be preserved by restricting vehicular traffic, filling or cutting of grade and placement of structures in those areas unless as otherwise directed by the Health Department of Northwest Michigan (or its successor local public health agency).
4. All water wells shall be isolated a minimum of 75 feet from any potential source of contamination.
5. Reports of lower quality water in the upper aquifer have been made. Water for domestic use of a more suitable quality has been shown to be available below the clay layer that is present in many wells at approximately 40 feet.
6. Wells must be constructed to provide water to the home at minimum sustainable capacity of 10 (ten) gallons per minute. Additional capacity may be necessary depending upon the needs of the homeowner.
7. Permits for the installation of individual water wells and sewage treatment/disposal systems shall be obtained from the Health Department of Northwest Michigan (or its successor local public health agency) prior to the commencement of any site preparation or construction on any given unit. Variations to the approved individual site development plans for a given unit may be proposed at the time of permit application submittal.
8. The individual unit co-owner shall be responsible for the maintenance and proper operation of the water supply and wastewater treatment/disposal systems serving the individual unit.

9. The elevated iron level of 1.32 mg/l detected in the water sample collected, although not a health concern, may require treatment of the water supply to improve taste, color, and odor and prevent staining of water fixtures.
10. The above restrictions must run in perpetuity and may only be waived by the Health Department of Northwest Michigan (or its successor local public health agency).

A copy of the proposed master deed, incorporating the above restrictions, must be submitted to this agency for review and approval as to form and content prior to recording. Upon recording of the approved master deed and submittal of a copy of the recorded document to the agency, **final approval** may then be granted. No permits will be issued by this agency in the development until final approval has been granted.

If you have any questions concerning this matter, feel free to contact this office.

Sincerely,



Michael Jones, RS  
Environmental Health District Supervisor

Cc: Tom Zipp, Project Engineer  
Dale Ladouceur, MDEQ, Land Division & LHD Support  
Bagley Township Clerk, Otsego County  
Bill Lubs, HDNW Environmental Health County Supervisor

**MASTER DEED**

**KOKOZEN ESTATES,  
A SITE CONDOMINIUM**

THIS MASTER DEED has been executed as of \_\_\_\_\_, 2012, by TMAG PROPERTIES, LLC, a Michigan limited liability company, having an address of 23230 Industrial Park Dr., Farmington Hills, Michigan 48335 (the "Developer"), pursuant to the provisions of the Michigan Condominium Act, as amended (the "Act").

**RECITALS:**

A. The Developer desires to establish the real property described in Article III below, and all appurtenances to it, together with all improvements at any time located upon that property, as a site condominium project under the Act.

B. The Developer has prepared and executed this Master Deed, together with the Bylaws attached to this Master Deed as **Exhibit A** and the Condominium Subdivision Plan attached to this Master Deed as **Exhibit B** both of which are incorporated by reference into the Master Deed, to accomplish this purpose.

**ARTICLE I**

**DEFINITIONS**

When used in any of the Condominium Documents (as hereinafter defined), or in any other instrument pertaining to the Condominium Project (as hereinafter defined) or the creation or transfer of any interest in it, the following terms shall carry the definitions which follow them unless the context clearly indicates to the contrary:

(a) "Act" or "Michigan Condominium Act" means the Michigan Condominium Act, being Act 59 of the Public Acts of 1978, as amended.

(b) "Applicable Law" means any and all laws, statutes, rules, regulations or ordinances applicable to the Condominium Project or any unit.

(c) **"Board of Directors"** means the board of directors of the Condominium Association (as hereinafter defined).

(d) **"Bylaws"** means **Exhibit A** attached to this Master Deed, the Bylaws for the Condominium Project.

(e) **"Common Elements,"** where used without modification, means both the General and Limited Common Elements, as defined in Article V of this Master Deed.

(f) **"Condominium Association"** means Kokozen Estates Condominium Association, a nonprofit corporation organized under the laws of the State of Michigan, of which all co-owners shall be members and which shall administer, operate, manage, and maintain the Condominium Project. Any action required of or permitted by the Condominium Association shall be exercisable by its Board of Directors unless explicitly reserved to the members by the Condominium Documents or the laws of the State of Michigan, and any reference to the Condominium Association shall, where appropriate, also constitute a reference to its Board of Directors.

(g) **"Condominium Documents"** means and includes this Master Deed, **Exhibit A** and **Exhibit B** attached to this Master Deed, and the articles of incorporation and the rules and regulations, if any, of the Condominium Association.

(h) **"Condominium Premises"** means and includes the land described in Article III of this Master Deed, and all easements, rights, and appurtenances belonging to the Condominium Project, as described below.

(i) **"Condominium Project"** or **"Condominium"** means Kokozen Estates, a site condominium, which is a residential condominium project established pursuant to the Act.

(j) **"Condominium Subdivision Plan"** means **Exhibit B** attached to this Master Deed.

(k) **"Condominium unit"** or **"unit"** each means that portion of the Condominium Project designed and intended for separate ownership and use, as described in Article VI of this Master Deed and on the attached **Exhibit B**.

(l) **"Construction and Sales Period,"** for the purposes of the Condominium Documents and the rights reserved to the Developer thereunder, shall be deemed to continue for so long as the Developer owns a unit in the Project.

(m) “**Co-owner**,” “**owner**,” or “**member**” each means a person, firm, corporation, limited liability company, partnership, association, trust, or other legal entity or any combination of those persons and/or entities who owns a Condominium unit within the Condominium Project. A co-owner includes land contract vendees (to the extent the land contract vendees are not in default) and land contract vendors, but both parties are nonetheless considered jointly and severally liable under the Act and the Condominium Documents.

(n) “**Developer**” means TMAG Properties, LLC, a Michigan limited liability company, and its successors and assigns. The Developer of the Condominium owns the real property dedicated to the Condominium and will develop the Condominium.

(o) “**Expenses of Administration**” means all common expenses of the Condominium Project, such as those described in Article V of the Bylaws. All Expenses of Administration shall be paid by the Condominium Association.

(p) “**Master Deed**” means this Master Deed, including the attached **Exhibit A** and **Exhibit B**, both of which are incorporated by reference and made a part of this Master Deed.

(q) “**Receipts of Administration**” means all sums received by the Condominium Association in connection with the administration of the Condominium Project, such as those described in Article V of the Bylaws.

(r) “**Residence**” shall mean the residential dwelling and its appurtenances constructed or to be constructed within a unit.

(s) “**Transitional Control Date**” means the date on which a Board of Directors of the Condominium Association takes office pursuant to an election in which the votes which may be cast by eligible co-owners who are members of the Condominium Association unaffiliated with the Developer exceed the votes which may be cast by the Developer.

Terms used but not defined in this Master Deed, but defined in the Act, shall carry the meanings given them in the Act unless the context clearly indicates to the contrary. Whenever any reference is made to one gender, the same shall include a reference to any and all genders where such a reference would be appropriate; similarly, whenever a reference is made to the singular, a reference shall also be included to the plural where such a reference would be appropriate, and vice versa.

## **ARTICLE II**

### **DEDICATION**

By executing and recording this Master Deed, the Developer establishes Kokozen Estates as a site condominium project under the Act. Once established, the Condominium Project shall be held, conveyed, encumbered, leased, occupied, improved, and in every manner utilized subject to (i) the provisions of this Master Deed, and (ii) the Act. The provisions of this Master Deed shall run with the land included in the Condominium Project and bind the Developer and all persons acquiring or owning an interest in the Condominium Project, or in the real estate dedicated to the Condominium Project, and their grantees, successors, assigns, heirs, and personal representatives. The remainder of this Master Deed has been set forth in furtherance of the establishment of the Condominium Project.

## **ARTICLE III**

### **LEGAL DESCRIPTION**

The land which is dedicated to the Condominium Project established by this Master Deed is legally described as follows:

A PARCEL OF LAND ON PART OF GOVERNMENT LOT 1, SECTION 29, TOWN 30 NORTH, RANGE 3 WEST, BAGLEY TOWNSHIP, OTSEGO COUNTY, MICHIGAN, DESCRIBED AS:

COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 29; THENCE SOUTH 38°05'23" WEST 563.98 FEET; THENCE SOUTH 01°15'52" WEST 332.48 FEET; THENCE SOUTH 81°59'04" EAST 91.67 FEET; THENCE NORTH 38°13'19" EAST 33.42 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 38°13'19" EAST 16.87 FEET; THENCE 134.89 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 216.96 FEET, A DELTA ANGLE OF 35°37'20" AND A CHORD OF NORTH 27°43'05"W 132.73 FEET; THENCE 133.47 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 182.00 FEET, A DELTA ANGLE OF 41°59'04" AND A CHORD OF NORTH 30°44'08" WEST 130.50 FEET TO THE EASTERLY LINE OF WEST OTSEGO LAKE DRIVE; THENCE ALONG SAID EASTERLY LINE NORTH 38°13'20" EAST 66.05 FEET; THENCE CONTINUING ALONG SAID EASTERLY LINE NORTH 37°59'55" EAST 219.95 FEET; THENCE SOUTH 61°42'04" EAST 398.24 FEET TO THE NORTHWESTERLY CORNER OF THE PLAT OF KOKOZEN AS RECORDED IN LIBER 10F PLATS PAGE 41; THENCE SOUTH 28°09'56" WEST 381.28 FEET ALONG THE NORTHWESTERLY LINE OF SAID PLAT; THENCE CONTINUING ALONG SAID NORTHWESTERLY LINE SOUTH 28°09'56" WEST 40.12 FEET; THENCE NORTH 66°18'29" WEST 229.34 FEET TO THE POINT OF BEGINNING, CONTAINING 3.85 ACRES OF LAND, MORE OR LESS.

Rev 8/7/12

Together with and subject to (i) any other easements, restrictions, and governmental limitations of record and (ii) any easements set forth on the Condominium Subdivision Plan attached as **Exhibit B** to this Master Deed or as declared and reserved in Article VII below.

## ARTICLE IV

### TITLE AND NATURE

The Condominium Project shall be known as Kokozen Estates, a site condominium, also identified by an Otsego County subdivision plan number assigned by the Register of Deeds at the time of recording. Such architectural plans and specifications as may exist for the Condominium Project will be filed with the Township of Burton, Michigan. The improvements contained in the Condominium Project, including the number, boundaries, dimensions, and area of each unit, are set forth in the Condominium Subdivision Plan attached as **Exhibit B**. The Condominium Project contains individual units to be used as building sites for single family homes. Each unit has been designed and is intended for separate ownership and use. Each co-owner in the Condominium Project shall enjoy the exclusive right to occupy his or her unit, and to the extent provided in Article V, Part B, below, Limited Common Elements appurtenant thereto, and shall have undivided and inseparable rights to share with other co-owners the use and enjoyment of the General Common Elements.

## ARTICLE V

### COMMON ELEMENTS AND UNITS

A. General Common Elements. The General Common Elements are:

1. The real property described in Article III of this Master Deed, excluding the Limited Common Elements and those portions within the boundaries of any Condominium unit as described in Article VI, Part A of this Master Deed and shown on **Exhibit B**, but including easement interests of the Condominium in the property within the boundaries of any unit; provided, however, that each co-owner shall have the right to drill one or more water wells into the earth beneath its unit as deep as necessary to gain access to water for use within the unit, and when drilled, the portion of such well that extends beneath his or her unit shall be a limited common element;

2. All private roads and utility rights-of-way serving the Condominium Project;

3. The main electrical distribution and telephone and communications wiring systems throughout the Condominium Project (excluding facilities which serve individual units); and

4. Any other elements of the Condominium Project not herein designated as Common Elements which are not enclosed within the boundaries of a unit and which are intended for common use or necessary to the existence, upkeep, and safety of the Condominium Project as a whole.

Some or all of the utility lines, systems, and equipment described above may be owned by the local public authority or by the company that is providing the pertinent service. Accordingly, such utility lines, systems, and equipment shall be General Common Elements only to the extent of the co-owners' interest therein, if any, and Developer makes no warranty with respect to the nature or extent of such interest. Each co-owner will be responsible for connecting the utilities for its unit to the distribution lines at its expense.

B. Limited Common Elements. The Limited Common Elements are those Common Elements, if any, limited in use to the owners of the unit they serve, abut, or to which they appertain, provided that the portion of any water well extending beneath any unit, once drilled by the owner of an adjoining unit, shall be a limited common element appurtenant to the unit it serves.

C. Upkeep of Common Elements and Units. The respective responsibilities for the maintenance, decoration, repair, renovation, restoration, and replacement of the Common Elements and units are as follows:

1. The Condominium Association shall bear the burden and cost of and responsibility for snow removal, maintaining, renovating, restoring, repairing, and replacing all General Common Elements, unless the need for maintenance, renovation, restoration, repair, or replacement is due to the acts or neglects of a co-owner or his or her pet, agent, guest, or invitee, for which such co-owner shall be wholly responsible, unless, and to the extent, any such loss or damage is covered by insurance maintained by the Condominium Association.

2. Each co-owner shall bear the burden and cost of and responsibility for maintaining, renovating, restoring and replacing all Limited Common Elements appurtenant to its unit only, and shall share equally in all costs related to the private roads serving the Condominium Project, which shall be administered by the Association

3. Except to the extent of maintenance, repair or replacement due to the act or neglect of another co-owner or his or her pet, agent, guest, or invitee, for which such co-owner shall be wholly responsible, the burden of insuring, maintaining, repairing, and replacing all improvements and personal property, including trees and landscaping, within the boundaries of a unit, and of all Limited Common Elements appurtenant to the unit, shall be borne by the co-owner of the unit.

## ARTICLE VI

### UNIT DESCRIPTION AND PERCENTAGES OF VALUE

A. Description. A description of each unit is set forth in the Condominium Subdivision Plan. Each unit shall consist of all that space within the unit boundaries, as shown on the Condominium Subdivision Plan and delineated in heavy outlines, but not any Common Elements contained therein.

B. Percentages of Value. The total value of the project is 100 percent. All units are hereby assigned the following percentage of value:

Unit 1	33.34%
Unit 2	33.33%
Unit 3	33.33%

A unit's percentage of value shall be determinative of its proportionate share of the common proceeds and Expenses of Administration, the value of its vote at certain meetings of the Condominium Association and of its undivided interest in the Common Elements.

## ARTICLE VII

### EASEMENTS

A. Easements for Maintenance and Related Matters. If all or any portion of a Common Element encroaches upon a unit due to survey errors, construction deviations, reconstruction, replacement, renovation or repair, an easement shall exist for the maintenance of the encroachment for so long as the encroachment exists, and for maintenance thereof after rebuilding in the event of any destruction. Perpetual easements shall also exist to, through, over, under, and across the Condominium Premises, including all units, for the maintenance, repair, or replacement of Common Elements, which easements shall be administered by the Condominium Association in favor of the Condominium Association to enable it to carry out the duties assigned to it in the Condominium Documents, and as may be appropriate, for the installation, inspection, maintenance, repair, and replacement by the responsible governmental entity or utility company of drainage facilities or utilities in the Condominium Project. The Condominium Association may grant such easements, licenses, and rights-of-way over, under, and across the Condominium Premises for utility purposes, access purposes, or for the benefit of the Condominium Project, subject, however, to the approval of the Developer so long as the Developer holds any unit available for sale or so long as any additional unit may be created in the Condominium.

B. Local Units of Government. Without limiting any other provisions of this Article VII, an easement is hereby granted to the Township of Bagley and Otsego County for the

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purpose of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits and other installations of a similar character (hereinafter collectively called "public structures") for the purpose of providing public utilities, including conveyance of sewage, water and storm water runoff across, through and under the property subject to such easement, and excavating and refilling ditches and trenches necessary for the location of such public structures.

## ARTICLE VIII

### ALTERATIONS OF UNIT BOUNDARIES

A. Alterations.

1. If co-owners owning adjoining units desire to relocate the boundaries between those units, or if an owner desires to combine two adjoining units under common ownership into one unit, then the President or other authorized officer of the Condominium Association shall, upon written application of the co-owners or the owner, as the case may be, accompanied by the written approval of all mortgagees of record of the affected units, forthwith prepare or cause to be prepared an amendment to this Master Deed duly relocating the unit boundaries.

2. The benefited co-owner shall be responsible for all costs associated with the realignment of the boundaries between units, or the combination of two units, such as the cost of amending the Master Deed and Subdivision Plan.

B. Convertible Area. The Condominium is not convertible.

C. Governmental Requirements. All relocations of boundaries shall conform to the setback and other requirements of the ordinances of the Township of Bagley and the County of Otsego for minimum lot width, lot area, and building setback requirements for the zoning district in which the Condominium Project is located, and shall be approved by the governmental agency having jurisdiction.

D. Master Deed Amendment. No unit modified in accordance with the provisions of this Section shall be conveyed until an amendment to this Master Deed effectuating such modification or removal is recorded. All of the co-owners and mortgagees of units and other persons interested or to become interested in the Condominium Project from time to time shall be deemed to have unanimously consented to an amendment or amendments to this Master Deed to effectuate the foregoing. All such interested persons irrevocably appoint the Condominium Association as their agents and attorneys-in-fact for the purpose of executing such amendment or amendments to the Condominium Documents necessary to effectuate the foregoing. This power shall be deemed coupled with an interest.

E. Subdivision. Units may not be subdivided, nor may any separate condominium project be established within them.

**ARTICLE IX**

**CONVERTIBLE AREA**

The Condominium is not convertible.

**ARTICLE X**

**CONTRACTION OF CONDOMINIUM**

The Condominium is not contractable.

**ARTICLE XI**

**ENLARGEMENT OF CONDOMINIUM**

The Condominium is not expandable.

**ARTICLE XII**

**AMENDMENT**

Except as otherwise expressly provided in this Master Deed, the Condominium Project shall not be terminated, vacated, revoked or abandoned except as provided in the Act, nor may any of the provisions of this Master Deed, including **Exhibit A** and **Exhibit B**, or any other Condominium Documents, be amended, except as follows.

A. Methods and Conditions.

1. This Master Deed, the Bylaws (subject to the restrictions set forth in Article VII of this Master Deed), and the Condominium Subdivision Plan may be amended, even if the amendment will materially alter or change the rights of the co-owners or mortgagees, either pursuant to Subsection 8 below or by an affirmative vote of 100% of the co-owners and, subject to the provisions of Section 10 below, two-thirds of the mortgagees. The affirmative vote of 100% of co-owners is considered 100% of all co-owners entitled to vote as of the record date for voting. A co-owner will have one vote for each unit owned. The required votes may be achieved by written consents or by votes at any regular annual meeting or a special meeting called for such purpose, or a combination of votes and consents. Mortgagees are not required to appear at any meeting of co-owners and their approval may be solicited through written ballots pursuant to Section 10 below. Any mortgagee ballots not returned within ninety (90) days of mailing shall be deemed received and cast in favor of approval for the change.

2. In no case, unless (i) all of the mortgagees, (ii) all owners (other than the Developer) of the individual Condominium units, and (iii) the Developer (if at the time it owns any units or there remains any unit that may be created) have given their prior written approval, shall the Condominium Association be entitled by any act or omission to seek to abandon or terminate the Condominium Project.

3. The restrictions contained in this Article XII on amendments shall not in any way affect the rights of the Developer as set forth elsewhere in this Master Deed.

4. Co-owners shall be notified in writing at their addresses reflected in the Condominium records of proposed amendments not less than ten (10) days before the amendment is recorded.

5. The rights reserved to Developer in this Master Deed or in the Bylaws attached hereto as **Exhibit A** may not be amended except by or with the consent of the Developer.

6. To the extent the Act or the Condominium Documents require a vote of mortgagees of units on amendment of the Condominium Documents, the following procedures apply:

(a) The date on which the proposed amendment is approved by the requisite majority of co-owners is considered the "**Control Date.**"

(b) Only those mortgagees who hold a duly recorded first mortgage or duly recorded assignment of a first mortgage against one or more Condominium units in the Condominium Project on the Control Date are entitled to vote on the amendment. Each mortgagee entitled to vote shall have one vote for each Condominium unit in the Condominium Project that is subject to its mortgage or mortgages, without regard to how many mortgages the mortgagee may hold on a particular condominium unit.

(c) The Condominium Association shall give a notice to each mortgagee entitled to vote containing all of the following:

(i) A copy of the amendment or amendments as passed by the co-owners;

(ii) A statement of the Control Date;

(iii) A statement of the number of Condominium units subject to the mortgage or mortgages of the mortgagee;

(iv) The date by which the mortgagee must return its ballot;

(v) An envelope addressed to the entity authorized by the Condominium Board of Directors for tabulating mortgagee votes;

(vi) A statement containing language in substantially the following form:

“A review of the Condominium Association records reveals that you are the holder of one (1) or more mortgages recorded against title to one (1) or more units in Kokozen Estates Site Condominium. The co-owners of the Condominium adopted the attached Amendment to the Condominium Documents on [insert the Control Date]. Pursuant to the terms of the Condominium Documents and/or the Michigan Condominium Act, you are entitled to vote on the Amendment. You have one (1) vote for each unit that is subject to your mortgage or mortgages.

The Amendment will be considered approved by first mortgagees if it is approved by sixty-six and two-thirds percent (66-2/3%) of those mortgagees. In order to vote, you must indicate your approval or rejection on the enclosed ballot, sign it, and return it no later than ninety (90) days after this notice (which date coincides

with the date of mailing). Failure to timely return a ballot will constitute a vote for approval. If you oppose the Amendment, you must vote against it.”

(vii) A ballot providing spaces for approving or rejecting the amendment and a space for the signature of the mortgagee or an officer of the mortgagee.

(d) The Condominium Association shall mail the notice described in the preceding Subsection (c) to the first mortgagee at the address provided in the mortgage or assignment of mortgage for notices.

(e) The amendment is considered to be approved by the first mortgagees if it is approved by sixty-six and two-thirds percent (66-2/3%) of the mortgagees whose ballots are received or are deemed to have been received and cast in favor of approval (as provided in Article XII, Part A, Section 2 above).

(f) The Condominium Association shall maintain a copy of the notice, proofs of mailing of the notice, and the ballots returned by mortgagees for a period of two (2) years after the Control Date.

(g) Notwithstanding any provision of the Condominium Documents to the contrary, first mortgagees are entitled to vote on amendments to the Condominium Documents only under the following circumstances:

(i) Termination of the Condominium Project;

(ii) A change in the method or formula used to determine the Percentage of Value assigned to a unit subject to the mortgagee's mortgage;

(iii) A reallocation of responsibility for maintenance, repair, replacement, or decoration of a Condominium unit, its appurtenant Limited Common Elements, or the General Common Elements from the Condominium Association to the Condominium unit subject to the mortgagee's mortgage;

(iv) Elimination of a requirement for the Condominium Association to maintain insurance on the Condominium Project as a whole or a Condominium unit subject to the mortgagee's mortgage or reallocation of responsibility for obtaining or maintaining, or both, insurance from the Condominium

Association to the Condominium unit subject to the mortgagee's mortgage;

(v) The modification or elimination of an easement benefiting the Condominium unit subject to the mortgagee's mortgage;

(vi) The partial or complete modification, imposition, or removal of leasing restrictions for Condominium units in the Condominium Project; and

B. Recording.

1. An amendment to this Master Deed or other recorded Condominium Documents shall not be effective until the amendment is recorded.

2. A copy of the recorded amendment shall be delivered to each co-owner.

C. Costs. A person causing or requesting an amendment to the Condominium Documents shall be responsible for the costs and expenses of the amendment, except for amendments based upon the Board of Directors' decision to make a nonmaterial amendment to the Condominium Documents, the costs of which shall be deemed Expenses of Administration (as defined in the Bylaws).

**ARTICLE XIII**

**CONTROLLING LAW**

The provisions of the Act, and of the other laws of the State of Michigan and of the United States, shall be applicable to and govern this Master Deed and all activities related hereto.

**ARTICLE XIV**

**RESERVED**

## **ARTICLE XV**

### **ASSIGNMENT**

Any and all of the rights and powers granted or reserved to the Developer in the Condominium Documents or by law, including the right and power to approve or disapprove any act, use, or proposed action or any other matter or thing, may be assigned by it to any other entity or to the Association. Any such assignment or transfer shall be made by appropriate instrument in writing, recorded in the office of the Otsego County Register of Deeds, in which the assignee or transferee shall join for the purpose of evidencing its acceptance of such powers and rights, and such assignee or transferee shall thereupon have the same rights and powers as herein given and reserved to the Developer. Any rights and powers reserved or granted to the Developer or its successors shall terminate, if not sooner assigned to the Condominium Association at the conclusion of the Construction and Sales Period. The immediately preceding sentence dealing with the termination of certain rights and powers granted or reserved to the Developer is intended to apply, insofar as the Developer is concerned, only to the Developer's rights to approve and control the administration of the Condominium and shall not, under any circumstances, be construed to apply to or cause the termination of any real property rights granted or reserved to the Developer or its successors and assignees in this Master Deed or elsewhere (including, but not limited to, access easements, utility easements and all other easements created and reserved in such documents which shall not be terminable in any manner hereunder and which shall be governed only in accordance with the terms of their creation or reservation).

## **ARTICLE XVI**

### **WATER SUPPLIES AND WASTEWATER TREATMENT AND DISPOSAL SYSTEMS**

1. All units are restricted to single-family residential use only.
2. The initial & replacement drainfield and well locations as depicted on the approved condominium subdivision plan dated 7-6-12, Mr. Thomas D. Zipp, PE (Lic. No. 38295), Northern Michigan Engineering shall be preserved for that use by the unit co-owner.
3. Initial and replacement drainfield areas are to be preserved by restricting vehicular traffic, filling or cutting of grade and placement of structures in those areas unless as otherwise directed by the Health Department of Northwest Michigan (or its successor local public health agency).
4. All water wells shall be isolated a minimum of 75 feet from any potential source of contamination.

5. Reports of lower quality water in the upper aquifer have been made. Water for domestic use of a more suitable quality has been shown to be available below the clay layer that is present in many wells at approximately 40 feet.
6. Wells must be constructed to provide water to the home at minimum sustainable capacity of 10 (ten) gallons per minute. Additional capacity may be necessary depending upon the needs of the homeowner.
7. Permits for the installation of individual water wells and sewage treatment/disposal systems shall be obtained from the Health Department of Northwest Michigan (or its successor local public health agency) prior to the commencement of any site preparation or construction on any given unit. Variations to the approved individual site development plans for a given unit may be proposed at the time of permit application submittal.
8. The individual unit co-owner shall be responsible for the maintenance and proper operation of the water supply and wastewater treatment/disposal systems serving the individual unit.
9. The elevated iron level of 1.32 mg/l detected in the water sample collected, although not a health concern, may require treatment of the water supply to improve taste, color, and odor and prevent staining of water fixtures.
10. The above restrictions must run in perpetuity and may only be waived by the Health Department of Northwest Michigan (or its successor local public health agency).

[REMAINDER OF PAGE INTENTIONALLY BLANK]

The undersigned has executed this Master Deed as of the date first written above.

TMAG PROPERTIES, LLC, a Michigan limited liability company

By: A & G Vacation Properties, LLC, a Michigan limited liability company, Member

By: \_\_\_\_\_  
Roger Zatkoff, Manager

And: \_\_\_\_\_  
Edward M. Maitland, Member

STATE OF MICHIGAN     )  
  : ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2012, by Roger Zatkoff, Manager of A & G Vacation Properties, LLC, a Michigan limited liability company, as Member of TMAG Properties, LLC, a Michigan limited liability company, on behalf of the companies.

\_\_\_\_\_  
Print Name  
Notary Public, \_\_\_\_\_ County, MI  
My commission expires: \_\_\_\_\_

STATE OF MICHIGAN     )  
  : ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2012, by Edward M. Maitland, as Member of TMAG Properties, LLC, a Michigan limited liability company, on behalf of the company.

\_\_\_\_\_  
Print Name  
Notary Public, \_\_\_\_\_ County, MI  
My commission expires: \_\_\_\_\_

Drafted by and when recorded return to:  
Maureen H. Burke  
Dickinson Wright PLLC  
2600 West Big Beaver Road, Suite 300  
Troy, Michigan 48084  
(248) 433-7284

BLOOMFIELD 45991-5 1195816v3

Rev 8/7/12

# Otsego County Planning Commission

PROPOSED Minutes for July 16, 2012/Regular Meeting

**Call to Order:** 6:00 pm

Pledge of Allegiance

**Roll Call:**

Present: Chairperson Stults, Vice-Chairperson Arndt, Mr. Hilgendorf, Mr. Brown, Ms. Nowak, Mrs. Jarecki, Mr. Klee, Mr. Hartmann, Mr. Hendershot, Mr. Mang

Absent: Secretary Borton

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

Public Present: None

**Consent Agenda:** None

**Approval of minutes from May 21, 2012:**

Mr. Mang requested the a change under 'Approval of minutes...' from '**...approve minutes as corrected by Mr. Borton**' to '*approve minutes by Mr. Borton as corrected*'.

Motion made to approve minutes by Vice-Chairperson Arndt as corrected; Seconded by Mr. Hartmann.

Motion approved unanimously.

Chairperson Stults requested corrections to previous meeting Minutes be specified in the following meeting Minutes.

**Other:** None

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

**Unfinished applicant business:** None

**Public Hearing:** None

**Unfinished Commission Business:** None

a. Mining

1. Reclamation Costs/Final Guarantees

Motion made by Ms. Nowak to follow Otsego County Legal Counsel, Haider Kazim's recommendations and include his revisions for Reclamation/Performance Guarantees in the proposed changes; Seconded by Mr. Brown.

Motion approved unanimously.

2. Setbacks/Minimum Lot Size

Motion made by Mr. Hilgendorf to keep the current setback of fifty (50) feet as stated in the Otsego County Zoning Ordinance; Seconded by Mr. Klee

# Otsego County Planning Commission

PROPOSED Minutes for July 16, 2012/Regular Meeting

Motion approved by majority; Opposed by Ms. Nowak.

Motion made by Vice-Chairperson Arndt to set the minimum lot size of ten (10) acres for gravel operations; Seconded by Ms. Nowak.

Motion approved unanimously.

Mr. Klee departed 7:00 pm.

## 3. Distance from Water

The Planning Commission requested a list of criteria pertaining to the decision making process for a soil erosion permit from Patricia Osburn, Soil Conservation Director. Mr. Ferrigan will obtain the information and present at a future meeting.

### b. Planting Buffer Yard

Mr. Ferrigan stated he did not receive any opposition to the changes presented, as the revised table was easier to understand than the current.

Discussion about snow removal areas ensued. Chairperson Stults suggested the snow storage area be included in a site plan review to be able to place conditions on that area for snow storage only.

Mr. Brown voiced his township's concerns over the different setbacks for Forest Recreation (FR) and Agricultural (AR) zoned areas according to *Article 14 Schedule of Dimensions*.

Motion made by Mr. Brown to change setbacks of FR and AR to reflect the same as other areas in the Ordinance; Seconded by Vice-Chairperson Arndt.

Chairperson Stults stated the use of the property was the basis for the setbacks and suggested Mr. Ferrigan research the Ordinance so not to affect other areas of the Ordinance.

Motion made by Ms. Nowak to postpone the motion made by Mr. Brown for further investigation into the Otsego County Zoning Ordinance; Seconded by Mr. Hendershot.

Motion approved unanimously.

## New Business:

### a. Health Department of Northwest Michigan, Jane Sundmacher, presentation of community health assessment

Ms. Sundmacher was not present.

### b. Recommendation for School Board Representative

Otsego County received two (2) applications and one (1) recommendation for School Board Representative.

Mr. Ferrigan stated (per Haider Kazim, Otsego County Legal Counsel) with a Township recommendation, it was within the law for Mr. Hilgendorf, retired, to remain as School Board Representative.

# b.  
Unfinished  
Business

# Otsego County Planning Commission

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## PROPOSED Minutes for July 16, 2012/Regular Meeting

Motion made by Ms. Nowak recommending to the Otsego County Board of Commissioners Mr. Hilgendorf remain as *School Board Representative* to the Planning Commission; Seconded by Mr. Mang.

Motion approved unanimously.

### Reports and Commission Member's Comments:

Mr. Ferrigan stated the Otsego County Land Use Services Department maybe moving to a new location on Hayes Road in the near future. He would notify the Planning Commission, when and if, it was definite.

Mr. Ferrigan stated the new *Civil Infraction Ordinance* went into effect June 27, 2012 and is available on the Otsego County website. He commented on Prosecuting Attorney, Brendan Curran's willingness to allow the Land Use Director the authority to enforce violations occurring within Otsego County to be resolved in court.

Chairperson Stults stated there was an Otsego County Township Officers Association meeting at Hayes Township Hall, July 17, 2012, 6:00 pm.

Mr. Ferrigan requested Mr. Brown have a picture taken for Otsego County official identification.

**Adjournment:** 7:57 pm

Christine Boyak-Wohlfeil, Recording Secretary

Ken Borton, Planning Commission Secretary



ESTABLISHED 1873

*Otsego*  
C O U N T Y  
M I C H I G A N

*Department of  
Land Use Services*

1068 Cross St • Gaylord, MI 49735  
Phone (989)731.7420 • Fax (989)731.7429  
[www.otsego-county-mi.gov](http://www.otsego-county-mi.gov)

9-17-12

To: Otsego County Planning Commission members

From: Otsego County Land Use Director

Re: Set-back requirements in the FR & AR zoning districts

I was asked to review the Otsego County Zoning Ordinance specifically for the proposal of changing the setback requirements in the Forest Recreation and Agricultural from the current set-backs of: Front 50', Side 20' and rear 40'. To match the setback requirements in the other residential zoning districts of Front 25', Side 10' and rear 30'

My review has revealed no specific reasons that the setbacks are different in these two zoning districts, other than the FR & AR properties are typically larger than the other residential districts. R1, R2 & RR have a minimum lot size of .46 acre or 20,000 square feet and R3 requires a minimum of .92 acre or 40,000 square feet. The FR & AR district requires a minimum lot size of 2.02 acre or 88,000 square feet.

My feeling is that when the parcel sizes were determined that the thought was "larger lot" larger set-back".

If the Planning Commission were to make a change in set-back requirements for the FR & AR zoning districts. The change would only have an effect on the Principal Uses Permitted, and only those that do not have specific requirements found in article 18. Uses that are regulated in article that have specific setback requirements would remain the same.

In my opinion there is no reason that a single family dwelling and typical accessory buildings in the FR & AR zoning districts should be required to have a greater setback requirement than other residential zoning districts.

Joe Ferrigan  
Director Otsego County Land Use



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

*Department of  
Land Use Services*

1068 Cross St • Gaylord, MI 49735  
Phone (989)731.7420 • Fax (989)731.7429  
[www.otsegocountymi.gov](http://www.otsegocountymi.gov)

August 15, 2012

Final report for PC-2003-09-CH-SUP Northern Processing

Back ground:

**Motion from November 2, 2001 Planning Commission meeting**

Motion by Carl Lord:

"That Mr. Thomas Matelski (Northern Processing, LLC), be permitted to mine 4.99 acres, more or less, which is part of a 57 acre parcel, more or less, located on Winters and Pyke School roads, Corwith Township, T32N, R3W, Section 33, parcel code 042-033-300-005-01 and zoned FR (forest Recreation), pursuant to the provisions of Article 18, Section 18.25 of the Otsego County Zoning Ordinance.

Approval of Mr. Matelski's request shall be subject to the following conditions:

1. All written documents and exhibits shall be included and considered as an integral part of the motion.
2. That Article 18, Section 18.25 and other referenced Articles of the Otsego County Ordinance are complied with during the life of this permit.
3. Pit rehabilitation or restoration shall follow guidelines found in Section 18.25.7 of the Otsego County Zoning Ordinance and the recommendations of the Otsego County Soil Conservation District.
4. Permit shall be issued for a period of two years.
5. That the four corners of the site be staked to delineate the exact area to be mined
6. Mining operation on site shall be restricted to 8:00 AM to 5:00 PM, Monday through Friday and from 9:00 AM until noon on Saturday and no activity on Sunday.
7. Crushing operations shall be restricted to 8:00 AM to 5:00 PM, Monday through Friday.
8. No stockpiling or processing of offsite resources is authorized except sand, clay, pea gravel and or any stone needed to create a county road mix.
9. Transporting of resources from and to the site be restricted to 8:00 AM to 5:00 PM, Monday through Friday and from 9:00 AM until noon on Saturday with no activity Sunday. The intent is to avoid school bus traffic in the AM and rush hour traffic along the haul routes.
10. Northern Processing, LLC and local brokers will honor speed limits as absolute along the haul routes in an effort to promote public safety.
11. That no mining operation of any type take place after this permit has expired without the expressed written consent of the Zoning Administrator.

12. That the Otsego County Road Commission must grant approval for a planned entrance off Pyke School Road if it materialized

13. Per the Otsego County Zoning Ordinance, Northern Processing, LLC, shall file with the appropriate County Officer, a security bond or an irrevocable line of credit in the amount of \$5,000.00.

Seconded by Mark Stephens

AYES: Acting Chairman James Maddix, Mark Stephens, Carl Lord, John Markovich, and George McCutcheon

NAYS: Chuck Klee, Donald Tober

EXCUSED: Chairman Skip Diercks, John Ernst, Lee Olsen, Rick Nedow, Motion carried by roll call vote.

**January 19, 2004 Otsego County Planning Commission meeting minutes (portion regarding PC-2003-09-CH-SUP)**

Proposed General Findings of Fact for Case No. PC-2003-09-CH-SUP

1. The Planning Commission finds that the property is zoned Forest Recreation (FR).
2. The Planning Commission finds that surface mining (gravel, sand, etc.) is a permitted use subject to special conditions in the FR district.
3. The Planning Commission finds that, per Section 18.25.12, approval for a mining Special Use Permit shall be for a specific period of time not to exceed five years.
4. The Planning Commission finds that the applicant is requesting a Special Use Permit to continue operation of a gravel pit for a period of five years.
5. The Planning Commission finds that a Special Use Permit for mining was issued for this property in Case No. SUP--2001-9-4-CH. That permit was valid for two years and has expired.
6. The Planning Commission finds that Northern Processing is simply requesting a five year extension of that permit and Northern processing is willing to abide by the conditions set forth in that permit.
7. The Planning Commission finds that the previous Zoning Administrator and the present Zoning Officer/Administrator have inspected the site on several occasions to insure compliance with the special use permit requirements.
8. The Planning Commission finds that the present Zoning Officer/Administrator states that Northern Processing has been in compliance with the Special Use Permit issued in Case No. SUP-2001-9-4-CH.

The Board unanimously accepted the proposed General Findings of Fact.

Motion by Maddix, supported by Stephens to approve the request of Northern Processing based on the proposed General Findings of Fact for Case No. PC-2003-09-CH-SUP and to reference the Findings of Fact from the November 2, 2001 document with the change from two (2) years to five (5) years.

Ayes: Unanimous by roll call vote with one member absent.

**August 16, 2010 Otsego County Planning Commission meeting minutes (portion regarding PC-2003-09-CH-SUP pit restoration plan submitted by Northern Processing LLC July 19, 2010)**

Motion made by Mr. Arndt that we accept the pit restoration plan submitted by Northern Processing LLC July 19, 2010 with the condition that seed or seed mixtures, rate of application of seed and fertilizer, soil depth, types of fertilizer and considering time frame for completion of work shall be in accordance with correspondence from the Otsego Conservation District dated 7-22-10 signed by Patricia Osburn, Administrator and Soil Conservation inspector. Supported by Mr. Mang.

Motion approved unanimously. Motion passes.

(A copy of the approved Pit Restoration Plan dated July 19, 2010 and signed by Thomas J. Matelski and the correspondence from the Otsego Conservation District dated 7-22-10 signed by Patricia Osburn, Administrator and Soil Conservation inspector. Have been attached to and are to be part of this final Inspection document).

In August of 2011 Ms. Jozwiak was asked to walk the property and place a numbered stake at each area that she felt was out of compliance with the requirements of the Reclamation Plan and the requirements of the Otsego County Zoning Ordinance. On September 6<sup>th</sup> & 7<sup>th</sup>, 2011, Northern Processing accompanied by Otsego County contractual inspector Vern Schlaud addressed each of the stakes and corrections were made as required by Mr. Schlaud. (Pictures taken during this inspection are identified and attached)

Otsego County Land Use Staff has monitored the site throughout the fall of 2011, spring and summer of 2012. On June 11, 2012 a final Inspection was conducted by Otsego County Land Use Director Joseph S. Ferrigan (Pictures taken during this inspection are identified and attached).

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PC-2003-09-CH-SUP finding of fact:

1. 042-033-300-005-03 is the parcel identification number for which PC-2003-09-CH-SUP was approved by the Otsego County Planning Commission on January 19, 2004

**Legal description for parcel # 042-033-300-005-03:**

**W 1/2 OF SE 1/4 OF SW 1/4 AND SW 1/4 OF SW 1/4 EXC COM AT SW COR E 1109.06 FT ALG S LN TO POB N340.5 FT, E 384 FT, S 340.5 FT, W 384 FT ALG S LN TO POB SEC 33 T32N-R3W CONT 49.81 AC M/L 99 SPLIT FROM 042-033-300-005-00 AND A 02 SPLIT FROM 042-033-300-005-01**

2. Pit rehabilitation or restoration shall follow guidelines found in Section 18.25.7 of the Otsego County Zoning Ordinance and the recommendations of the Otsego County Soil Conservation District.

18.25.7 Rehabilitation: All extraction areas shall be rehabilitated progressively as they are worked out. Rehabilitated sites shall be reasonably natural and inconspicuous and shall be reasonably lacking in hazard. All slopes and banks remaining above water level shall be graded to angles which do not exceed one (1) foot in elevation for each three (3) feet of horizontal surface and they shall be treated to prevent erosion or any other potential deterioration.

**All mining areas have been inspected grading is in compliance with the one foot in elevation for each three feet of horizontal surface. The site is reasonably natural and lacking in hazard.**

3. Otsego Conservation District recommendations planting recommendations: Plant a mixture of seeding Red Fescue 20 lbs. / acre, Perennial Ryegrass 6 lbs. / acre and Red Clover 3 lbs. / acre. Fertilize according to the soil test results is recommended. If no soil test is available, use fertilization

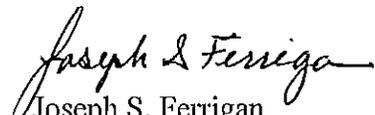
recommendations in Table 5 of Critical Area Planting, which states 500 pounds per acre of 12-12-12 or equivalent (Equivalent 19-19-19 is 315 pounds per acre).

**Otsego County Land Use staff observed the application of the seed mixture and the fertilizer to the rehabilitated mining area.**

Therefore:

Otsego County Land Use finds that Northern Processing has completed the reclamation of PC-2003-09-CH-SUP in compliance with the requirements of the Special Use Permit issued by the Otsego County Planning Commission January 19, 2004 and the Pit Restoration Plan approved by the Otsego County Planning Commission on July 19, 2010.

Northern Processing LLC is released from the requirements of Special Use Permit PC-2003-09-CH-SUP. Otsego County Land Use Services now considers this Special Use Permit Closed.



Joseph S. Ferrigan

Director Otsego County Land Use Services