EMMET COUNTY PLANNING
COMMISSION REGULAR MEETING
THURSDAY FEBRUARY 1, 2018
7:30 PM
EMMET COUNTY BUILDING
COMMISSIONER'S
BOARDROOM
200 DIVISION ST
PETOSKEY, MI
49770

AGENDA

I Call to Order and Attendance

II Election of Officers

III Minutes of January 4, 2017

IV Cases

NEW CASES

1. Case #PPUDF18-01 Robert Drost, Amendment to preliminary PUD, Final PUD & Site Plan Review, 2157 Howard Rd and adjacent parcel, Section 17, Bear Creek Township

V Public Comments

VI Other Business
   1. Enforcement Report
   2. Accessory Uses in FF-1 & FF-2
   3. Wineries

VII Adjournment
EMMET COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES
THURSDAY JANUARY 4, 2018, 7:30 P.M.
EMMET COUNTY BUILDING
200 DIVISION ST
PETOSKEY, MI 49770

MEMBERS PRESENT: Kelly Alexander, John Eby, Tom Urman, Jonathan Scheel, Steve Neal, James Scott, Toni Drier, David Laughbaum

MEMBERS ABSENT: Charles MacInnis (newly appointed member)

STAFF: Tammy Doernenburg

I Call to Order and Attendance
Chairman Eby called the meeting to order at 7:30 p.m. All members were present except MacInnis.

II Minutes of December 7, 2017
Alexander made a motion, seconded by Neal, to approve the minutes of the December 7, 2017 meeting as presented. The motion passed unanimously by voice vote of the members present.

III Public Hearing – Emmet County Parks and Recreation Plan
Eby opened the Public Hearing on the plan. Doernenburg gave a brief explanation of the plan and review process to date. Public Hearing is scheduled with the Board of Commissioners on January 18, 2018 at 5:45 PM. The Parks and Recreation Board reviewed the document over the past several months. There was no public comment.

Commissioner Neal felt that the plan was good, but it could be great if the projected funding sources and generalized estimated cost of the goal projects were included. Drier expressed the efforts of the Parks and Recreation Board to understand the costs and revenues associated with the Parks and Recreation Department. There was mention of the need for a Capital Improvement Plan which would identify top priorities for funding and sources.

Doernenburg asked for direction with the list of Contributors since there has been a staff change. Consensus was that the 2018 current staff members and Board members be used.

Alexander asked what the revenue stream is for the Parks and Recreation Department. Doernenburg stated that she could provide that information to the Commission.

There was general discussion regarding the funding for the Waterfront Event Center at the Headlands.

Scheel added that the Parks and Recreation Board is trying to figure out revenue streams for the facilities, not only for the Headlands, but all County properties. There are continuous efforts to work with schools and other organizations to increase revenue. Many of the projects within the Plan are grant driven. Priorities are typically based on grant money available. He would like to see fund sources identified in the plan.

Neal stated that the document is an awesome reminder of just how awesome Emmet County is.

Alexander agreed. Number one dark sky park in the World. He stated that he never foresaw the numbers of visitors to the area. He hopes that we can build upon the positive aspects of the parks.
Following the discussion, Scott motioned, Alexander seconded, that the Emmet County Parks and Recreation Plan be approved with amendments as discussed on the page titled “List of Contributors”. The motion passed on the following roll call vote: Yes: Eby, Drier, Scott, Scheel, Urman, Alexander. No: Neal, Laughbaum. Absent: MacInnis.

III  Cases

1. Case PSPR 17-014  Ironwood Construction for ZD Metal Products, SITE PLAN REVIEW-Amendment, 1950 Fochtman Industrial Park Dr, Section 26, Bear Creek Township

**Notice:** A request by Ironwood Construction for ZD Metal Products for Site Plan Review - amendment at 1950 Fochtman Industrial Pk Dr in Section 26 of Bear Creek Township. The property is zoned I-1 Light Industrial and is tax parcel 24-01-16-26-200-046. The request is to build onto the manufacturing building which had been partially destroyed by fire and will be reviewed through Articles 14 and 20 of the Emmet County Zoning Ordinance.

**Packet Items:** Request & location map, application, tax parcel map, site plan review checklist, impact statement, aerial, historical meeting minutes (6/1/89 & 5/8/97), previously approved site plans, site plan, SUP details, 12/15/17 staff report.

**Supplemental packet items:** Fire Chief review, revised site plan received 12/21/2017, elevation plans, revised staff report 12/28/2017

Doernenburg explained the request on a parcel zoned I-1 Light Industrial in the Fochtman Industrial Park. The proposed addition follows a structure fire last winter. The site has been prepared for the additions which would be a single story office building in the front of the building and fill-in between the two buildings. Glass Alternatives was the original user in the building. Adjacent uses were identified. Photos and aerials from 2012 and 2017 were shown. Access is through the existing driveways. A screened dumpster is shown on the plan. Exterior lighting is full cut-off. There is ample snow storage on the plan. Fire Chief reviewed and his review has been forwarded to the applicant who has agreed to comply with the requirements.

Chuck Woodward from Ironwood Construction was present to answer any questions the Commission may have.

Scheel added that Bear Creek Township had requested larger caliper trees and the applicant had agreed.

There was a question regarding the amount required for the drainage performance guarantee. Doernenburg stated that the engineer will need to provide the amount.

Laughbaum asked how fire protection will be handled. Woodward stated that there will be segregation of the building with fire rated walls. He explained the construction requirements that they will be meeting to enhance fire protection. He showed the location of a 3 hour fire-rated wall to protect the occupants within separate parts of the building. There is an alarm which will be implemented. Scheel added that there is magnesium in the building, so there are certain chemicals used in fighting fires. Woodward added that fire extinguishers are reviewed almost weekly.
Scheel motioned, Urman seconded, to approve Case #PSPR17-014, Ironwood Construction for ZD Metal Products for Site Plan Review – amendment for an industrial business on property located at 1950 Fochtman Industrial Park Drive, Section 26, Bear Creek Township, tax parcel 24-01-16-26-200-046, as shown on the site plan dated Received Dec 21, 2017 and the elevation plan submitted 12/27/2017 because the standards of Articles 14 and 20 have been met, and on condition that any exterior lighting be full cut-off and a performance guarantee in the amount to be provided by the engineer be submitted prior to issuance of a zoning permit and that an as-built drainage plan be provided upon completion of construction, and further on condition that the dumpster be screened as required by the Zoning Ordinance and the deciduous trees be 4” caliper, and because Bear Creek Township recommended approval. The motion passed on the following roll call vote: Yes: Eby, Drier, Scott, Scheel, Urman, Alexander, Neal, Laughbaum. No: none. Absent: MacInnis.

2. Case PSUP 17-019 Robert Drost, SPECIAL USE PERMIT, 2157 Howard Rd, Section 17, Bear Creek Township

Legal Notice: A request by Robert A Drost for a Special Use Permit for permission for a temporary one-time log grinding event on property located at 2157 Howard Road, Section 17, Bear Creek Township. The property is zoned PUD - Planned Unit Development and is tax parcel 24-01-19-17-100-019. The request is per Section 17 and Articles 22 and 26 of the Zoning Ordinance. The request is also being reviewed as a FF-1 Farm and Forest district use: Portable and temporary uses similar to hot/cold mix plants (Section 26.31) and/or forest products processing (Section 26.33).

Packet Items: Request & location map, aerial map, application, tax parcel map, site plan review checklist, impact statement, Grinder Demo graphic and specs, site plan, 12/19/17 staff report

Supplemental Packet: Bear Creek Township PC meeting minutes, written comments from the applicant received 12/28/2017, Support Letter Haggard’s Plumbing and Heating, updated staff report dated 12/28/2017

Doernenburg explained the request for a Special Use Permit for a temporary use to allow wood chipping of logs brought onto the property. This is a one-time request, advertised as a use similar to a batch plant. The site is 17 acres which was reviewed in 2017 for a Preliminary PUD which allowed FF-1 uses on the site. The tree chipping location is setback near the wood line of the site. There are topographic differences on the property which further shield the location of the chipping from adjacent residences. Photos and aerial photos were shown. The township reviewed and recommended approval. Hours of operation were agreed to be 8AM-4:30PM for the four days. The township offered an additional day if approved by the Zoning Administrator. Adjacent uses were identified. Bear Creek Township recommended approval with those additional standards.

Bob Drost stated that he has learned a lot over the years in business. He stated that the logs are too large to split and use for firewood, so this is a way to be able to reuse the wood. He stated that there are sites where logs are stored and never used. They researched and found that a grinder was available to grind the logs into useable materials. The logs can be ground in 3-4 days and then removed from the site as mulch. He is working for a future operation at a different site. The machine was used at the Emmet County Recycle Center.

There was no public comment.
Scheel stated that he has seen the machine in operation at the Transfer Station/Recycle Center. It is surprisingly quiet and very efficient. He doesn’t think it will negatively impact the neighbors.

There was additional discussion regarding the number of days to chip. The location and topography is such that it should not cause a nuisance. Drost added that the materials on the site are a year’s worth of wood. This is a good reuse for the wood.

Urman motioned, Alexander seconded, approval of case PSUP 17-019, Robert A. Drost, Special Use Permit for a temporary one-time log grinding event on the property located at 2157 Howard Road, Section 17, Bear Creek Township, tax parcel 24-01-19-17-100-019 based on the site plan and supporting materials dated Nov 16, 2017 for the following reasons: the use is screened from public view, the use is a one-time event, and on condition that the use be permitted for 4 days with 2 additional days able to be approved by the Zoning Administrator due to unforeseen circumstances, the owner will notify the Planning and Zoning office prior the chipping activity, there is to be no additional materials brought onto the site for processing, and hours of operation for the chipping is to be no longer than 8AM-4:30PM daily for the allowable days, and Bear Creek Township Planning Commission and Board recommended approval. The motion passed on the following roll call vote: Yes: Eby, Drier, Scott, Scheel, Urman, Alexander, Neal, Laughbaum. No: none. Absent: MacInnis.

3. **PSPR 17-015** Wayne Blomberg for Ryde Marine, SITE PLAN REVIEW-Amendment, 7433 Keystone Park Dr, Section 11, Littlefield Township

**Notice:** A request by Wayne Blomberg for Ryde Marine for a site plan amendment at 7433 Keystone Park Dr, Section 11, Littlefield Township. The property is zoned I-1 Light Industrial and is tax parcel 24-07-11-127-116. The request is to allow outdoor storage per Article 14 and Section 26.43 of the Zoning Ordinance.

**Packet Items:** Request & location map, aerial map, application, site plan review checklist, impact statement, applicant letter, plot plan, development survey, staff report

**Supplemental Packet:** Littlefield Township recommendation

Doernenburg explained that the Township has requested this case be postponed until May so that an accurate site plan/survey can be provided. The location map showing the site within the Keystone Industrial Park was displayed. The site is setback from M-68. The original site plan was displayed which showed three buildings, however, two buildings were built and the request is for the two buildings and outdoor storage as shown on the plot plan. There have been questions raised as to the accuracy of the plan. Looking at the aerial photos from 2008, 2012 and 2017 it is clear that the storage has been occurring in-line with the fronts of the buildings for that entire time and the outdoor storage has expanded over the years. Photos of the site were shown. Staff report shows concern with maneuvering between the storage and the buildings. The proposal appears to meet setback standards. The case was brought before the Planning Commission as a result of enforcement actions. Postponing a decision on the case to a determined time in the future makes sense to allow time for a survey when there’s no snow on the property.

Scheel stated that a scaled drawing would be helpful in his review.
Drier asked if adjacent property owners had complained. Doernenburg replied they had not, it was discovered during a review of an adjacent property in 2017.

The applicant was not present.

Paul Mooradian, developer and an adjacent owner, described the history of the property and development. He stated that the development requires outdoor storage to be placed behind the front plane of the building. He added that the site plan originally showed three buildings, so this is really a site plan amendment, not just to add storage, but also to change the plan. The site has not been developed in accordance with the approved site plan. He agrees that a scaled site plan showing boundaries should be required. As the developer, he advocates for the co-owners. He thinks it should be a proper plan. Mooradian added that, generally, not just for this case, commercial developments should have plans drawn in a more detailed manner.

Scheel stated that the Planning Commission needs to be provided with a complete, verifiable site plan. The owner has pushed the limits and is not in compliance. At a minimum, the site plan should be scaled and detailed for future enforcement. Eby added the site plan needs to show both existing and proposed uses on the property. This has been requested in the past on sites when the location of the lot lines are not known.

Drier added that a written review from the Township Fire Department should be requested. We should know the distance from the building to the boats that would be necessary to address safety concerns. This information should be provided at the next review.

Scheel motioned that Case PSPR17-015, Wayne Blomberg for Ryde Marine for Site Plan Review – amendment for a boat storage business on property located at 7433 Keystone Park Dr., Section 11, Littlefield Township, tax parcel 24-07-11-127-116 be tabled until the June 7, 2018 Emmet County Planning Commission meeting to allow the applicant time to provide a complete and accurate, verifiable site plan showing existing and proposed uses and to satisfy the Site Plan Review requirements. The motion was seconded by Scott and passed on the following roll call vote: Yes: Eby, Drier, Scott, Scheel, Urman, Alexander, Neal, Laughbaum. No: none. Absent: MacInnis.

IV Public Comments: None.

V Other Business:

1. **Enforcement Report- Distributed** with no discussion.
2. **Michigan Medical Marihuana update-** Little Traverse Township has adopted a resolution to not allow medical marijuana facilities. Center Township opposes medical marihuana facilities in their township. No Emmet County townships have opted-in, however, according to the Petoskey News Review, the Village of Alanson is exploring an Ordinance to allow facilities. Alexander asked which community is the closest to Emmet County which has opted-in. Doernenburg was unsure but offered to research. Scheel thought that Otsego County had some communities which have opted-in.
3. **Farming-Accessory Uses**- Doernenburg stated that the text has not been reviewed by Civil Counsel. The currently proposed draft prepared by staff had been distributed as well as recommended drafts from the Bay View Wine Trail representatives and David Coveyou. There are two different texts, one for wineries, distilleries, hard cider facilities, and a second for accessory uses in the farm and forest zoning districts.

Scott provided specific changes that he would like to see. He stated that the original title for the accessory uses text is adequate. He thought the setbacks should be greater than 100 feet to protect from noise nuisances. He felt significant isolation was needed or masonry or other significant material would be needed to reduce the noise. Eby added that setbacks for sawmills are 1,000 ft. Having a greater setback may also require a larger property size. He felt that the hours of operation may be too restrictive.

Alexander agreed that the end time of 10 PM is too restrictive. He felt that if the standards are in place that would reduce the negative impacts, then the hours of operation would be less of a concern. He added that it’s not the use so much as the abuse. If abused, it creates a negative impact for the neighbors.

Neal added that decibel levels at the property line may be a standard to consider.

Eby stated that the current Ordinance works. A PUD can be used for this type of use. There had been a case in the past, and the process worked. The PUD would allow the Planning Commission to review each request on a case-by-case basis.

Paul Mooradian asked what types of uses the Planning Commission is reviewing. Eby responded “party barns”. There was brief discussion regarding the Right to Farm Act and the Generally Accepted Agricultural Management Practices (GAAMPS). There was discussion regarding commercial operation versus farming operation. GAAMPS can change annually.

Drier stated that she would prefer these types of uses be reviewed on a case-by-case basis. She added that a farm property in southern Emmet County is very different than a farm property in northern Emmet County.

David Coveyou, farm owner and member of the Bear Creek Township Planning Commission, stated that he is a farm owner and that farming has changed over the years. This draft text gives the farmers guidelines so that they know what would be permitted. The goal is to preserve farming, but farms need to be able to have additional income to be successful. The differences now are that farmers try to get customers to come to the farm. He feels this is positive. It helps tourism. He would like to see this type of use encouraged in the proper locations. Reviewing on a case-by-case basis would discourage people from buying a farm. It wouldn’t make sense to require these types of social events to be inside of a building. People come to the farm to experience the vineyards and the scenic beauty.

Eby stated that the PUD process does work. It’s worked recently. There was extensive
discussion.

Neal stated that the problem is that we don’t want to allow a bar on the property or a commercial use, just because they’re calling the property a farm.

Alexander stated that he supports agriculture. He doesn’t want to allow farming to be used in a way that negatively impacts neighbors, if it isn’t truly farming. The state has given the regulatory authority to the local units. There are places where agri-tourism impacts the neighborhood negatively.

Coveyou agreed and thought that language should be in place that is specific so that a perspective farmer will know what is expected before buying land. It removes the subjectivity and then decisions wouldn’t be arbitrary.

Consensus seemed to be that wineries, distilleries, and the other activities proposed by the text are commercial. They are currently allowed in other zoning districts. It is not a farm. Scott added that a PUD gives the Planning Commission a lot of flexibility. Drier added that decisions now are based on the standards of the Ordinance (for a PUD). She is concerned because the GAAMPS can change every year.

Alexander stated that there are situations where the proposed text would be ok, but there are many locations where the proposed standards would not be adequate.

Urman added that farming is acceptable, it’s the events and building the centers to allow additional activities that’s not acceptable in all locations. Event centers are permitted in commercial zoning districts, with good reason. He is familiar with an event center located in Michigan that generates not only noise, but a large influx of traffic causing a negative impact to the neighborhood.

Coveyou stated that having a farm with value-added activity is worth the trade-off if it will help protect the farm and scenic views farms provide. Alexander stated that he agrees, provided that the added activity does not negatively impact the neighbors.

Eby stated that the PUD is a tool which could be used. It could be used as an overlay district in appropriate locations.

Laughbaum gave a history of the Right to Farm Act and why it was enacted. It was to protect existing farms, using acceptable practices, when an incompatible use moved into the area being actively farmed. Zoning was established to separate uses enough so that they don’t cause problems for neighbors. Farming has changed over the years. He has concerns with the terminology. Meanings have changed. He would like to see people be able to use their land as long as it doesn’t negatively impact the neighbors. Farm and Forest land should be able to be used for farming. If we don’t allow people to use their land, they can’t fulfil their dreams. The trouble with a PUD is that it doesn’t give specific standards. The zoning is very restrictive. We can’t separate out social events. It’s all subjective. We should get something in writing. He doesn’t
like the terminology. There needs to be distance of where it is allowed.

Neal stated that the uses change over time. It would be difficult to write standards for every possible use. If a property owner obtained approval, then if they wanted to change to add a use, they’d have to return to seek approval.

Drier added that GAAMPS change every year, or can change. This is problematic. Scheel stated that the State of Michigan can pre-empt uses at any time for any use. We should move forward and not worry about those changes. Neal stated that he fears that the GAAMPS can change. Scheel commented that it hasn’t changed substantially, it is more our interpretation. He encouraged the members to research the GAAMPS. Neal added that the uses change.

Scheel stated that he is in agreement with David Coveyou, for the most part. He thinks it’s about preservation of open space and active farmland. He is not looking at this as a right in Farm and Forest. If it doesn’t do those things identified in the impact statement. He thinks it’s important for all zoning districts, that there be some sort of assurance of what can be done on your land. He added that cases brought before the Planning Commission are reviewed on a case-by-case basis. He thinks there can be some standards that can be put into a case-by-case review. We should be able to build these uses into the Ordinance recognizing that they may be specific to farm uses, but not necessarily the Farm and Forest District.

Laughbaum added that this issue is not going away. People want to use their farms. We can get ahead of this or we can be overly restrictive, which is not beneficial. People have to add value to their farming to keep going.

Alexander stated that it’s not about restricting rights of property owners, but protecting rights of owners and preserving everybody’s rights.

Scott stated that using a farm building for public gatherings is not safe. It does not promote the health, safety, and welfare of the public. It was not built for public gathering. There was additional discussion.

The “Accessory Uses” draft text amendment was discussed at length. Eby asked if staff had direction, but it was not clear that there was consensus. Doernenburg stated that if the goal is to promote these types of uses, then a less restrictive Ordinance should be created. If the goal is to restrict these types of uses, then the PUD tool would accomplish that goal. The PUD is cumbersome. It takes several months to gain approval through the current PUD process. She asked for direction from the commission as a whole. There was additional discussion. Every case is different. Laughbaum stated if this is done right, it will enhance what we have in the future.

Drier added that we need to be sure that what is approved in this room, is what we’re actually getting. She has seen approvals which were not completed as she had thought they were approved.

Eby asked each commissioners to voice their concerns and the method they’d like to see used to
move this forward.

Scott had given specific guidance: to increase the property size and setbacks, increase length of time for activities to occur.

Scheel would prefer two options, one Special Use Permit with specific standards, then if the owner could not meet those standards, they could apply for a PUD.

Urman stated that he would like reviews on a case-by-case basis so that neighboring property owners could be protected. Written in a worst-case scenario.

Eby prefers an Ordinance that would be written as the worst-case scenario.

Neal would like review on a case-by-case basis. It should be to the maximum benefit of the farmer with the maximum protection for the neighbors. It should be a PUD.

Alexander agreed with Neal adding that he is not trying to be overly restrictive, but does not want to see the rights of the neighboring property owners taken away. He thinks it needs to be a PUD process with worst-case scenario. Possibly a combination of two – a SUP or a PUD.

Laughbaum is concerned with the terminology, specifically “commercial”. He thinks the Ordinance should be written to allow this type of activity. He is more comfortable with the word farm and business. He is worried with the term “commercial”.

Drier stated that the use should be a case-by-case. Farms differ by area.

Mark Drier commented that he did not think that the 20 acre minimum is large enough. He added that the Ordinance needs to be reviewed very thoroughly so that each and everyone understands what is being proposed. Changing an ordinance is time consuming and there can be consequences to enacting an Ordinance.

Paul Mooradian commented that he agreed with a two-option process. Perhaps there should be different categories based on the intensity of the use.

4. West Traverse Township-Doernenburg stated that a copy of the Ordinance was distributed digitally to the members. A memo was prepared with comments and general questions regarding the Ordinance. A short PowerPoint presentation was used to show some of the highlights of the new Ordinance including the new formatting, graphics, Schedule of Regulations, tables for Site Plan requirements, and the Land Uses Table. The Medical Marihuana Section has been updated and is very complete. Overall the Ordinance is felt to be consistent with Emmet County’s Ordinance, while targeting specific goals of West Traverse Township. The Ordinance is interactive and seems easy to understand and use. Scott motioned, Alexander seconded, to authorize the Chairman to sign the memo prepared by staff and forward it to the West Traverse Township Board. The motion passed by unanimous voice vote.

VI Adjournment

There being no other business Eby called the meeting adjourned at 10:11 p.m.
REQUEST

PPUDF18-01

A two-part request from Robert Drost for 1) amendment to the Preliminary Planned Unit Development (PUD) and 2) a Final PUD and Site Plan Review for 2157 Howard Road and an adjacent vacant parcel both located within Section 17 of Bear Creek Township. The property is zoned Planned Unit Development and includes tax parcels 24-01-19-17-100-019 and 100-005. The permitted uses include FF-1 Farm and Forest Principal and Special Land Uses, Storage Uses and Multiple Family Uses; the proposed uses are Storage on parcel 100-019 and Forest Product Processing on 100-005. Review is per Articles 8, 17, 20, 21, and 26 of the Zoning Ordinance.

LOCATION
ZONING EVALUATION FORM
Office of Planning and Zoning
Emmet County, MI

DATE: 01/15/2018
CASE #: PPUDF18-01

APPLICANT: DROST ROBERT A & DIANA M TRUSTS

PROPERTY: 2157 HOWARD RD (01-19-17-100-019) & vacant parcel accessed via River Road (100-005)

TOWNSHIP: BEAR CREEK

REQUEST: Planned Unit Development – amend Preliminary Plan and Final

FACTS:
- The property had been zoned FF-1 Farm and Forest.
- The request includes two properties totaling 24.5 acres.
- The properties have frontage on both Howard and River Roads.
- The Preliminary PUD Plan was approved in 2017 and included multiple family dwellings, storage uses, and nursery uses in addition to the FF-1 district uses allowed by the Zoning Ordinance (see enclosed Plan).
- The review is a two-part request. Part one: modify the Preliminary PUD Plan to eliminate the multiple family uses as shown on the revised plan and to allow Forest Product Processing (an FF-1 Special Land Use) on the parcel accessed via River Road. The Township approval is necessary. Final approval of the Preliminary PUD Plan amendment is by the Emmet County Board of Commissioners. Part two: seek approval of the Final Planned Unit Development Plan and site plan approval.
- The Emmet County Road Commission has approved the Howard Road access.
- There are no PUD modifications proposed.
- Surrounding uses include former City of Petoskey landfill (capped) to the north; residence and non-conforming auto repair shop to the south; residential to the west (across Howard Road) and a residence to the east of the parcel accessed from Howard Road. The parcel along River Road is adjacent to an accessory building on industrially zoned property to the north and is across River Road from the rail road corridor and the City of Petoskey’s River Road park complex.
- Both properties are currently vacant, however, a Special Use Permit for a Temporary Forest Product Processing event has been approved for the Howard Road property. The property fronting on Howard Road was also approved for topsoil extraction and storage.
- The plan has been submitted to the Fire Chief for his review.

STAFF NARRATIVE:
The Preliminary PUD Plan was approved by the Planning Commission and Board of Commissioners in June 2017 as shown on the attached concept plan (dated Received Feb 6 2017). The Planning Commission must first determine: Is the Final PUD Plan “...in basic accord with the approved Preliminary Development Plan...”? Section 17.01.6. If so, then proceed to Final PUD review. If not, then Preliminary PUD amendment would be necessary before proceeding to the Final PUD review. Once the Final PUD is approved, then Site Plan Review can be conducted.

The proposed Final PUD Plan eliminates the nursery use and the multiple family use. It expands the storage building usage and adds a Forest Product Processing site on the parcel accessed via River Road. The uses were all approved in the 2017 review, however, the overall arrangement of the uses has changed. (As a result, the request has been noticed as a two-part review.) First, the Preliminary PUD would need to be reviewed. Then, if approved, the Final PUD plan and site plan review could be completed. The Preliminary PUD requires rationale for the particular use arrangement and pertinent density. This Final PUD plan has changed from the previously approved Preliminary PUD. Perhaps on-site open space should be identified (acreage and/or preservation). Additional items needed for Final PUD review: “All arrangements for design, construction, maintenance, and operation of utility systems shall have been finalized, although working drawings need not be completed for this element.” Section 17.01.6.3. “The PUD’s ownership, management, and construction have been determined and documented, and where to be phased, a plan to demonstrate development continuity shall be presented.” Section 17.01.6.4. “Any existing or proposed deed restrictions, easements, or covenants pertinent to the project property shall be presented at this time...” Section 17.01.6.7.

**ZONING ORDINANCE STANDARDS:**
Planned Unit Development Standards apply – see Article 17 of the Emmet County Zoning Ordinance

Once the FINAL PUD is approved, then Site Plan Review Standards are reviewed:

**Section 20.05 Site Plan Review Standards**

The Planning Commission shall approve, or approve with conditions, an application for a site plan only upon a finding that the proposed site plan complies with all applicable provisions of this Ordinance and the standards and considerations listed below unless the Planning Commission waives a particular standard upon a finding that the standard is not applicable to the proposed development under consideration and the waiver of that standard will not be significantly detrimental to surrounding property or to the intent of the Ordinance.

**A. Compliance with District Requirements**
The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, yard space, density and all other requirements as set forth in the Zoning Ordinance, unless otherwise provided.

*There are no specific density standards for storage units, however, density standards for FF-1 (prior zoning district and surrounding zoning districts) is 1 unit per acre. The perimeter setback of the PUD has been maintained (50 ft).*
B. Vehicular and Pedestrian Circulation
Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. A pedestrian circulation system shall be provided and shall be as insulated as completely as reasonably possible from the vehicular circulation system. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves the project area shall be capable of safely and effectively accommodating the traffic volume and pattern proposed by the project. Where possible, shared commercial access drives shall be encouraged. Parking is proposed in front of each building. No pedestrian use expected other than from a vehicle to the storage unit. (Additional standards removed from this report.)

C. Emergency Vehicle Access
All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides. The plan has been submitted to the Fire Chief for review.

D. Loading and Storage
All loading and unloading areas and outside storage areas which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials of sufficient height to obscure the direct view from adjacent first floor elevations. The site plan shall provide for adequate storage space for the use therein. Extensive screening is proposed.

E. Snow Storage
Proper snow storage areas shall be provided so to not adversely affect neighboring properties, vehicular and pedestrian clear vision, and parking area capacity. Snow storage area appears to be adequate. Not identified on the plan.

F. Buffers
To provide reasonable visual and sound privacy, buffer techniques, screening, fences, walls, greenbelts, and landscaping may be required by the Planning Commission in pursuance of the objectives of this Section and/or as a condition of the establishment of the proposed use. Evergreen buffers proposed on north and west boundaries. None proposed to the south.

G. Drainage
*Drainage Plan To Be Provided.*
Storm water drainage plans shall address flows onto the site from adjacent sites and roads, storm water impact on the site (soils, impervious surfaces, potential impervious surface, retention ponds, detention ponds, and related management facilities as
appropriate), and the storm water outfall, or flow control into adjacent drainage courses, ditches and the like.

The drainage plan shall indicate the manner in which surface drainage is to be disposed of. This may require making use of the existing ditches, natural watercourses, or constructing tributaries, but shall not result in storm water that exits the detention pond and/or property site at an erosive velocity. Additional hard surfaces proposed for a site must provide for detention and/or retention. The minimum requirements for retention and detention facilities are as follows: For sandy sites the volume of retention and/or detention shall be equal to the volume of 1 and \( \frac{1}{2} \)" of water depth multiplied by the area of additional hard surface. For all sites other than sand, the volume of the retention and/or detention shall be equal to the volume generated from 2" of water depth multiplied by the area of additional hard surface. Both detention and retention facilities must be designed to assure that water is released within 72 hours. Detention facilities are to have a pipe no larger than 4" exiting the ponds at a grade no greater than 1%.

All storm water drainage plans shall be sealed by a Michigan Registered Professional Civil Engineer. The Planning Commission may waive the requirement, defer the requirement, or determine that a fully engineered storm drainage plan is not necessary, or can be deferred to a future date. Improvement guarantees shall be required, unless waived by the Planning Commission, for all storm water drainage plans in the form and amount acceptable by the Planning Commission to guarantee completion of the project in accordance with the conditions of the zoning permit. The performance guarantee will be released upon final inspection and approval by the Zoning Administrator, and receipt of sealed as built plans for storm water drainage.

Storm water retention basins designed to keep a fixed pool of water shall include one or more of the following safety features: 1) safety ledge(s) at least (10) feet wide at the basin perimeter, 2) vegetation surrounding the basin to discourage wading, or 3) fencing to prevent unauthorized access to basin.

Sandy, for the purpose of this Section, shall be defined as soils that meet a percolation rate consistent with the Emmet County Sanitary Code of 0 to 15 minutes.

H. Spaces, Rights-Of-Way, Easements
Spaces, rights-of-way, easements, and related site plan elements needed to serve the proposed use or development for such services as fire protection, sanitary sewers, water supplies, solid waste, storm drainage systems, and related. None shown.

I. Waste Receptacles
Waste receptacle and enclosure requirements None shown.

1. Receptacles, including waste receptacles, waste compactors, and recycling bins shall be designed, constructed, and maintained according to the requirements of this Section.
2. Waste receptacles, including dumpsters or compactors, shall be required for all nonresidential uses unless interior facilities are provided. The requirement to provide a waste receptacle may be waived by the planning commission if the applicant provides documentation that the development will not necessitate a waste receptacle.

3. All outdoor waste receptacles shall be enclosed on three (3) sides and screened. The enclosure shall be constructed of brick or decorative concrete material, consistent with the building materials of the principal building.

4. The enclosure shall also include a gate, made of wood or other high quality material, as determined by the planning commission, on the fourth side. If the waste receptacle is a dumpster it must have an enclosing lid or cover.

5. The enclosure shall have a minimum height of six (6) feet or one (1) foot above the height of the waste receptacle, whichever is greater, but may not be less than four (4) feet in height.

6. Waste receptacles and enclosures shall be located in the rear yard, not closer than three (3) feet from the rear lot line, or non-required side yard, unless otherwise approved by the planning commission and shall be as far as practical, but in no case be less than twenty (20) feet, from any residential district. If practical, the back side of the waste receptacle enclosure should be placed against the building. In this circumstance the wall may act as one (1) side of the enclosure.

7. Waste receptacles shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces or interfering with the normal movement of vehicles on or off the site.

**J. Mechanical or Electrical Equipment**

Mechanical or electrical equipment requirements. *None Shown.*

1. Ground mounted mechanical or electrical equipment, such as blowers, ventilating fans, and air conditioning units are permitted only in side yards or in the rear yard.

2. Mechanical or electrical equipment shall be placed no closer than three (3) feet to any lot line.

3. Any ground, building, or roof mounted mechanical or electrical equipment or utilities, including water and gas meters, propane tanks, utility boxes, transformers, elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment (HVAC), and other similar equipment, shall comply with the following standards:
a. All such equipment shall be screened by a solid wall, fence, landscaping, and/or architectural features that are compatible in appearance with the principal building.

b. Roof mounted equipment shall not exceed a height of ten (10) feet above the surrounding roof surface. All roof mounted mechanical units must be screened so they are not visible from ground level, even if not specifically addressed as part of site plan review.

Draft Motions:

To recommend approval to the Board of Commissioners of PPUDF18-01, Robert Drost for an amendment to the Preliminary Planned Unit Development Plan on property located at 2157 Howard Road and a vacant lot fronting River Road in Section 17, Bear Creek Township, tax parcels 24-01-19-17-100-005 & 019, as shown on the Proposed PUD Plan dated Received Jan 8 2018 because the standards for the Preliminary PUD have been met, and the uses include all previously approved uses, being FF-1 Farm and Forest uses, plus multiple-family, storage, and nursery or farming uses because of the adjacent land uses, the proposed uses are consistent with the rezoning and the Master Plan, there would be no adverse physical impact on surrounding properties and (conditions or statement of facts may be inserted here).

To deny PPUDF18-01, Robert Drost for a Final Unit Development on property located at 2157 Howard Road and a vacant lot fronting River Road in Section 17, Bear Creek Township, tax parcels 24-01-19-17-100-005 & 019, as shown on the Proposed PUD – Preliminary Development Plan dated Received Jan 8 2018 because the plan is not consistent with the Preliminary PUD Plan, it is inconsistent with the surrounding FF-1 uses and (other reasons may be added here).

To postpone until the next regular Planning Commission PPUDF18-01, Robert Drost for a Final Planned Unit Development review on property located at 2157 Howard Road and a vacant lot fronting River Road in Section 17, Bear Creek Township, tax parcels 24-01-19-17-100-005 & 019, as shown on the Proposed Plan dated Received Jan 8, 2018 to allow additional time for review and the following (additional reasons may be added here).

To Approve PPUDF18-01, Robert Drost for Final Planned Unit Development and Site Plan Review on property located at 2157 Howard Road and a vacant lot fronting River Road in Section 17, Bear Creek Township, tax parcels 24-01-19-17-100-005 & 019, as shown on the Proposed PUD Plan dated Received Jan 8 2018 because the standards for the Preliminary and Final PUD have been met, and the uses include all previously approved uses, being FF-1 Farm and Forest uses, plus storage because the plan is consistent with adjacent land uses, the proposed uses are consistent with the rezoning and the PUD Preliminary Plan, there would be no adverse physical impact on surrounding properties and the standards of Article 17 and Section 20 have been met. (conditions or statement of facts may be inserted here).
Section 26.32 Commercial Accessory Uses in FF-1 or FF-2

26.32.1 FF-1 or FF-2 District

**Intent**

It is the intent of these zoning provisions to:

- promote and maintain local farming,
- preserve open space and farmland,
- maintain the cultural heritage and a rural character,
- maintain and promote tourism,
- protect residential uses from negative impacts of commercial uses.

Specified commercial accessory uses may be permitted subject to the following standards including Planning Commission review:

A. **Permitted Accessory Uses**

The uses permitted pursuant to this Section may include one or more of the following:

1. Social events which may include weddings, receptions, and similar social activities operated or intended to be operated as a commercial operation.

2. Concerts and Festivals operated or intended to be operated as a commercial operation.

Uses permitted within this section must be clearly incidental to a “Farm Operation” as defined by the Michigan Right to Farm Act (1981 PA 93, as amended).

B. **Outside Activities**

All primary activities which involve sound systems or amplification systems shall be within a completely enclosed structure or sound systems or amplification systems may be located outside, but shall be setback a minimum of 1,000 feet from off-premises dwellings.

C. **Owner Occupancy**

Buildings and uses permitted shall only be approved on properties occupied by the owner and be the primary place of the owner’s residence.

D. **Site Size and Setback**

The minimum property size shall be twenty (20) eighty (80) acres or larger by description, having at least 600 ft. of lot width and at least 600 ft. of lot depth. The accessory use shall be setback a minimum of 600 ft from the side and rear property line and meet the front yard setback standard of the Zoning Ordinance. Setback standards shall apply to the accessory use, parking, and structures associated with the accessory use.

E. **Hours of Operation**

The Accessory Use shall be limited to the hours of 8AM to 10PM one day per calendar week, but not more than three (3) two (2) per calendar month, except that a Festival may be held one time per calendar year and be limited to three days.

F. **Building Limitations**

The ground floor area of proposed buildings associated with the uses permitted shall not exceed an area of 2,400 sq. ft.

G. **Parking**

Parking spaces shall be provided in accordance with the standards of Section 22.02 of this Ordinance except that parking areas shall be setback a minimum of 100 feet from the side and rear property lines and 40 feet from the road right-of-way. Parking shall be adequate to accommodate all users and uses on-site. Parking shall be kept in a natural vegetated condition to the greatest extent possible.
H. **Screening**
The accessory use shall be effectively screened from adjacent properties in accordance with the standards of Section 22.04.2.

I. **Lighting**
Lighting shall meet the Standards of Section 22.06 of this Ordinance.

J. **Signs**
Accessory signs shall follow the Standards of Section 22.07 of this Ordinance.

Modifications to the standards listed in items B thru J above are subject to review on a case-by-case basis and may be approved by the Planning Commission, if the intent of Article 8 FF-1 and FF-2 Farm and Forest and this Section 26.32 are is kept and the surrounding properties are protected from nuisances. These standards shall not apply to private (non-commercial) similar uses on properties used for residential purposes properties and which occur on an occasional basis (four times per year or less).
Acting Manager: Steve Mahoney, 517-284-5620, mahoneys@michigan.gov
Legal Authority: Michigan Right to Farm Act, Public Act 93 of 1981, as amended

Description of the Program:

- The Michigan Right to Farm Act provides broad definitions of a farm, farm operation, and farm products for purposes of on-farm production practices in Michigan. This law authorizes the Michigan Commission of Agriculture and Rural Development (Commission) to identify and adopt Generally Accepted Agricultural and Management Practices (GAAMPS), and requires the Commission to review each set of GAAMPS annually.
- The GAAMPS are developed by a technical advisory task force review committee of stakeholders and agency representatives. Eight specific sets of GAAMPS cover:
  - Manure Management and Utilization
  - Pesticide Utilization/Pest Control
  - Nutrient Utilization
  - Care of Farm Animals
  - Cranberry Production
  - Site Selection and Odor Control for New and Expanding Livestock Facilities
  - Irrigation Water Use
  - Farm Markets

- Task force review committee meetings are conducted at the discretion of the committee chairperson. Michigan Department of Agriculture and Rural Development staff provides program specific examples of the ‘real world’ on-farm application and utilization of GAAMPS.
- MDARD administers the editing of the GAAMPS, maintains draft GAAMPS on the department’s website, presents draft GAAMPS to the Commission, and publishes each set of adopted GAAMPS annually.

Why it Matters:

- The GAAMPS promote environmental stewardship on all Michigan farms, social compatibility, and an economically prosperous agricultural industry.

<table>
<thead>
<tr>
<th>Key Stakeholders</th>
<th>Key Deliverables</th>
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<tbody>
<tr>
<td>Michigan farmers and commodity organizations</td>
<td>Annual review and update of GAAMPS</td>
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<tr>
<td>State and locally elected officials</td>
<td>Public input on the GAAMPS received and provided to the review committees</td>
</tr>
<tr>
<td>Michigan Department of Environmental Quality</td>
<td>Provide draft GAAMPS to the Commission for review/approval annually</td>
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<td>Michigan State University Extension</td>
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<tr>
<td>USDA Natural Resources Conservation Service</td>
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<td>Michigan conservation districts</td>
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FY16 Accomplishments:

- Each GAAMPS review committee chairperson contacted to initiate annual review process.
- MDARD staff participation in each GAAMPS review committee meeting.
- Public input meeting conducted on September 8, 2016 to receive feedback and input on all draft GAAMPS.
- Program information provided to the Commission.
- Education/Outreach meetings conducted to publicize changes in the GAAMPS.

Measuring Success:

The number of task force meetings on each set of GAAMPS provides an indicator of the magnitude of use in the field, as well as updates needed. Manure Management and Livestock Site Selection typically see more changes than Pesticide Use and Pest Control, which is closely regulated, whereas, very few complaints are received about cranberry production or farm markets.

<table>
<thead>
<tr>
<th>Annual Review Committee Meetings</th>
<th>2012</th>
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<th>2014</th>
<th>2015</th>
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<td>Care of Farm Animals</td>
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<tr>
<td>Farm Markets</td>
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Dashboards and Scorecards:

- The Right to Farm Program did not have an item on the departmental scorecard for FY16. Staff is working with MDARD’s Director of Strategy and Business Performance to design measures toward this end.

FY17 Program Goals:

- Provide realistic on-farm information to review committees for consideration in the annual review process and for proposed updates, edits, or changes to existing GAAMPS.
- Relay comments and feedback about GAAMPS received from the general public to review committees.
- Maintain effective working relationships with review committees and stakeholders.
- Provide information on MDARD’s administration of the GAAMPS to the Commission.

December 2016
Michigan Department of Licensing & Regulatory Affairs

MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
525 W. Allegan. Lansing, MI 48933
P.O. Box 30005. Lansing, MI 48909

Michigan Wine Maker & Small Wine Maker Requirements and General Information

A "Wine Maker" license is issued by the Michigan Liquor Control Commission to a person located in Michigan to manufacture wine and to sell, at wholesale or retail, wine manufactured by that person.

- MCL 436.1113(9)

A "Small Wine Maker" means a Wine Maker that manufactures or bottles not more than 50,000 gallons of wine in 1 calendar year.

- MCL 436.1111(10)

A Wine Maker/Small Wine Maker License:
- May sell wine they manufacture to licensed Michigan wholesalers and to licensed Michigan retailers.
- May offer free samples or may include a charge for samples to consumers from the winery premises.
- May sell wine they manufacture directly to consumers for on-premises consumption (by the glass) or off-premises consumption (take out sales) from the winery premises.
- May sell wine they manufacture to consumers for on-premises consumption (by the glass) at the winery in conjunction with a restaurant at the winery premises.
- Must obtain a "Wine Producers'" Basic Permit from Alcohol, Tobacco Tax and Trade Bureau ("TTB").
- $100.00 annual license fee for Wine Maker; $25.00 annual license fee for Small Wine Maker. License renews annually on May 1. License fee may not be prorated for part year licensure and is payable at the time of initial application.

How To Apply For A License:

Please refer to the "Manufacturers & Wholesale License Application Process" information sheet for applicable forms and required documents.

All forms are available on our website at: www.michigan.gov/lcc --> Commission Forms --> Manufacturers & Wholesalers.

Licensing Requirements:

Federal Basic Permit
Receipt of a Federal "Wine Producer and Blenders" Basic Permit issued by the Alcohol and Tobacco Tax and Trade Bureau ("TTB") is required prior to the issuance of a winery license.

- Administrative rule R 436.1708 (1)

For Federal Basic Permit info contact: Alcohol and Tobacco Tax and Trade Bureau (TTB)
550 Main St. Room 8002
Cincinnati, OH 45202
513-684-3337
www.ttb.gov

Bond Application
Receipt of a Surety Bond (Form MW-816) executed by an insurance company authorized to do business in Michigan in the amount of $1,000.00 for the first year licensed is required prior to issuance of the license. Each subsequent year of licensure bond amount is based upon an average of excise taxes paid in the last calendar year, with a minimum amount of $1,000.00. Bond form (MW-816) & instructions can be found on our website. Bond does not need to be submitted until applicant has received notification from our office of
approval for their license application by our Commission.
  • MCL 436.1801 (1)(a)

Proof of Financial Responsibility
A statutory requirement to provide security for liability of not less than $50,000 prior to the issuance of the license. May be in the form of cash, unencumbered securities, liquor liability insurance, constant value bond, or membership in a group self-insurance pool authorized by law that provides security for liability under Section 436.803 of the Liquor Control Code. Proof of Financial Responsibility Form LC-95 & instructions can be found on our website. Does not need to be submitted until applicant has received notification from our office of approval for their license application by our Commission.
  • MCL 436.1803

Server Training Requirement
A licensee authorized to sell or sample alcoholic beverages for on-premises consumption is required to have present on the licensed premises, at a minimum, supervisory personnel on each shift and during all hours in which alcoholic liquor is served who have successfully completed a server training program approved by the Commission. Server Training forms will be mailed upon Commission approval of the license application.
  • MCL 436.1501(1), Administrative rule R 436.1060

Food Establishment License
The Michigan Food Law (Act 92, P.A. of 2000) requires all food establishments, including processing operations such as wineries, breweries and distilleries to obtain a food establishment of one type or another. Contact the Michigan Department of Agriculture & Rural Development ("MDARD") for details on the specific food establishment license required for your operation. The MDARD may be contacted as follows:

  MDARD Central Licensing
  P.O. Box 30746
  Lansing, MI 48909
  800-282-3939
  www.michigan.gov/mdard

General Information:

Church and School:
A new application to sell alcoholic beverages at retail (including manufacturers), or a request to transfer location of an existing license, may be denied if the contemplated location is within 500’ of a church or school. The Commission may waive the church/school provision if the church or school does not file an objection to the proposed license. If the church or school files an objection, the Commission will hold a hearing before making a decision on the issuance of the license.
  • MCL 436.1503

Manufacturing & Labeling
Wine must be manufactured and labeled in accordance with federal wine regulations published in the Code of Federal Regulations (CFR), Title 27, Part 4 and (CFR), Title 27, Part 24. Contact the TTB for details.
  • Administrative rules R 436.1707, R 436.1708

Label Registration
Wine products must have all labels approved by the Commission prior to the wine being sold in Michigan. The Commission uses an on-line label registration process which requires prior registration with the TTB. Upon licensure, you will be provided with a password and instructions to access the on-line registration site. There is no fee for Michigan label registration.
  • Administrative rule R 436.1719

Mandatory Label Information (Pursuant to TTB Regulations):
  • Brand name listed.
  • Class, type or, in lieu of, a truthful and adequate statement of composition shall appear on the brand label of the product.
  • Name and address of bottler or packer and place (city/state) where bottled. Name must be preceded by “Bottled by” or “Packed by”.


- Alcohol content must be listed. By definition, wine may contain ½ of 1% or more alcohol by volume but not more than 21% alcohol by volume. Table wine with alcoholic content of 11%-14% does not have to list the actual alcohol content. Listing “table wine” is adequate.
- Net contents.

For Federal Labeling information contact: Alcohol and Tobacco Tax and Trade Bureau
Alcohol Labeling & Formulation
650 Massachusetts Ave., N.W.
Washington, DC 20226
866-927-2533
www.ttb.gov

Wine Excise Taxes & Monthly Reports
Wine excise taxes apply to both wine and mixed wine drink. The Wine Maker or Small Wine Maker shall pay the Michigan wine excise tax or may designate a wholesaler to pay the tax on their behalf for all wine or mixed wine drink manufactured by that Wine Maker and sold in this state. A Wine Maker or Small Wine Maker is required to submit a Michigan Wine Tax Report and Michigan Winery Monthly Report of Sales no later than the 15th of each month regardless if a wholesaler has been designated to pay the taxes. If a wholesaler has been designated to pay tax on wholesale shipments to retailers, the Wine Maker or Small Wine Maker must still submit any tax payments for on-site tasting room wine sales.

Sacramental wine sold to churches is exempt from taxes. Sales made by a Wine Maker/Small Wine Maker out-of-state are nontaxable.

Tax Rates:
16% or less alcohol by volume = $1.35 (13 ½ cents) per liter.
Over 16% - 21% alcohol by volume = $2.20 (20 cents) per liter
- MCL 436.1301, Administrative rule R 436.1725

For further questions relating to wine tax, please contact our Financial Management Division at: (517) 284-6352.

Samples To Consumers
A Wine Maker or Small Wine Maker may offer free or may include a charge for samples to consumers for on-premise tastings at the winery premises. The samples must be of products manufactured and sold under the Wine Maker or Small Wine Maker license.
- MCL 436.1537 (3), MCL 436.2025

Sales To Consumers From Winery
A Wine Maker or Small Wine Maker is authorized to sell wine manufactured by the Wine Maker or Small Wine Maker from the winery premises to consumers for on-premises (by the glass) consumption or off-premises consumption (take-out sales) with no additional license.
- MCL 436.1111(10), MCL 436.1113(9), MCL 436.1537(1)(c)

A Wine Maker or Small Wine Maker may also sell wine they manufacture by the glass for consumption on the premises in a restaurant at their winery premises that is owned by the Wine Maker or Small Wine Maker or is leased to another person. Only wine manufactured by the Wine Maker or Small Wine Maker may be sold by the glass in a winery restaurant.
- MCL 436.1111(10), MCL 436.1113(9), MCL 436.1537(2)

Direct Shipping/Deliveries to Consumers
A Direct Shipper license is required for in-state and out-of-state wineries to ship domestic wine directly to Michigan consumers. This license does not allow direct shipment of imported wines. License fee is $100.00 annually (renewable May 1) and allows total annual shipment to Michigan consumers of 13,500 liters (1,500 9-liter cases). Direct Shippers must pay Michigan excise taxes (quarterly) and Michigan sales tax. The age of the person placing the order must be verified by obtaining a copy of a photo identification issued by a state or
the federal government of the person placing the order, or by utilizing an identification service approved by the Commission. You must record and maintain records of the name, address, date of birth and telephone number of the person placing the order on the order form. The Direct Shipper must stamp, print, or label on the outside of the shipping container that the package “Contains Alcohol. Must be delivered to a person 21 years of age or older.” A label must be placed on the top panel of the shipping container listing the Direct Shipper license number, order number, the name and address of the individual placing the order, and the name of the designated recipient if different from the name of the individual placing the order. The person delivering the alcohol shall verify the person accepting delivery is of legal age.

- MCL 436.1203, MCL 436.1537(1)(d), MCL 436.1537(1)(o)

Tasting Room Location
Licensed Wine Makers/Small Wine Makers may apply for a Tasting Room location approval located off the winery licensed premises. The Wine Maker/Small Wine Maker may offer free or may include a charge for tastings to the consumer and may sell for off premise consumption only, wine made by the Wine Maker/Small Wine Maker. As with other tastings & sales, only wine made by the Wine Maker/Small Wine Maker may be sampled or sold at the Tasting Room location. Under no circumstances may any other alcoholic beverage products other than those produced by the Wine Maker/Small Wine Maker be sampled in the Tasting Room. Wine can not be sold by the glass for consumption at the tasting room premises. Only samples may be provided. An annual license fee of $100.00 per location shall be paid for the Tasting Room location.

- MCL 436.1537(4)

Other Manufacturing licenses
A Wine Maker/Small Wine Maker may obtain other manufacturing licenses including a Brandy Manufacturer, Micro Brewer/Brewer, Manufacturer of Spirits, Manufacturer of Mixed Spirit Drink or a Small Distiller which allows the manufacture and sale of wine, brandy, mixed spirit drinks or distilled spirits.

- MCL 436.1111(9), MCL 436.1109 (3)(6), MCL 436.1113(9)

Permits
There are additional permits that a Wine Maker or Small Wine Maker may apply for to be held in conjunction with their primary license.

- Beer and Wine Tasting Permit - A Wine Maker/Small Wine Maker may obtain a Beer and Wine Tasting Permit which allows beer and wine tastings to be conducted on licensed off-premises accounts that hold a Specially Designated Merchant (SDM) license. There is a one time $70.00 fee for this permit. Upon issuance of this permit notification of sampling events must be received at least 10 days prior to the event and all employees or licensed agents conducting the sampling event must have successfully completed a server training program approved by the MLCC.

- Farmer’s Market Permit – permit for a qualified Small Wine Maker who manufactures or bottles not more than 5,000 gallons of wine in one calendar year combining all licensed locations, to conduct free wine tastings and sell, for consumption off the licensed premises, wine produced by that Small Wine Maker at a Farmer’s Market.

- Outdoor Service Permit - Permit allows the sale and consumption of alcoholic beverage in outdoor patio areas. The area must be under the control of the licensee.

- Specific Purpose Permit - Permit required to remain open for business after the legal closing hour of 2:00am, or to be open for business before 7:00am Monday through Saturday, or to open before 12:00 noon on Sunday, for the sale of food.

- Direct Connection - Technically this is not a Permit but rather permission from the Commission to maintain a direct connection between licensed premises and nonlicensed premises. This permission will be required if your operations include multiple license holders who maintain inside connections to either nonlicensed premises or licensed premises under the control of another licensee.

- Living Quarters Permit - Permit required when living quarters are directly connected to the licensed premises.

- Dance Permit - Permit required for dancing by customers on the licensed premises. Dance floor must be clearly marked, void of tables and chairs when in use and a minimum of 100 square feet in dimension. Permit allows for dancing during the legal hours for the sale of alcoholic liquor only.
- **Entertainment Permit** - Permit required for monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing on the licensed premises. An Entertainment Permit does not allow topless entertainment. Permit allows for entertainment only during the legal hours for the sale of alcoholic liquor. You do not need an Entertainment Permit for live bands, the playing of an orchestra, piano, or other types of musical instruments, singing or the viewing of any publicly broadcast television of a federally licensed station.

- **Sunday Sales AM** - Permit required for the sale of wine from 7:00 a.m.-12:00 noon, unless prohibited in the county and local governmental unit where the licensed establishment is located. $160.00 fee.

**Sales To Wholesalers and Territory Agreements**

A Wine Maker or Small Wine Maker may sell their products to licensed Michigan wholesalers who in turn may resell the wine to licensed Michigan retailers. A Wine Maker or Small Wine Maker must grant each of their wholesalers a written agreement specifying the brand or brands to be distributed and the territory where sales are granted. Wholesalers are prohibited from selling alcoholic beverages outside of their assigned sales territories. Beginning June 1, 2010, Michigan statute prohibits a manufacturer from assigning the right to sell a specific brand or brands of wine to more than one wine wholesaler in the same sales territory. However, a manufacturer may continue an agreement that was in effect on June 1, 2010, which assigned the distribution rights to more than one wine wholesaler for a specified brand of wine in the same sales territory. All sales to wholesalers must be for cash only. Quantity discounts to wholesalers are legal as long as the discount is nondiscriminatory.

- MCL 436.1305, MCL 436.1307

**Sales To Retailers**

A Wine Maker or Small Wine Maker is authorized to sell their wines to licensed retailers. A Wine Maker or Small Wine Maker selling their wines to retailers must file with the Commission in Lansing, before January 1, April 1, July 1, and October 1 of each year, a schedule of the net cash prices to retail licensees. The net cash price shall not be changed during the quarter without first notifying the Commission in writing of the price changes. "Post offs" (price reductions) shall not be granted for periods of less than 14 consecutive calendar days in duration. Quantity discounts to retailers are prohibited. All sales to retailers must be for cash only.

- MCL 436.1111(10), MCL 436.1113(9), Administrative rule R 436.1726

**Interest In Another License**

Michigan statute strictly prohibits a Wine Maker/Small Wine Maker from holding any interest, directly or indirectly, in a wholesale or retail license. Examples of prohibited interests include: stock ownership, leasing real estate to/from a wholesale or retail licensee; interlocking officers or directors between licensees; financial interest such as a moneylender with a wholesale or retail licensee. A Michigan manufacturer may hold interest in another licensed supplier under MCL 436.1603. The Commission may also approve a Wine Maker or Small Wine Maker participating with 1 or more Wine Makers or Small Wine Makers in an alternating proprietor operation subject to the written approval of the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau, in accordance with 27 CFR part 25, subpart F, section 25.52.

- MCL 436.1603(8)(13)

**Rebates, Special Purchase Allowances, & Quantity Discounts**

A Wine Maker or Small Wine Maker is prohibited from rebating any money to wholesalers. A special purchase allowance may be offered to wholesalers as long as the allowance is offered to all wholesalers and is based on the wholesaler purchases at the time of the allowance and not based on past sales. A Wine Maker or Small Wine Maker may offer quantity discounts to their wholesalers but may not offer free merchandise to their wholesalers.

- MCL 436.1609

**Bulk Wine Used For Blending**

A Wine Maker or Small Wine Maker may purchase bulk wine to be used for blending purposes from a licensed Outstate Seller of Wine. A shipment of bulk wine to a Wine Maker or Small Wine Maker must be accompanied by a "Release of Alcohol or Alcoholic Beverages for Commercial Use" (LC/MW-350) approved by the Commission.

- Administrative rule R 436.1721
Salesperson License
Any person employed by a Wine Maker or Small Wine Maker to sell, deliver, promote, or otherwise assist in the sale of alcoholic liquor in this State is required to hold a Salesperson license issued by the Commission. Office staff and winery personnel who work exclusively at the winery premises and have no personal contact with retailers or consumers off the winery premises do not need a Salesperson license. Salesperson's must be 18 years of age or older. Salesperson licenses are $35.00 for three-year licensing period. Licensed salespersons are prohibited from being employed by a retail licensee on a paid or any other basis. Licensed truck drivers or delivery persons are prohibited from consuming alcoholic beverages while on duty.

- Administrative rule R 436.1853

Aid and Assistance
MCL 436.1609, and Rule 436.1035 prohibit alcoholic beverage manufacturers, suppliers, wholesalers or warehousers from aiding or assisting any other licensee by giving them anything of value. Further, a licensee is prohibited from accepting aid and assistance from another industry member. Alcoholic beverage suppliers are prohibited from giving anything of value to their wholesalers or retailers. Likewise, alcoholic beverage wholesalers are prohibited from giving anything of value to their retailers. This principle is the cornerstone of Michigan's trade practices regulatory structure. It is designed to provide a level playing field for all industry members. Suppliers, wholesalers and warehousers are prohibited from giving anything of value to retail licensees, including but not limited to: alcoholic beverages, merchandise, furniture, fixtures, equipment, uniforms, cash or loans, labor, etc.

This same principle prohibits suppliers and wholesalers from providing free advertising, incentive programs, free or discounted product, draft system installation and maintenance, etc. Violations in the aid and assistance statute will result in all participants (retailer, wholesaler and supplier) being cited before the Commission.

Section 609 (3) of the Code, includes exceptions to the prohibition of items and services that a licensed supplier, wholesaler, or warehouser may provide to any other vendor. Some of these exceptions include allowing suppliers, wholesalers, and warehousers to provide advertising items that have no use or value beyond actual brand and price advertising, including, but not limited to: mirrors, napkin holders, and table tents to licensees. Further, Section 609 (5) allows retailers to possess and use beer and wine brand logoed barware, including, but not limited to: glassware, coasters, and napkins if they have been purchased from a third party barware retailer and also allows retailers to possess and use spirit brand logoed barware, such as: glassware, coasters, and napkins if purchased from a manufacturer of spirits, vendor of spirits, a licensed salesperson, or broker, or a third party barware retailer.

- MCL 436.1609, Administrative rule R 436.1035

Record Retention
All licensees are required to maintain all sales, purchase and salesperson expense records for a minimum of four (4) years. Records may be maintained electronically or otherwise as long as a hard copy of the record can be created upon demand.

- Administrative rules R 436.1007, R 436.1641, R 436.1865

Sales For Cash Only
The Liquor Control Code requires the sale and purchase of all alcoholic beverages to be for cash only, at the time of delivery to wholesalers or retailers. Consumers may use bona-fide credit cards to pay for purchases from the winery.

- MCL 436.2013

Inspection of Premises and Books & Records
A licensee must make the licensed premises available for inspection and search by a Commission Investigator or any law enforcement officer empowered to enforce the Commission's rules and code during regular business hours or when the premises is occupied. The Commission or its duly authorized agent may examine the books, records or papers of a licensee.

- MCL 436.1217, Administrative rule R 436.1645 & R 436.1728
Samples
Wine Makers and Small Wine Makers are allowed to sample their products with on-premises or off-premises retail licensees and the retailer’s employees. Sample tastings may not be offered to consumers by the wine maker at a licensed on-premises or off-premises account. All containers used to sample products with retailers must be marked with the word "Sample" in lettering at least 1/2-inch high. While Wine Makers and Small Wine Makers may offer tasting samples to retailers from multiple beverages, only one (1) sample container of 750 ml size or smaller may be left with a retail licensee for sampling by the retailer and their staff. A sample container must be removed from the premises within 24 hours and again may not be sampled by consumers.
- Administrative rules R 436.1001, R 436.1421, R 436.1511, R 436.1513, R 436.1863

Purchasing Drinks For Consumers
A licensed Salesperson of a manufacturer of wine, for promotional purposes, may purchase one (1) drink for each customer of an on-premises retail licensee only. The drink shall be purchased from the on-premises licensee and shall be of a brand represented by the salesperson.
- Administrative rule R 436.1865

Advertising and Promotions
Inside advertising signs must be unilluminated and no more than 3,500 square inches in dimension. Alcoholic beverage advertising provided by suppliers and wholesalers to retailers shall not have any use or value beyond the actual advertising of brands and prices of the alcoholic liquor, other than the exceptions provided in MCL 436.1609(2)(3)(4).
- Administrative rules R 436.1305 – R 436.1331  MCL 436.1609

Compliance with Laws, Zoning & Ordinances
A Wine Maker or Small Wine Maker must comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules and ordinances.
- Administrative rules R 436.1003, R 436.1105(3), R 436.1702

How to Contact the Michigan Liquor Control Commission
Questions relating to Wine Maker/Small Wine Maker licenses and other non-retail licenses may be directed to:

Michigan Liquor Control Commission
Manufacturers & Wholesalers Section
P.O. Box 30005
Lansing, MI 48909
Toll free 866-813-0011  Fax 517-763-0060
E-mail: MLCCMWapplications@michigan.gov  Website: www.michigan.gov/lcc

Rev. 06/2017
To: Emmet County Planning Commission, Zoning Board of Appeals & Board of Commissioners

From: Planning, Zoning & Ordinance Enforcement, Tammy Doernenburg Director

Date: Prepared for Emmet County Planning Commission February 2018 meeting

Subject: Status of Enforcement Issues


2. **Maple River** – 1526 Plains Rd – Three horses on 1.25 acre property reported by Township Supervisor 8/1/2016. Investigated, sent letter 8/16/16. Received email …owner trying to lease or buy enough land in the vicinity to meet Ordinance standards. Second letter sent 11/21/2016. Received a call from owner working toward commercial farm to that the farm use would be exempt from zoning. Owner contacted office for options 1/23/2017. No change as of 4/6/2017. 5/1/2017 received email from property occupant who has purchased land for the horses and will be moving them within a month or two. Will follow-up mid-June. Horses still located on property on 7/6/2017. Sent email to horse owner asking for an update 9/12/2017. Sent email 1/17/2018 – no response to date.

3. **Littlefield** – 5/26/2017 – 3656 Oden Rd. Reports of property being used in violation of PUD. 6/14/2017 – after confirmation and photos received, sent letter to owner and adjacent owners. 6/19/2017 received call from one adjacent owner. 7/7/2017-7/8/2017 received photos from adjacent owner. Follow-up letter needs to be sent. Discussed with Civil Counsel 7/24/2017. Follow-up letter sent 8/22/2017. Received call from owner’s legal counsel on Aug 30, 2017. Owner was to contact office to discuss options for “putting property into productive use.” No additional contact to date. 9/21/2017 – emailed legal counsel for property owner. Meeting scheduled for 10/17/2017. Owner looking at options for submission to ZBA (Temp Use) or Planning Commission. 12/13/2017 – sent letter to owner requesting application for compliance by mid-January 2018. Received two calls from parties interested in resolution. Received FOIA request on 12/29/2017 for entire file.

4. **Littlefield** – 8746 Littlefield Ln - 8/7/2017 (prior violation) – application received for addition. Site inspection conducted and proposed addition found to be in setback. No permits issued. 8/17/2017 – inspection conducted – no construction had begun. 8/29/2017 – report of work without a permit. 8/30/2017 – site inspection done. 8/30/2017 letter sent – stop work. 9/1/2017 – follow-up inspection conducted. Found corner markers – addition in violation of front setback. 9/11/2017 – met with owner in office and on site. ZBA variance requested 9/11/2017. Posted Stop Work Order on 9/14/2017 as construction appeared to have continued without permits. 10/17/2017 ZBA denied request. 10/19/2017 staff met with property owner to discuss options. Indicated that he would need to address the issue and keep lines of communication open and make progress toward compliance. Owner contacted office to indicate he’s trying to contact a surveyor and survey his property. Time allotted for compliance. 12/13/2017 Received call from owner indicating they are not going to seek compliance. 1/8/2018 - Consulted with Civil Counsel on next steps. 1/17/2018 – sent final notice to owners requesting compliance.
5. **Littlefield – 9/11/2017** – Sent letter to 6760 South Prospect – mobile home located at or in road right-of-way on US-31 N of Alanson. Received call from owner that trailer had been moved 10/12/2017. 10/30/2017 – trailer has been moved, but does not appear to be compliant. Site inspection needed. 11/28/2017 Site inspection conducted – two mobile homes in ROW. Sent follow-up letter. 12/18/2017 Received visit from owner of property. Owner will explore options for compliance. 1/12/2018 – follow-up inspection conducted. 1/17/2018 – sent final notice – no response to date.

6. **Maple River – 9/11/2017** – Sent letter to 2526 Gregory Rd – accessory building without a main use – no SUP. House was to be started within 2 years, no house. Accessory building is not completed. 11/28/2017 sent letter requesting compliance. 12/20/2017 No response to date. 1/12/2018 – site not accessible.

7. **Bear Creek – 9/21/2107** – Sent letter to 895 Linwood Ln – residential accessory building placed 15 feet from shore of Walloon Lake. Received call from owner 10/2/2017 – building will be moved when ground is solid (gave until December 31 to move). 1/12/2018 – follow-up conducted. No change. 1/12/2018 Sent letter requesting compliance.


9. **Bear Creek – 1/18/2018** – Received call from Township Supervisor regarding new lighting installed behind D&W Market. Visited site. Need to investigate possible lighting violation.

10. **Bear Creek – 1/18/2018** Received call from Township Supervisor regarding site with log storage – burning on-site. Investigation needed.

11. **Bear Creek – 1/15/2018** - sent letter to owners of 2221 Bellmer Road requesting removal of off-premise signs directing drivers to their property for Christmas Tree sales.


15. **Maple River — 925 S Durkalic Rd – accessory building built as a main use 2 years ago. House has not started. 1/10/2018 Sent letter to owner. No response to date.

16. **Littlefield – 5407 Petoskey St — ZBA case discovery made that accessory building was built, had been required to be attached due to number of accessory buildings on residential parcel. 8/17/2017 – sent letter to owner advising of violation. Follow-up conducted 1/9/2018 – letter sent to owner. 1/18/2018 – owner contacted staff – will plan to comply in Spring 2018.

For more information or to report a violation, contact the Department of Planning and Zoning. 231-348-1735.