To: Township Board **October 19, 2016**
From: Monnie Peters and David Taft

Bonobo Winery Actions & Recommendation

We refresh your memory (below) of the actions of Bonobo Winery as they pursued SUP approval and their actions thereafter up to October 2016.

Bonobo Winery has been an active part of the Planning Commission and Peninsula Township Board meetings for five years. Since approval of their SUP#118 in May 2013, they have operated often outside of their verbal commitments and comments at pre-approval meetings and in violation of the Zoning Ordinance – specifically 8.7.3 (10) – Winery-Chateau. They have not planted and harvested and produced wine in good faith to meet the 75% active production of crops on site requirements of the zoning ordinance (8.7.3(10) (h)).

We observe Bonobo continually delaying meeting its SUP approval requirements. During this process it has been in violation in several instances of the 8.7.3 (10) Zoning Ordinance—while the other operating wineries are in general compliance and not a nuisance to the township with respect to enforcement.

We urge the Township Board to suspend the Special Use Permit to Bonobo Winery in view of their continuing stream of violations and delays in meeting the SUP conditions of approval. If Oosterhouse makes a financial commitment to a grape crop for 2017 as proposed by the Supervisor, then they should be allowed to maintain their conditional SUP. If they continue to propose as stated at the October 10, 2016 Board meeting to have a new crop (apples) in place by 2018, then we urge the Board to suspend their SUP.

Moreover, we urge the Board to deny consideration of Guest Activity Uses until Oosterhouse has satisfactorily met –with active maintenance and cultivation – the active production of crops that can be used for wine production - the 75% active production ordinance (8.7.3(10) (h)).

A brief history of their activities with board and staff follows:

- Options for Bonobo Winery were proposed and discussed with staff and formally at the May 2012 Site Visit and Joint Meeting of the Peninsula Township Board and Planning Commission.
- At the May 25, 2013 Planning Commission Meeting, plans for a 6500 sq. ft. structure were presented. During this meeting Oosterhouse stated that the finished floor of the building would be 4 feet <u>below</u> Center Road. As noted in construction, the building area was graded with fill from other locations on the site to raise the tasting room building to above the level of Center Road (M-37)—obstructing the viewshed.
- At the Public Hearing at the May 18, 2013 meeting, many concerns were raised by residents and comments made by the consulting engineer, Mansfield:
    - The building will fall within a designated viewshed of the Township and concerns were raised about proper screening.
    - Mansfield discussed the drainage profile - 6-8 feet below the road profile.

  As we observe, after site grading, the level of the winery tasting room was raised above the level of Center Road as was the level of much of the parking—interfering with the designated viewshed and impacting drainage which later required corrective action. The SUP was approved in May 2013 with the requirement that if future guest activity uses are to be applied "the applicant must submit annual grape production and purchase numbers to the township staff for review."

- At the October 2014 Township Board meeting Oosterhouse supported by consulting engineer Mansfield indicated that they had expanded the winery tasting room and production building above the square footage approved in the original SUP.
    - At the November 2014 meeting, it was emphasized that Mansfield, engineering consultant to Oosterhouse, should have known that changes requires first getting approval from the Township—before the changes –in this case expansion were made. Oosterhouse claimed he did not realize he had to come back for re-approval.
    - 765 sq. ft. of covered crush pad, 1000 sq. ft. of main floor, and 780 sq. ft. of basement level were added—a total of 2545 sq. ft. – an 18% expansion of the original building to a total 6896 sq ft of main floor and 9902 sq. ft. of production.
- At the November 20, 2014 Board meeting, Amendment 1 to SUP 118 was approved with several conditions—one of which states crops to meet the planting requirement (75%) be planted by May 2015.
- After resident requests that the content of the Bonobo website be changed because it was promoting events in violation of 8.7.3 (10) (u) 2 (d). Bonobo did –after insistence of the planning/zoning administrator– correct its website eliminating this violation.
- At the May 12, 2015 Township Board Meeting, the Board reviewed compliance and enforcement issues of Bonobo (75% plantings and the lighting, resident manager housing and storm water issues). The Board had in-depth discussion of the 75% agriculture requirement. Supervisor Correia asserted that a pumpkin patch would not qualify. Hoffman recalled that the owners were to plant grapes as discussed at the November 20, 2014 Township Board meeting. Wendling stated: "It needs to be fruit crops at 75% as stated in the ordinance." <u>The intent of the Board was clear</u>.
    - After this meeting and in defiance of the requests of the Board, Oosterhouse went ahead and planted a pumpkin patch---a crop that produced pumpkins, some of which were sold as pumpkins to the public.
    - Oosterhouse again planted pumpkins in spring of 2016. They failed because of drought to produce adequate quantities of "fruit" for wine.
    - In view of possible batch watering or irrigation-- a common practice on the Peninsula—drought is not a plausible excuse for crop failure. Crop failed because the topsoil was removed to elevate the building and parking lot and because of lack of maintenance and cultivation.
- At the November 10. 2015 Township Board meeting Reardon reported that the application for Guest Activity Uses at Bonobo was incomplete - as site plan of tasting room, tonnage reports and proof of processing were not provided.
    - She also reported "there appears to be ongoing violations with Bonobo actually offering Guest Activity Uses."
    - Oosterhouse reported he doesn't understand what is needed. He reported that Bonobo "did not have any grapes for 2014 and 2015."
    - The request for Guest Activity Uses at Bonobo was denied.
- On April 19, 2016, three consent judgments with fines and court cost payments were filed with the 86th District Court. Oosterhouse admitted violations in three areas: Selling/serving bottles for consumption on-site, co-selling activities on-site, charging cover charges for entertainment on-site. The Township brought these violations to the county court, and in reaching these consent judgments, Oosterhouse agreed henceforth to comply with the Peninsula Township Zoning Ordinance.
- At the September 12, 2016 meeting the board discussed possible revocation of SUP for Bonobo Winery. The Board had given Bonobo conditional approval based on having 75% planted in active production by May 2015. Two growing seasons have passed.

Oosterhouse has denied anyone from the Township office to view the property with a plant expert.

- The Supervisor at the September meeting offered an olive branch to have Oosterhouse make the financial commitment to order grapes for next year's crop (2017) as it was a mistake to allow pumpkins to be planted.
- At the October 11, 2016 hearing Oosterhouse agreed to allow township staff to visit the farm site. He also made a commitment for an apple crop to be in place by 2018, indicating he could not get apple stock before then.

MEMORANDUM TO THE TOWNSHIP BOARD 10-19-2016 Previously emailed to Township Board

Copied to the Selection Committee Members

FROM Gordon L. Hayward, Director of Planning and Zoning

Emails from members of the Selection Committee were included in the packet materials for the October 25th 2016 Township Board meeting.

This is my summary of their questions.

Questions for the Township Board from the PDR Selection Committee.

1. 2020 Millage Vote – " Does it possibly mean that the Township Bard does not have to levy the full 2 mills each Year?"

Note: The Township is levying the maximum millage rate as reduced by Headlee.

2. Should the Township purchase easements under a land contract rather than for cash?

Note: The applicant has the option to take a cash payment or a land contract, however the land contracts would have to end in 2021.

3. What is the role of the Selection Committee versus Township Board?

4. Don't we need the opinion from the Township general counsel as to the legal status of our committee in light of the provisions of the ordinance that say the committee terminated after eight years? What role can the Committee play without the Township amending the PDR Ordinance to extend the life of the Committee ?

5. What is the legitimacy of a need for a PDR Selection Committee?

6. Should there be a re-ranking of the Round 4 applications as well as changes to the properties left in Round 4 for purchase that might justify a change to their ranking?

7. Questions regarding the Bond Counsel letter of 10-6-2016 – Placed in your mail box for your information.

a. Just because there is a surplus does the Township Board vote to actually use the surplus and in what amount?

b. Does it make sense for the Treasurer to generate a chart which shows future surplus projections?

c. There is a new Township Board being sworn in to office in late November. Should the current of future Board make the discretionary decision?