

PENINSULA TOWNSHIP
PLANNING COMMISSION
SPECIAL MEETING

NOTE LOCATION CHANGE: FIRE STATION # 2 – 8150 Center Road, Traverse City, MI
November 30, 2016

(Rescheduled from November 21, 2016 & Re-scheduled from November 28, 2016)

7:00 PM

AGENDA

1. **Call to Order**
2. **Pledge**
3. **Roll Call**
4. **Approve Agenda**
5. **Brief Citizen Comments – for items not on the Agenda**
6. **Conflict of Interest**
7. **Consent Agenda**
 - a. Reports and Announcements (as provided)
 - b. Correspondence (as provided)
 - c. Meeting Minutes
 - September 19, 2016 Regular Meeting Minutes
 - October 17, 2016 5:30 pm Special Meeting
 - October 17, 2016 Regular Meeting
 - November 9, 2016 Special Zoning Ordinance Rewrite Committee Meeting

Any member of the Board, staff, or the public may ask that any item on the Consent Agenda be removed and placed elsewhere on the agenda for full discussion.

8. **Business**

7:15 pm

 - a. Master Plan Goals and Actions Implementation -Update Report.
 - b. Baseline Environment Assessments -- SUP, PUD, Subdivisions and Site Condominium
 - c. Consider appointments to a working committee to review McKenna Zoning Version Two.
 - d. Consider Meeting Dates 2017 – Third Monday - (February 27th posted and November)

8:00 pm

- e. SUP #127 – Vineyard Ridge –Site Plan revision November 1, 2016.
- f. Consider scheduling a December public hearing for SUP #127.

9. **Citizen Comments**
10. **Board Comments**
11. **Adjournment**

Peninsula Township has several portable hearing devices available for use during this meeting. If you would like to use one, please contact the Chairperson.

Gordon L Hayward
Peninsula Township Director of Planning & Zoning

Posted: November 22, 2016

**PENINSULA TOWNSHIP PLANNING COMMISSION
REGULAR MEETING
SEPTEMBER 19, 2016**

Meeting called to order at 7:00PM

Present: **Peters; Hornberger; Leak-Chair; Couture; Serocki; Wunsch.** Also present were *Michelle Reardon*, Director of Zoning and Planning; *Peter Wendling*, Township Attorney and *Mary Ann Abbott*, Recording Secretary.

Absent: Rosi (excused)

Approve Agenda

MOTION: Hornberger/Peters to approve agenda.

PASSED UNAN

Brief Citizen Comments - for items not on the Agenda

None

Conflict of Interest

Serocki has a conflict of interest with SUP#127 and will recuse herself during that portion of the meeting.

Consent Agenda

1. Reports and Announcements (as provided)
2. Correspondence (as provided)
3. Meeting Minutes
 - i. August 15, 2016 (5:30 PM Special & 7:00 PM Regular)
 - ii. August 22, 2016 (5:30 PM Special & 7:00 PM Special)

Typographical corrections to the minutes of August 15,2016 Regular meeting and August 22, 2016 Special meeting.

Correction to August 15, 2015 Business item #1 should read: ~~Tonight by ordinance the staff has reviewed.~~ **Staff has reviewed the Ordinance and per the ordinance we are required to hold a public meeting.**

MOTION: Hornberger/Serocki to approve the Consent Agenda with minutes corrected.

PASSED UNAN

Business

1. SUP#127 – Vineyard Ridge (discussion and potential recommendation)

Serocki recuses herself from Business Item #1 and takes a seat in the audience.

Reardon would like to note to the Planning Commission that the Engineer's Report is included in their packets and that the Attorney has not had time to review this item.

Dusty Christensen, Mansfield Land Use Consultants is present to answer questions of the Planning Commission. He indicates that the applicant has complied with the request for more information on the following topics: Hammerhead turnarounds before roads are finished; final environmental study; correspondence from the Road Commission which states that plan is agreed upon and acceptable; proposal for individual mailboxes; grading summary and intent to comply.

Couture states that he appreciates the work that has been done on this project but has a major concern with the traffic on Center road. **Couture** does not feel that this is a safe place to put a road and feels that it is a safety concern and dangerous without a turnaround or a bypass lane.

Peters The Master Deed has a reference of Limited and General Common Elements. We have raised concerns about this being clear to the buyers. *Applicant* will be defined when filed with the deed. *Reardon* What is the difference between the site plan and the Map labeled exhibit B. Is it a level of survey that is not completed yet? So we have not seen that map. *Reardon* Judge Rodgers decision has impacted the level of detail that this Township requires in decision-making. *Wendling* every standard of the PUD and SUP must be finished or completed prior to the decision of the Town Board. Preferably since you are an advisory

body you will have it completed before you send it to the Town Board. It is critical that all the elements are met and completed before it is passed to the Township Board. *Applicant* if the board would like to have this requested they could have it.

Peters is interested if the Township Engineer thinks there are other things outstanding. *Brian Boals, Township Engineer* would like more answers before recommending approval. Still has some specific grading information that he would like to see as a framework for those building sites. Same with water supply and sewer and would recommend gravity line. Would like to see this information as soon as possible. *Applicant* will work with Engineer.

Wunsch would echo Couture. Still hearing three concerns of curb cut onto Center Road, significant reshaping of the property, and the open space use especially between the houses. Wonders what applicant has done to address these issues. *Applicant* we are complying with comments from the Department of Transportation and the Road Commission. Slopes are not overly steep and they do currently do not know the floor plan that each home will select. Intend to have all slopes stabilized and intend to make slopes not too steep. Units are clustered in order to maintain the 90' open area setback.

Reardon In terms of the US Postal Service they are indicating one mail post for every two houses. Open space needs to be void of any structures. These will need to be in the building envelope. This needs to be addressed prior to sending to the Town Board and should consider a condo mailbox. Also keep in mind that open space can be used for recreation.

Leak It would help the Township and the Planning Commission is the covenant has defined use of the open space. This is a good looking project and you have gone to a lot of effort, but I feel it is necessary to provide turn lanes on Center Road so there will not be a danger to the citizens.

Wendling Center Road is a State road and there is a question if they would allow these changes. The County Road Commission and the Township have more say in the other roads. If this is a concern of the Planning Commission then you could ask the applicant to open this dialog as far as traffic. *Applicant* is this a traffic issue or a safety issue. **Couture** our edict speaks to traffic and safety. Do you think that this is a safe thing to do? *Applicant* it is as safe as any other development along Center Road.

Hornberger concerned that the reason to approve a PUD is because PUD gives you better open spaces than Use by Right. She does not see this in this plan. Seems that use by right gives you better use of the land. *Applicant* in return to putting units closer together we have provided a 90' buffer. We are trying to comply and benefit surrounding neighbors.

Reardon mailboxes need to be resolved and cannot be in the general common elements. Open Space elements need to be free of structures and impact your calculations. We should be able to figure something else.

Wunsch believes that we need to see more value to the community to justify granting this PUD.

Leak would applicant be willing to post a bond to put in turn lanes on Center Road. **Applicant** would have to ask. *Reardon* would you be willing to sit down with MDOT, PC member and staff to see if an option can be figured out. **Applicant** Certainly. **Couture** would like to be in on this meeting.

Reardon suggests that applicant may have a different vision of the open space that what the Planning Commission is seeing and suggests that perhaps a better depiction of this vision would be helpful.

Reardon Hearing that the commission would like to see a Map B and they have some other concerns. Gordon Hayward will get that list to you. Also would like to see in the restrictions language about those areas of concern so that buyers sitting down at the closing table will be aware of them also. *Wendling* is willing to draft the language on that.

Hornberger we are looking for a plan that has substantial improvements over use by right. **Reardon** is there a way to show the aerial photo with the landscaping plan so that each group's vision may focus on those items rather than the clear cutting.

Reardon also a reminder that this property is zoned in its entirety R 1-C.

Discussion to continue at the next meeting.

Gordon Hayward, Interim Planning & Zoning Director spoke to his concerns about the proposed private roads connecting to public roads and the developer may want serpentine roads to discourage through traffic.

Commissioner Serocki returns to her seat on the Planning Commission at 8:11 PM

2. Zoning Ordinance Amendment #191 (public hearing)

Reardon this is the language that will prevent two permits for a single piece of land as requested by the Planning Commission. Tonight is Public Hearing on this language. We will then send it to the County for a comment period and then to the Township Board for final action.

Serocki questions the language and suggests the following changes to the first paragraph. **Couture** requested deletion of (1):

Order of Processing Permits for Use of Land: Any parcel or parcels under the same ownership shall only be allowed to have one (1) application pending at any time for any permit for the use of ~~any~~ **that** parcel or **those** parcels which requires the application of the regulations under this Zoning Ordinance. For the ~~purposed~~ **purposes** of this provision, a single application that is pending would include, but not be limited to the following:

Leak opens up the Public Hearing.

Britt Eaton 1465 Nehtawanta Road felt offended at the meeting for the Vineyard Ridge where the applicant pulled out an alternate plan. He felt as if he was being threatened. Found it offensive for this project as well as for the "81".

Gordon Hayward, 17777 Shitake Trail had a couple of considerations. There are times when people may need multiple permits from other agency. *Wendling* Zoning Ordinance only - does not pertain to other departments. *Hayward* asked for a clarification on the email from Consumers Energy.

Reardon the intent is not to impend but to preserve resources of the Township. We are talking about a single piece of land can have only one permit at any time. Consumers Energy with several easements over multiple parcels is not impacted by this change.

Hornberger thinks this is necessary for our Township so that we are not using up our Township staff and resources.

Leak asks for any other comments. **Leak** closes Public Hearing at 8.22 PM

MOTION: Wunsch/Hornberger to recommend the passage of the Amendment No 191 with the changes as noted to the Township Board.

PASSED UNAN

Citizen Comments

Laura Serocki, 6924 Center Road regarding SUP 127 curious about the difference in the sewer and the gravity feed to Huron Hills or the pump up to Matheson Road. Is the Township responsible for all maintenance and repairs. Does the Township need to accept that? Brian Boals, Township engineer says they are with in the public sewer district and if they put in a new pump station will be turned over to the Township and maintained to the DPW. Recommendation is for a gravity feed. Paid through user fees.

Serocki was reading about disturbing soil with arsenic. What about dust during construction and the health of workers and neighbors? *Wendling* There would be dust control regulations as part of the construction code

Board Comments

Peters Has some items that are still pending:

- Approval of 7/13/16 Joint Meeting Minutes
- Bed and Breakfast back from the Town Board
- Attorney Language on Land Division and Ordinary High Water.

Reardon Attorney is only authorized to look at this in regards to working with regulating Docks and Hoists as part of the Zoning Ordinance rewrite. If the Town Board wants the attorney to look at the Land Division Ordinance that direction needs to come from the Town Board. That request can come from the Planning Commission or any resident.

Peters would like to formally request as a Planning Commission Member and an individual citizen that the Town Board look at the Land Division Ordinance and the Ordinary High Water Mark.

Peters inquired on the Zoning Ordinance rewrite and the Master Plan work plans. *Reardon* There is a lot of change at the Township. Did not want to waste our time with the consultant. The Town Board will now need to decide how they want to proceed with this process. Gordon Hayward is appointed for a 60-day period not to exceed 90 days.

Serocki Per diems due on 9/28 at 9:00 AM.

Peter would like to get going on the work plans for the Master Plan. **Leak** thinks choice should be with the planner. **Hornberger** would like to get participation from the residents and should be in the Newsletter as to what we will be doing. **Wunsch** thinks it would be useful to have a general goals and objectives for the Planning Commission and what resources the Town Board should be allocating for that. He is happy to sit on the committee. Suggests that Peters, Hayward and Wunsch meet in the next week to look at direction. *Hayward* Planning Commission should tell the Town Board what they would like to see.

Couture Thank you to Michelle Reardon for all her hard work.

MOTION: Hornberger/Wunsch to adjourn at 8:47 PM.

Respectfully submitted by Mary Ann Abbott, Recording Secretary.

PENINSULA TOWNSHIP
SPECIAL MEETING PLANNING COMMISSION MINUTES
13235 Center Road Traverse City, MI 49686
October 17, 2016 5:30 PM Township Hall

Meeting called to order at 5:36 p.m.

Present: **Leak, Peters, Rosi, Serocki, Couture, Hayward**, and Rachel Mavis (recording secretary).

Absent: **Hornberger, Wunsch**

Brief Citizen Comments - for items not on the Agenda

None

Conflict of Interest

None

Consent Agenda

None. Handled at 7:00 p.m. meeting.

Business

Zoning Rewrite Process Committee

Hayward presented a six point process for adopting the Consultant Proposed Rewrite of the Peninsula Township Zoning Ordinance. Documents were received from Patrick Sloan (McKenna) on October 17 and are available for review. The suggested process is as follows:

1. Review current status with the contract. McKenna will be sending two current drafts that are clean and searchable for review. Also, a letter will be sent updating how many local meetings are required to attend.
2. Sections will be identified that are non-controversial, not dependent on other sections, as well as sections that do not require a Master Plan amendment before adoption can take place.
3. Sections that are controversial and need additional consideration will be identified. A timeline for considering them for a future ordinance amendment will be established.

4. Begin the public information process once documents **are** reviewed. This will include PC or township newsletters, public information meeting (*not* hearing), media contacts, and possibly surveys. Leak suggested that Hayward be the spokesperson for the board when it came to media contacts - Hayward agreed.
5. Obtain final draft from McKenna.
6. Hold public hearings.

Peters asked if **Hayward** had the sense from Sloan that the second draft would include some of the things mentioned in the proposal (pictures, hyperlinks, etc.) to make it simpler to edit and search. The PDF version would be acceptable on the website and in packets, but in order for the PC to best review these documents and see the technical side of them, pictures and hyperlinks would be helpful. (Suggestion was also made for it to be in a Word document, prior to PDF format.) How complete towards the final project can the next draft be? **Hayward** agreed that this would be helpful and would request that from Sloan.

Couture asked if this document could be sent electronically (in addition to a printed document) so that hyperlinks could be easily accessed.

Rosi asked for more details on the phone survey, and if that would be the most beneficial option. **Hayward** explained that mailings are limited (it's necessary to wait on responses to come back in from residents), but with a phone survey, responses are immediate, as well as the ability to follow-up on that response. **Rosi's** concern is that since the master plan is value-driven and the zoning side is technical, the survey wouldn't look at the technical side of things and that the average person would be caught off guard with a cold call and not be able to give adequate feedback. **Hayward** clarified that the phone survey would come after the public information had been released, and was designed to allow the public to let the board know if anything had been missed.

Leak asked if **Hayward** was interested in appointing a separate committee to be reviewing the new drafts from McKenna - **Hayward** said it would depend how much additional time board members had available to commit to the project. It was suggested that instead of having a separate committee, the project would be handled at an early PC meeting and available members could be a part of it.

Peters pointed out that board can't move forward until the next draft is available. She requested that the new draft have as many technical examples as possible in order to move forward.

Hayward noted that according to Sloan, more information will be coming at the end of October.

Audience member asked for clarification - the terms *section* and *article* have been being used, but which word is accurate? The verbiage seems to have changed within the same document, interchangeably. **Serocki** clarified that sections are part of an article - the article is the chapter, then sections are part of the article.

Peters - If Sloan is saying that info will come at the end of October, and the info is to **Hayward** at that point, then sent to board, what would the board be able to accomplish at the November meeting? Should an additional meeting be planned? (5:30 meeting, prior to the 7:00 meeting)

Serocki affirmed that a 5:30 meeting could allow the board to clear up what sections are controversial and what's not, as well as wrapping up the parts that have not been covered yet. **Leak** agrees. **Hayward** suggested that the timeline be driven by contact from Sloan, not a specific time. As more information becomes available from McKenna, the board would be able to move forward. November may be a bit optimistic.

Peters suggested that after the new draft is received at the end of October, the board could go through it (comparing old draft and new draft) and have the two versions side by side. **Leak** suggested that when the new drafts come in, **Hayward** will call for a meeting.

Peters will discuss with **Wunsch** when the ag section can be addressed (both from a Master Plan standpoint and a zoning standpoint.)

Serocki clarified that in November, both the information in the new draft and incomplete sections would be addressed. **Leak** confirmed that once next part of draft is available, **Hayward** would call for a meeting. **Peters** suggested that a 5:30 p.m. meeting be scheduled next month to visit the areas that haven't been completed (back end of definitions, PUD, and subdivisions), in addition to the new draft.

October 10, 2016 Report on the Master Plan Goals and Actions Implementation Plans

Peters thought it was a successful meeting and accomplished what she expected to. The PDF version of what was done in each category is created and on website. (PC received the Excel version). They covered environmental, historic districts, shoreline, then spoke about capital improvement plans and road issues. She proposed that in addition to an ag meeting, there be a second meeting in November and address back areas and commercial neighborhoods. One meeting would address just ag, one would cover everything else. Are people willing to have two meetings between now and the end of November? Afternoon/evening meeting? Group said yes. **Peters** will work with **Wunsch** to get two meetings on the calendar for November so that the group can get a handle on all actions in the master plan and which ones need to be addressed and who should address it. The ag one may be in the afternoon, while the other will be in the evening. **Hayward** will set a time.

9. Citizen Comments

Margaret Achorn asked if the packet will be on the website. **Hayward** - yes.

10. Board Comments

Serocki doesn't have any minutes from June 23 (morning meeting - 10:00 am). They are not on website. Agenda and packet are on website, but no minutes. It was a joint meeting between town board and PC. **Hayward** will look into it.

11. Adjournment

MOTION: Peters / Serocki to adjourn at 6:49. MOTION PASSED.

**PENINSULA TOWNSHIP
SPECIAL MEETING PLANNING COMMISSION MINUTES
13235 Center Road Traverse City, MI 49686
October 17, 2016 7:00 PM Township Hall**

Meeting called to order at 7:00 pm.

Present: **Leak, Peters, Rosi, Serocki, Couture, Wunsch, Hayward, Peter Wendling,** and Rachel Mavis (recording secretary).

Absent: **Hornberger**

Approve Agenda

MOTION: Couture/Serocki to approve amended agenda. MOTION PASSED.

Brief Citizen Comments - for items not on the Agenda

None

Conflict of Interest

Serocki - conflict of interest with SUP #127.

Consent Agenda

Serocki - requested to give minor corrections on the minutes from July 13 and October 3. On July 13, at the bottom of the first page, last paragraph, it needs to be corrected to either “Young stated” or “Young said.” On October 3, Serocki asked if we could talk to Sloan about the cost for additional drafts outside of contract and Hayward would look into it. This was requested to be added to the final page of the minutes.

MOTION: Couture/Peters to amend consent agenda to reflect changes in meeting minutes.
MOTION PASSED.

Business

SUP #127 – Vineyard Ridge – Remove consideration of the 10-3-16 plans and discuss proposed changes to the site plan per Mansfield letter of 10-13-2016.

Dusty Christensen from Mansfield Land Use Consultants presented an update on the proposed Vineyard Ridge Planned Unit Development.

Since the last meeting in September, multiple discussions have occurred between Mansfield LUC and township staff and supervisors, as well as the township engineer, and as a result, Mansfield requested to remove previously submitted documents and came with a revised site plan to further discussion and bring everyone up to speed regarding the project over the past month. Mansfield spoke with township planner and supervisor over a number of issues (including traffic and safety). Updated 11x17 maps were handed out - but are still tentative, as they will potentially be tweaking them some more before they come back to the board.

One of the focuses of change was on Vineyard Ridge Road and Center Road, regarding traffic / safety issues. Schmidt (the developer) agreed to allocate additional right of way in the NE corner to allow for future considerations of road improvements.

Additionally, safety measures for pedestrians (and any other non-motorized travel) was a concern. A 42' wide easement on the perimeter has been added to the proposed plan to allow for a future 10' wide trail to be designed.

The updated plan also includes a change in the open space allowance. With the new plans, over 10% is open space for the township to use for public recreational use. (The 65% private open space option is no longer a part of the plan.)

An additional concern was the potential for people to use Vineyard Ridge as a cut-through from Mathieson Rd. to Center Rd. The new plan has adapted the road to weave and added a roundabout to allow emergency vehicles through, but also prohibit people from cutting across.

As a result of the changes and the additional tweaking still to come, a public hearing is necessary. Christensen's request tonight is to have another public hearing scheduled.

Couture asked if any lots were lost in the new plan. - No, they still have 47 lots. The southwest corner lots shifted, but none were lost. A pedestrian path was also added to provide access to the pool house. The 90' buffer between boundaries of property and proposed development also remains unchanged.

Couture asked if the trail would be paved. - It's not part of the proposal to pave it, because that is part of a future project. **Couture** said that he was very impressed with the changes and thinks that Mansfield has done an outstanding job to take township concerns into consideration and be creative with a solution.

Rosi asked if this will be phased. - In the previous plan, there were 3 development phases. In this one, there will be 2-3 development phases, but they will be revealed with the official project proposal. They will amend all of the documents and provide new drawings. **Rosi** also asked if the space between houses could be clarified - how will it be described? - It will be a common area, but no referred to as "open space."

Peters asked **Hayward** and **Wendling** if the dedicated easement meets the requirements. **Wendling** said that the 10% net acreage dedicated to the township should meet the requirement. Hayward and Wending will look into it and make sure it's in compliance.

Leak asked about the options on Center Road regarding a turn lane. Has it been discussed with MDOT whether or not it could be done with painting and the ability to go around cars that are turning? - At a meeting with MDOT, the idea of a bypass flare was discussed. Because there are existing driveways, it's considered unsafe and impractical and was removed as an option by MDOT.

Christensen said said that by the December meeting, they should be ready to meet again regarding the proposal. Also, all documents would be ready and submitted prior to the meeting by then.

Consider scheduling a December public hearing for the revised SUP #127 Project.
MOTION to wait until next month to schedule a December public hearing. **Peters/Wunsch.**
MOTION PASSED.

Zoning Rewrite Process

Peters reported that the material from McKenna came in today, which is a summary of their review and the remaining items. By the end of October, they will be sending a new, updated draft. **Hayward** was directed to make sure that the pictures and hyperlinks are available as soon as possible. The board is looking at having a additional 5:30 p.m. meeting in November to look at definitions, PUD, and subdivisions. (Chateaus will be addressed at a different point).

September 19, 2016 7:00 Regular (Peters 10-12-2016 memo)

Peters' comments on Vineyard Ridge were left out of the minutes. On page 2, about 2/3 of the way down the page, after the paragraph where Leak, Reardon and Couture spoke about turn lanes, **Peters** would like the following added: "Peters spoke about classifying the narrow 'canyon-like' common spaces between the houses as Open Space. She has calculated over 66,000 square feet (over 1 1/2 acres) of property that is in these canyon-like areas which are 15, 20, or maybe 25 feet wide. The definition in the zoning ordinance of Open Space does not define shape; she believes this does not meet the intent for Open Space."

MOTION to add comments. **Peters/Wunsch. MOTION PASSED.**

Citizen Comments

Margaret Achorn, 11284 Peninsula Drive - has addressed escrow accounts with this board and township board. This is a major change and the taxpayers are footing the bill for engineers, attorneys, and other professionals. Because this is a practically a brand new application, she asks that a new substantial escrow act be opened, so that the taxpayers will not continue to pay.

Andrew Valdmanis, 1484 Chimney Ridge Drive - Will the McKenna packet be on website?
Hayward confirmed that it will be available on the website.

Board Comments

Peters - Hayward, Wending, what do we need to do in terms of escrow? When/what?

Wending - Any time you anticipate a development that will take up more time than a standard meeting. That's when you decide. He believes there was one taken initially, but will have **Hayward** look into it. **Couture** - where is that? Zoning ordinance? **Wending** affirmed that yes, **Hayward** confirmed that it was amendment 190.

Wunsch - do we need to make a motion to put escrow into effect? **Wending** - Yes, but there is some time. We may want to wait until next month, since the first public hearing will be in December. There may already be a vote for it to have an escrow, so **Hayward** will look into it. It will be handled through township treasurers office.

Serocki - on PUD, when the 10% is public, does the town board have to vote on accepting it?
Hayward - yes. **Serocki** - will that have to be done before PC public hearing? **Hayward** - The sooner the issue is brought up and a decision is made, the better. **Hayward** would prefer to look with attorney at what form the document should be in and take that to board. **Wending** - two additional standards that will have to be voted on. The attorney will work with developer to make sure the format of the type of dedication is ready to go.

Wunsch - ZBA report. There were two items were on the agenda. Both were removed, so the meeting lasted 17 minutes.

Hayward updated on the issue with the Bowers Harbor roadside stand. The issue was the seasonality of the stand. It was originally set up as a farm processing / facility combination. Tasting was allowed in roadside stands at the time it was issued. Seasonality was resolved because the Right to Farm Act allowed the DOA to establish management practices appropriate

to different uses. One was created for farm markets and roadside stands, as long as the farmer complies with standards of the GAAMP (Generally Accepted Agricultural Management Practices), they are exempt from local zoning regulations. In that, they differentiated between agricultural products and processed agricultural products. The town board accepted that as the basis for removing the limitation on seasonal sales of products for Bowers Harbor, so she can apply for the addition to her structure. Based on the attorney's recommendation, they will look into amending ordinance to allow for GAAMP. **Serocki** - in their SUP, it states they're seasonally opened. Should that be removed? **Hayward** - no, because in reality, it can't be enforced. As long as she's compliant with the national practice, it's allowed.

Peters - Bonobo update from town meeting. **Rosi** shared that Bonobo found additional acreage that they were unaware of. There was a long conversation with the Bonobo people (not on the agenda) so the board wasn't fully prepared. The township drew a line in the sand to get the issue resolved. **Peters** updated that the Bonobo farm will now have apples (instead of pumpkins). The town board has tabled any decision at this point. **Rosi** shared that since the apples will take an additional two years, this puts Bonobo two more years out from coming into compliance, which is a concern for the town board.

MOTION: Couture/Serocki to adjourn at 7:58 p.m. **MOTION PASSED.**

**PENINSULA TOWNSHIP
SPECIAL MEETING ZONING REWRITE COMMITTEE
13235 Center Road Traverse City, MI 49686
November 9, 2016 6:00 PM Township Hall**

Meeting called to order at 6:00 p.m.

Present: **Leak, Serocki, Peters, Hornberger, and Rosi.**

Also present: Gordon Hayward, Joanne Westphal, and Rachel Mavis (recording secretary), along with approximately 6+ residents.

Absent: **Wunsch, Couture (both excused)**

Motion to approve agenda by Hornberger / Peters. Motion passed.

Brief Citizen Comments - for items not on the Agenda

none

Conflict of Interest

none

Consent Agenda

none

Business

Non-farm Master Plan Issues and Action Recommendations

Peters - she and Wunsch are co-chairs of a subcommittee that is looking into master plan implementation of work plans. Tonight is the 2nd of 3 scheduled meetings to look at goals / actions of master plan and framing the question - what do we need to do to implement? and who needs to do it?

Last time they discussed capital improvement plan (1st goal on the top) - Center Road (3rd goal). The handout has notes from previous meeting (available online - Oct. 3 meeting).

Tonight will be skipping over agricultural area (there will be a meeting next Thursday afternoon regarding those). Wunsch will be back from Kosovo at that point and will help lead that meeting. Looking at residential land use goals / actions tonight.

- *Re-evaluating the residential zoning districts:* Hayward shared that there was previous discussion about creating different districts and combining some. There are currently 4 residential districts - R1A, R1B, R1C, and R1D. R1A - one acre, R1B - 25,000 sq. feet (slightly more than 1/2 acre), R1C - 20,000 sq. feet, and R1D - 15,000 sq. feet. There was a recommendation to look at combining R1C and R1D into the previous two, but McKenna pointed out that would be very difficult to do due to increased density. Serocki also pointed out that R1B allows one house, while R1C allows two. If properties were changed to R1C, anyone who tears down their house can put two up, which increases density. The feedback from surveys and citizen groups is that they do not want that.

Hayward also pointed out that the original zoning ordinance saw ag land as future development - anything nonresidential was dumped into the ag category. If there was interest in separating out those zones, they should be called something besides agricultural and allow those in ag to have their property rezoned.

Westphal - to add to what Hayward said, carrying capacity was used to support arguments for PDR. As they studied various sections of land, the zoning didn't match the soils, slopes, best ag land for fruit crops, etc. When the zoning was created, it was often straight lines and didn't follow the topographic relief of the land. It would be good to look at what capacity some of the "less desirable" ag areas could have for residential development.

- *Plan development to preserve prime ag land, natural resources, unique character:* Peters pointed out this is a similar area. More work needs to be done when it comes to looking at ag land. Beyond the conversation of do we / do we not combine zoning areas, how do we continue the discussion further than that? What kind of group do we need - what types of information? Is it a PC issue? (Serocki added that both Michelle and McKenna didn't want to / didn't recommend removing any of the designations. All four should remain in the new future land use map.)

Westphal suggested that if preserving the better ag land is a priority, where can developments best be located, based on the land? Probably would require a PUD designation, but they could be more strategic in designations.

Serocki - we have PUD ordinances to preserve the elements, but we don't have the standards to pressure developers to stay within that. We want to have standards within the zoning ordinances. We need more specific standards (i.e. tearing out trees, bulldozing hills to build homes) in place.

Peters suggested the need for more study and committee meeting groups to provide direction to the PC. In regards to Westphal's idea of how to look at each particular piece of property, Serocki also added that what the property owner wants to build is important - you can look at a property and think it would make a good PUD, but if the owner doesn't want to, you've wasted your time and money. If you're a property owner, it's your property. Westphal suggested providing case studies ahead of time to help people visualize what their options are. Hayward suggested giving property owners options - what are the tradeoffs? How can we encourage someone to do something the preservation way?

- *Preserve single-family character of various residential neighborhoods:* Peters - Since this was written, have we actually gotten better standards in regards to noise ordinance, junk ordinance, etc.? Rosi and Serocki agreed that both noise and junk ordinances are being enforced. They are trying to enforce the rentals that are less than 30 days, but they can only enforce when someone complains, so it's hard to track. It's definitely being broken.

Everyone agreed that they don't want to address B&B ordinances until the new board is in place and settled. Hornberger said that once they are settled, she would eventually like to see how they feel about short-term rentals on larger properties, B&Bs, etc.

The master plan is trying to anticipate potential problems before the fact, instead of waiting until afterwards.

Westphal brought up rentals - she can see in dense neighborhoods where this could be (and has been) a problem, but in areas that are more ag land, it's less of an issue. One issue that may be on the horizon, though, is marijuana growth ("home-based business").

- Peters brought up that in some MI jurisdictions, the PC becomes the final approval place when a new zoning or new amendment takes place. Here, the town board is the final say (the PC is a recommending board). They've been thwarted on several different issues - the PC works on it and then it gets thrown out at the town board level. In some early meetings, there were joint town board / PC meetings. Are there any other mechanisms to get feedback and a feel for where the town board is going to be?

Hayward suggested that the master plan be used for this. For example, the PDR program was developed by the PC through the master plan first.

A resident suggested that there be something on a preliminary level - a "yay" or "nay" before the PC moved forward with an idea - perhaps have a bullet point list and have a joint meeting. Rosi is familiar with communities where the PC moves forward (without the town board determining if it moves forward). Perhaps we could identify those communities and find out what they have in place to implement that here. A resident shared that from the public perspective, they are frustrated by this, too - they see things move forward, then get crushed. Things also move slowly.

Westphal suggested to use some of the survey work that was done on the master plan in the past - gather feedback from the public, then use that when approaching the town board. It is the voice of the people that you're working with. Also, the town board is elected, while the PC is appointed, so it makes for a different level of priorities.

There is a system in place for communication, but it's not necessarily working well. Should someone from the PC bring a topic to the town board, instead of making things go through the planner? Then it would open up communication so that they could have earlier feedback.

Serocki pointed out that the agenda from the town board always includes a report from the planner, but it's usually just on paper as a consent agenda item.

Westphal - open public sessions like tonight become increasingly valuable. The new town board is very interested in what everyone is doing and have different talents and different perspectives to bring to the board. This is a golden opportunity to increase communication between the two boards. A survey will also be important to give additional reach into the community for people who can't attend meetings.

- *"Provide pedestrian movement in high density and in commercial areas"* There isn't enough interest for BATA to have an official route. A resident asked if it had ever been discussed to provide a system for bike traffic. Yes, there was a lot of discussion about a north/south trail, but the main issue was the farming land. There are extra wide paved shoulders on M37.

Leak pointed out that there are a lot of great trails at the tip of the peninsula - the parks board is working on maps and signs to designate these trails more clearly.

Peters asked if there was something more we should be doing in regards to this. Rosi suggested that maybe if a continuous trail isn't an option, is there a way to create shorter routes for families? Is it worth a survey to ask? A resident shared that there is another public meeting coming up regarding the Bowers Harbor extension, but it all comes down to the cost of things like a trail - there isn't room for that in the budget.

Resident Curt Peterson - concerning the future land use map in regards to the Buchan / Old Mission Estates sub area. It is currently zoned as ag; in future it's changed to be one of the residential reduced down to 1 acre (right now they are 5 acres). They had an Old Mission Estate association meeting earlier this spring and residents don't want to see it changed from ag. Nelson Rd comes down from Center Rd. and is paved, then goes to a seasonal dirt road (one car wide, not maintained). That's right next to their subdivision. There are two lots on Nelson Rd. (two 20-acre plots) that are for sale for \$1.8 million and being advertised as potential winery sites. If that's the case, Nelson Rd. will be paved, and they don't want a main road by their sub. If designations get changed from ag to residential, there are more developmental pressures on that area. His association doesn't want to see that. They're requesting that the future land use map for Buchan, Old Mission Estate, and orchard area be kept as ag.

Citizen Comments

Curt Peterson - this kind of meeting is excellent. He loves the give/take and conversational feel of the meeting. At regular PC meetings, business is talked about, then there's a time for citizens to comment, which feels backwards. This is excellent.

Joanne Westphal - The property that Curt was talking about earlier is the Edmonson property. She always pictured that as the start to a trail system. You can see how natural features could be linked up. That could be a nice bike trail away from motorized vehicles. It's a matter of getting a common vision. As a PC, let's think about how we can reduce the concerns about liability among the farming community that would allow that type of trail system to become a reality.

Board Comments

Peters - We canceled our regular meeting on November 21 and now have a meeting on the 28th. Let's consider these things when we set our agendas for the year. Hayward will bring it up at the meeting. Is Dusty from Vineyard Ridge providing info at the next meeting? - He knows about the change in dates. Hayward is working on getting materials from him. - Can it be done by the 21st so that she can take it with her? - He was planning on waiting until he had everything completed and Hayward is trying to get him to give shorter plan sooner. He is pushing to get whatever he has done immediately.

Motion to adjourn by Serocki / Peters. Motion passed. Meeting adjourned at 8:26 p.m.

Master Plan Goals and Actions Implementation – Update Report

Monnie Peters, Co-chair of the Committee
November 21, 2016

There have been three round-table discussion meetings (October 3, November 9 and November 17) that have discussed the Master Plan Goals and Actions. We have gone through about $\frac{3}{4}$ of the Master Plan Actions in a general way.

After the draft minutes for the November 17th meeting are out, I will fill in the big spreadsheet on Goals and Actions. I would hope that it will be available for the PC meeting on November 30th.

One more meeting should get through a first general discussion about the rest of the Master Plan Actions. I think it can be scheduled in January; no meetings in December.

Once that meeting is done, I will fill in the big spreadsheet as much as possible and will present draft specifics and suggested priorities of working on Actions ... both by PC and by others. I will present that to the PC meeting for discussion either in January or February.

I thank all who have attended any of these sessions. I have heard good feedback on the roundtable process, and I find it brings out innovative thoughts.

Peninsula Township Planning Commission,

11-23-2016

Regarding Agenda Business Item 8.b. (BEA) Baseline Environmental Assessments.

I have enclosed 7 pages (BEA 1-7) of information related to Baseline Environmental Assessments.

I am recommending that the Planning Commission consider asking the Township Attorneys for recommendations regarding the following.

1. Should the Planning Commission propose an Ordinance Amendment making a BEA an application requirement for all Planned Unit Developments, Subdivisions and Site Condominiums?
2. Can we simply add BEA in the Application Check List by asking for a copy of a BEA if one exists?

Gordon L. Hayward

Director of Planning and Zoning

Baseline Environmental Assessments (BEAs)

A person can buy, lease, or foreclose on contaminated property and be protected from liability for cleanup of existing contamination on the property if they: 1) conduct a baseline environmental assessment (BEA) and 2) disclose it to the DEQ and subsequent purchasers and transferees of the property, as outlined in Part 201 (Environmental Remediation) and Part 213 (Leaking Underground Storage Tanks). For questions regarding the regulations and the process to conduct and submit a BEA: Jeanne Schlaufman 586-753-3823.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

324.20107a Duties of owner or operator having knowledge of facility; hazardous substances; obligations based on current numeric cleanup or site-specific criteria; liability for costs and damages; compliance with section; applicability of subsection (1)(a) to (c) to state or local unit of government; "express public purpose" explained.

Sec. 20107a.

(1) A person who owns or operates property that he or she has knowledge is a facility shall do all of the following with respect to hazardous substances at the facility:

(a) Undertake measures as are necessary to prevent exacerbation.

(b) Exercise due care by undertaking response activity necessary to mitigate unacceptable exposure to hazardous substances, mitigate fire and explosion hazards due to hazardous substances, and allow for the intended use of the facility in a manner that protects the public health and safety.

(c) Take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the consequences that foreseeably could result from those acts or omissions.

(d) Provide reasonable cooperation, assistance, and access to the persons that are authorized to conduct response activities at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response activity at the facility. Nothing in this subdivision shall be interpreted to provide any right of access not expressly authorized by law, including access authorized pursuant to a warrant or a court order, or to preclude access allowed pursuant to a voluntary agreement.

(e) Comply with any land use or resource use restrictions established or relied on in connection with the response activities at the facility.

(f) Not impede the effectiveness or integrity of any land use or resource use restriction employed at the facility in connection with response activities.

BEA 1

(2) The owner's or operator's obligations under this section shall be based upon the current numeric cleanup criteria under section 20120a(1) or site-specific criteria approved under section 20120b.

(3) A person who violates subsection (1) who is not otherwise liable under this part for the release at the facility is liable for response activity costs and natural resource damages attributable to any exacerbation and any fines or penalties imposed under this part resulting from the violation of subsection (1) but is not liable for performance of additional response activities unless the person is otherwise liable under this part for performance of additional response activities. The burden of proof in a dispute as to what constitutes exacerbation shall be borne by the party seeking relief.

(4) Compliance with this section does not satisfy a person's obligation to perform response activities as otherwise required under this part.

(5) Subsection (1)(a) to (c) does not apply to the state or to a local unit of government that is not liable under section 20126(1)(c) or (3)(a), (b), (c), or (e) or to the state or a local unit of government that acquired property by purchase, gift, transfer, or condemnation prior to June 5, 1995 or to a person who is exempt from liability under section 20126(4)(c). However, if the state or local unit of government, acting as the operator of a parcel of property that the state or local unit of government has knowledge is a facility, offers access to that parcel on a regular or continuous basis pursuant to an express public purpose and invites the general public to use that property for the express public purpose, the state or local unit of government is subject to this section but only with respect to that portion of the facility that is opened to and used by the general public for that express purpose, and not the entire facility. Express public purpose includes, but is not limited to, activities such as a public park, municipal office building, or municipal public works operation. Express public purpose does not include activities surrounding the acquisition or compilation of parcels for the purpose of future development.

(6) Subsection (1)(a) to (c) does not apply to a person who is exempt from liability under section 20126(3)(c) or (d) except with regard to that person's activities at the facility.

History: Add. 1995, Act 71, Imd. Eff. June 5, 1995 ;-- Am. 1996, Act 115, Imd. Eff. Mar. 6, 1996 ;-- Am. 1996, Act 380, Imd. Eff. July 24, 1996 ;-- Am. 1996, Act 383, Imd. Eff. July 24, 1996 ;-- Am. 2010, Act 233, Imd. Eff. Dec. 14, 2010 ;-- Am. 2014, Act 542, Imd. Eff. Jan. 15, 2015

Popular Name: Act 451© 2015 Legislative Council, State of Michigan

Rendered 11/21/2016 14:16:47 Michigan Compiled Laws Complete Through PA 317 of 2016

© 2016 Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

BEA 2

DEQ/RRD
BEA
GUIDE

Baseline Environmental Assessments (BEA)

Liability protection for new or prospective owners
or operators of contaminated property

BUYING, LEASING, OR FORECLOSING ON PROPERTY?

This guide to BEAs is designed for persons buying, leasing, or foreclosing on property that might be contaminated. A person can buy, lease, or foreclose on contaminated property and be protected from liability for cleanup of contamination on the property (provided they did not cause the contamination) if they: 1) conduct a baseline environmental assessment (BEA) and, 2) disclose it to the Department of Environmental Quality (DEQ) and subsequent purchasers and transferees of the property, as outlined under Part 201 (Environmental Remediation) and Part 213 (Leaking Underground Storage Tanks) of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

If the property is shown to be contaminated (see page 2), this guide will assist the potential new owner or operator of a property in conducting a BEA and obtaining liability protection for the existing contamination.



Abandoned property - prime for redevelopment.

First, there are immediate time frames that must be met in conducting and disclosing a BEA to the DEQ; please refer to the section on time frames.

A thorough review of the statute/guidelines is also highly recommended before making site-specific decisions.

The Part 201 and Part 213 statutes, Part 10 (Due Care) Administrative Rules, and BEA Submittal Form are available at the DEQ web site: www.michigan.gov/bea.

DUE DILIGENCE

Is this property contaminated?

A potential new owner or operator is obligated to conduct all appropriate inquiry (commonly referred to as: performing due diligence) to evaluate whether environmental contamination is potentially present on a piece of property. The initial step is to ask the seller or owner about any known environmental conditions. Buyers are also encouraged to contact the DEQ, which maintains records of contaminated properties and may already have information about the property the potential purchaser may need. The next step is to hire an environmental professional (see *Environmental Professional*, page 3) to conduct an environmental assessment of the property using the federal All Appropriate Inquiry (AAI) process [40 CFR 312] or the American Society for Testing Methods (ASTM) Phase I Environmental Site Assessment process.

A fact sheet on Michigan's environmental cleanup program from ..

Michigan Department of Environmental Quality
Remediation and Redevelopment Division
PO Box 30426, Lansing, MI 48909-7926
Main Telephone: 517-284-5087
www.michigan.gov/deqrrd

Rick Snyder, Governor * Dan Wyant, Director



Revised May 2015

BEA 3

The AAI or Phase I report may identify conditions indicative of an actual or threatened release of hazardous substances -- often called Recognized Environmental Concerns (REC). An environmental professional can assist in determining if it is necessary to proceed to a Phase II or equivalent assessment. The Phase II assessment involves further investigation into the RECs, including collecting soil and/or groundwater samples, identifying the presence of underground tanks, and documenting any abandoned containers and their contents, etc.

HOW CONTAMINATED IS THE PROPERTY?

The information gained in the AAI or Phase I and Phase II assessments is used to determine whether the property is contaminated at concentrations greater than the unrestricted residential criteria -- the state's most protective cleanup criteria. These criteria are available on the DEQ's web site at www.michigan.gov/deqrrd (scroll down and select Cleanup Criteria Requirements for Response Activity, then select Tables 1, 2 or 3 for appropriate criteria comparison table). If the contaminant concentrations on a property do not exceed the unrestricted residential criteria, then the property is not regulated pursuant to Parts 201 and/or 213. Documentation should be maintained by the new owner or operator to show that they have conducted due diligence in accordance with Parts 201 and 213. A BEA is only applicable for a property where contaminants in excess of the unrestricted residential criterion are detected.

If the detected contaminant concentrations exceed one or more residential criteria, then the property is contaminated, and a BEA may be the next step. Potential owners/operators may wish to discuss the necessity for a BEA with the DEQ, their environmental professionals and/or their attorneys. There may be other options and

exemptions for resolving potential liability in certain circumstances.

BASELINE ENVIRONMENTAL ASSESSMENTS

Parts 201 and 213 define a BEA as a written document that describes the results of the AAI and includes the sampling and analysis that confirm that the property is contaminated above the unrestricted residential criteria. Disclosure of the BEA to the DEQ provides liability protection for the new owner or operator for cleanup of contamination caused by others. This liability protection includes known and unknown contamination under specific programs regulated by the NREPA:

- ▶ Part 201 (Environmental Remediation)
- ▶ Part 213 (Leaking Underground Storage Tanks)
- ▶ Part 31 (Water Resources Protection)
- ▶ Part 17 (MI Environmental Protection Act)
- ▶ Part 615 (Supervisor of Wells)
- ▶ Part 625 (Mineral Wells)

A BEA does not provide protection from liability under other state and federal laws, including:

- ▶ Landfills regulated under Part 115 of NREPA.
- ▶ Treatment, Storage, and Disposal (TSD) facilities regulated by the federal Resource Conservation and Recovery Act (RCRA) and Part 111 (Hazardous Waste Management) of the NREPA.
- ▶ Underground storage tank operational requirements under Part 211 of the NREPA.
- ▶ Federal Comprehensive Environmental Response and Compensation Liability Act (CERCLA) and Superfund.

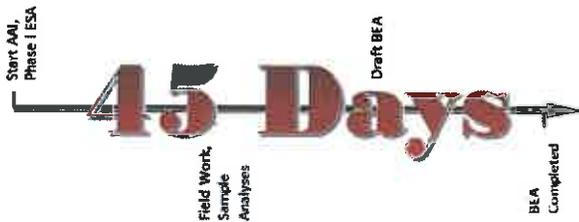
The U.S. Environmental Protection Agency (EPA) and DEQ have entered into an agreement that the EPA will not take action against a person who has disclosed a BEA unless the facility is on the federal National Priority List, federal funds

BEA 4

have been spent to respond to conditions at the facility, or there is an imminent danger to the public health, safety, welfare, or the environment.

TIME FRAMES TO CONDUCT A BEA

A BEA must be conducted prior to or within 45 days after becoming the owner or operator of a contaminated property. "Conducted" means the AAI or Phase I report, the field work, and sample analysis are all completed, and the BEA report is written.



DISCLOSURE OF A BEA TO THE DEQ AND TO SUBSEQUENT PURCHASERS OR TRANSFEREES

To obtain and maintain liability protection, Parts 201 and 213 require that a BEA be submitted to the DEQ and to subsequent purchasers or transferees, including lessees. The BEA must be submitted to the DEQ within 6 months after the earlier date of becoming the owner, operator, or of foreclosure to the DEQ District Office for the county in which the property is located. DEQ mailing addresses for BEA submittals are available at the DEQ-BEA web site: www.michigan.gov/bea. The BEA must also be made available to subsequent purchasers or transferees, including lessees, prior to transfer of the interest in the property.

BEA CONTENT AND FORMS

The form for submitting a BEA is available on the DEQ-BEA web page (see above). A person who is legally responsible or is authorized by the owner or operator, such as the owner or president of a company, must sign the submittal

form. The content of a BEA report is outlined on the third page of the submittal form.

ENVIRONMENTAL PROFESSIONALS

A BEA is typically performed by an environmental consultant. The AAI or Phase I environmental assessment report must be prepared by an environmental professional as defined in the AAI Federal Rules or ASTM standards (*see links in Sources of Information*). Resources for finding an environmental professional, consultant or engineer, include: online searches for Environmental, Ecological, or Engineering consulting firms; referrals from financial institutions, real estate agencies, or trade associations, etc. It's wise to ask the professional or consultant for references and make inquiries as to the number of BEAs they have completed. The DEQ does not provide recommendations for environmental professionals, consultants or engineers.

SOURCES OF INFORMATION

DEQ Environmental Assistance Center
1-800-662-9278

www.michigan.gov/bea

DEQ Remediation and Redevelopment
Division Web Page
www.michigan.gov/deqrrd

DEQ Remediation and Redevelopment
Division Contact
Jeanne Schlaufman
586-753-3823
schlaufmanj1@michigan.gov

DEQ Office of Oil, Gas and Minerals Contact
Part 615 (Supervisor of Wells – oil/gas wells) and
Part 625 (Mineral Wells)
Janice Smith
517-242-3134
smithj6@michigan.gov

Revised May 2015

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.20107a Duties of owner or operator having knowledge of facility; hazardous substances; obligations based on current numeric cleanup or site-specific criteria; liability for costs and damages; compliance with section; applicability of subsection (1)(a) to (c) to state or local unit of government; "express public purpose" explained.

Sec. 20107a.

(1) A person who owns or operates property that he or she has knowledge is a facility shall do all of the following with respect to hazardous substances at the facility:

(a) Undertake measures as are necessary to prevent exacerbation.

(b) Exercise due care by undertaking response activity necessary to mitigate unacceptable exposure to hazardous substances, mitigate fire and explosion hazards due to hazardous substances, and allow for the intended use of the facility in a manner that protects the public health and safety.

(c) Take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the consequences that foreseeably could result from those acts or omissions.

(d) Provide reasonable cooperation, assistance, and access to the persons that are authorized to conduct response activities at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response activity at the facility. Nothing in this subdivision shall be interpreted to provide any right of access not expressly authorized by law, including access authorized pursuant to a warrant or a court order, or to preclude access allowed pursuant to a voluntary agreement.

(e) Comply with any land use or resource use restrictions established or relied on in connection with the response activities at the facility.

(f) Not impede the effectiveness or integrity of any land use or resource use restriction employed at the facility in connection with response activities.

(2) The owner's or operator's obligations under this section shall be based upon the current numeric cleanup criteria under section 20120a(1) or site-specific criteria approved under section 20120b.

(3) A person who violates subsection (1) who is not otherwise liable under this part for the release at the facility is liable for response activity costs and natural resource damages attributable to any exacerbation and any fines or penalties imposed under this part resulting from the violation of subsection (1) but is not liable for performance of additional response activities unless the person is otherwise liable under this part for performance of additional response activities. The burden of proof in a dispute as to what constitutes exacerbation shall be borne by the party seeking relief.

(4) Compliance with this section does not satisfy a person's obligation to perform response activities as otherwise required under this part.

BEA6

(5) Subsection (1)(a) to (c) does not apply to the state or to a local unit of government that is not liable under section 20126(1)(c) or (3)(a), (b), (c), or (e) or to the state or a local unit of government that acquired property by purchase, gift, transfer, or condemnation prior to June 5, 1995 or to a person who is exempt from liability under section 20126(4)(c). However, if the state or local unit of government, acting as the operator of a parcel of property that the state or local unit of government has knowledge is a facility, offers access to that parcel on a regular or continuous basis pursuant to an express public purpose and invites the general public to use that property for the express public purpose, the state or local unit of government is subject to this section but only with respect to that portion of the facility that is opened to and used by the general public for that express purpose, and not the entire facility. Express public purpose includes, but is not limited to, activities such as a public park, municipal office building, or municipal public works operation. Express public purpose does not include activities surrounding the acquisition or compilation of parcels for the purpose of future development.

(6) Subsection (1)(a) to (c) does not apply to a person who is exempt from liability under section 20126(3)(c) or (d) except with regard to that person's activities at the facility.

History: Add. 1995, Act 71, Imd. Eff. June 5, 1995 ;-- Am. 1996, Act 115, Imd. Eff. Mar. 6, 1996 ;-- Am. 1996, Act 380, Imd. Eff. July 24, 1996 ;-- Am. 1996, Act 383, Imd. Eff. July 24, 1996 ;-- Am. 2010, Act 233, Imd. Eff. Dec. 14, 2010 ;-- Am. 2014, Act 542, Imd. Eff. Jan. 15, 2015

Popular Name: Act 451

Popular Name: Environmental Remediation

Popular Name: Environmental Response Act

Popular Name: NREPA

© 2015 Legislative Council, State of Michigan

Rendered 11/21/2016 14:16:47

© 2016 Legislative Council, State of Michigan

Michigan Compiled Laws Complete Through PA 317 of 2016

Courtesy of www.legislature.mi.gov

BEA 7

Calendar for Year 2017 (United States)

<p>January</p> <p>Su Mo Tu We Th Fr Sa</p> <p>1 2 3 4 5 6 7</p> <p>8 9 10 11 12 13 14</p> <p>15 16 17 18 19 20 21</p> <p>22 23 24 25 26 27 28</p> <p>29 30 31</p> <p>5: 12: 19: 27:</p>	<p>*February</p> <p>Su Mo Tu We Th Fr Sa</p> <p>1 2 3 4</p> <p>5 6 7 8 9 10 11</p> <p>12 13 14 15 16 17 18</p> <p>19 20 21 22 23 24 25</p> <p>26 27 28</p> <p>3: 10: 18: 26:</p>	<p>March</p> <p>Su Mo Tu We Th Fr Sa</p> <p>1 2 3 4</p> <p>5 6 7 8 9 10 11</p> <p>12 13 14 15 16 17 18</p> <p>19 20 21 22 23 24 25</p> <p>26 27 28 29 30 31</p> <p>5: 12: 20: 27:</p>
<p>April</p> <p>Su Mo Tu We Th Fr Sa</p> <p>1</p> <p>2 3 4 5 6 7 8</p> <p>9 10 11 12 13 14 15</p> <p>16 17 18 19 20 21 22</p> <p>23 24 25 26 27 28 29</p> <p>30</p> <p>3: 11: 19: 26:</p>	<p>May</p> <p>Su Mo Tu We Th Fr Sa</p> <p>1 2 3 4 5 6</p> <p>7 8 9 10 11 12 13</p> <p>14 15 16 17 18 19 20</p> <p>21 22 23 24 25 26 27</p> <p>28 29 30 31</p> <p>2: 10: 18: 25:</p>	<p>June</p> <p>Su Mo Tu We Th Fr Sa</p> <p>1 2 3</p> <p>4 5 6 7 8 9 10</p> <p>11 12 13 14 15 16 17</p> <p>18 19 20 21 22 23 24</p> <p>25 26 27 28 29 30</p> <p>1: 9: 17: 23: 30:</p>
<p>July</p> <p>Su Mo Tu We Th Fr Sa</p> <p>1</p> <p>2 3 4 5 6 7 8</p> <p>9 10 11 12 13 14 15</p> <p>16 17 18 19 20 21 22</p> <p>23 24 25 26 27 28 29</p> <p>30 31</p> <p>9: 16: 23: 30:</p>	<p>August</p> <p>Su Mo Tu We Th Fr Sa</p> <p>1 2 3 4 5</p> <p>6 7 8 9 10 11 12</p> <p>13 14 15 16 17 18 19</p> <p>20 21 22 23 24 25 26</p> <p>27 28 29 30 31</p> <p>7: 14: 21: 29:</p>	<p>September</p> <p>Su Mo Tu We Th Fr Sa</p> <p>1 2</p> <p>3 4 5 6 7 8 9</p> <p>10 11 12 13 14 15 16</p> <p>17 18 19 20 21 22 23</p> <p>24 25 26 27 28 29 30</p> <p>6: 13: 20: 27:</p>
<p>October</p> <p>Su Mo Tu We Th Fr Sa</p> <p>1 2 3 4 5 6 7</p> <p>8 9 10 11 12 13 14</p> <p>15 16 17 18 19 20 21</p> <p>22 23 24 25 26 27 28</p> <p>29 30 31</p> <p>5: 12: 19: 27:</p>	<p>*November</p> <p>Su Mo Tu We Th Fr Sa</p> <p>1 2 3 4</p> <p>5 6 7 8 9 10 11</p> <p>12 13 14 15 16 17 18</p> <p>19 20 21 22 23 24 25</p> <p>26 27 28 29 30</p> <p>4: 10: 18: 26:</p>	<p>December</p> <p>Su Mo Tu We Th Fr Sa</p> <p>1 2</p> <p>3 4 5 6 7 8 9</p> <p>10 11 12 13 14 15 16</p> <p>17 18 19 20 21 22 23</p> <p>24 25 26 27 28 29 30</p> <p>31</p> <p>3: 10: 18: 26:</p>

Holidays and Observances:		
Jan 1 New Year's Day	May 14 Mother's Day	Nov 11 Veterans Day
Jan 2 'New Year's Day' observed	May 29 Memorial Day	Nov 23 Thanksgiving Day
Jan 16 Martin Luther King Day	Jun 18 Father's Day	Dec 24 Christmas Eve
Feb 14 Valentine's Day	Jul 4 Independence Day	Dec 25 Christmas Day
Feb 20 Presidents' Day	Sep 4 Labor Day	Dec 31 New Year's Eve
Apr 13 Thomas Jefferson's Birthday	Oct 9 Columbus Day (Most regions)	
Apr 16 Easter Sunday	Oct 31 Halloween	

Calendar generated on www.timeanddate.com/calendar

Gordon Hayward

From: Dusty Christensen <dusty@maaeps.com>
Sent: Monday, November 21, 2016 9:14 AM
To: 'Gordon Hayward'
Cc: supervisor@peninsulatownship.com; Doug Mansfield
Subject: RE: Vineyard Ridge review PC 11-30-2016
Attachments: 15119 plan08-Alternate-Color (16-11-01) 24x36 Color (2) (16-11-2).pdf; 15119 plan08-Alternate C4 24x36 (16-11-2).pdf

Good morning Gordon,

Thank you for the draft trail easement language. We will pass it along to Ken and his attorney for their review.

We still hope to schedule the Public Hearing for the December 19th PC meeting, but are waiting for some additional information prior to finalizing the engineering for the project. I have attached a PDF of the revised site plan to this email and will deliver hard copies to you today. The revised plan shows the trail easements along the property lines, the modified road alignment, and other small changes discussed at the previous Planning Commission meeting. We look forward to discussing the revised plans again at the November 30th meeting!

Thanks again,
Dusty

Dustin M. Christensen, LLA
Mansfield Land Use Consultants
830 Cottageview Drive, Suite 201
Traverse City, MI 49685
office: (231) 946-9310 ext. 1008
cell: (231) 360-7021

From: Gordon Hayward [<mailto:planner@peninsulatownship.com>]
Sent: Monday, November 21, 2016 8:01 AM
To: Peter Wendling <pwendling@upnorthlaw.com>; ajc@runningwise.com; dsh_44@yahoo.com; Lanny Leak <keithl1eak@gmail.com>; Laura Serocki <rocki1323@yahoo.com>; Monnie Peters <mgpeters@acegroup.cc>; Penny Rosi <psyr2@acegroup.cc>; wunschis23@gmail.com; zoning@peninsulatownship.com
Cc: Rob Manigold <supervisor@peninsulatownship.com>
Subject: Vineyard Ridge review PC 11-30-2016

To All,

I have attached my recommendations for the dedication of land for the public trail.

My understanding is that we are attempting to schedule a Public Hearing at the Planning Commission at the December 19, 2016 meeting.

The Planning Commission is scheduled to review the revised Site Plan documents on November 30, 2016.

I will need the documents today in order to keep the review on the Planning Commission agenda.

Gordon Hayward

Peninsula Township Director of Planning & Zoning

13235 Center Road

Traverse City MI 49686

phone - 231-223-7314

fax - 231-223-7117

planner@peninsulatownship.com

Please note that this email message and any attachments may contain privileged or confidential information that is protected against use or disclosure under federal and state law. If you have received this in error, please advise by immediate reply. Any transmission to persons other than the intended recipient shall not constitute a waiver of any applicable privileges. Any unauthorized use, disclosure, copying or dissemination is strictly prohibited.

TO: Peter Wendling; Peninsula Township Planning Commission; Peninsula Township Board; Doug Mansfield; Ken Schmidt; Dusty Christianson.

FROM: Gordon Hayward, Director of Planning and Zoning

Re: Vineyard Ridge Trail Dedication per Zoning Ord. Section 8.3.6 (2)

DATE: 11-21-16

The Developer of the Vineyard Ridge Condominium Subdivision is proposing to Dedicate 10 % of the development area for a public trail system to meet the open space requirement of Planned Unit Developments as allowed by Section 8.3.6 (2) of the Peninsula Township Zoning Ordinance.

To assure that the dedication addresses the future needs of the Residents of the Condominium Development as well as the Residents of Peninsula Township, I am recommending the following:

1. Dedication for Public Trail Use
 - a. Show the (Dedication for Public Trail Use) (to be known as "Trail Area") on the Site Plan
 - b. The Trail Area shall be by Dedication (not by Deed) on the final Site Plan to provide assurance to the Village Ridge residents that the public trail use cannot be changed without the approval of both the Association and the Township.
 - c. The Trail Area should be extended along the southern section of the development to the Road Rights-of-Way of Mathison Rd on the west and Center Road on the east so public access to the trail is not limited to the road entrances of the development.
 - d. The Trail Area shall be described by legal description and survey.
 - e. The survey and legal description shall be included in the Recorded Condominium Documents and in the findings of fact in the approval documents.
 - f. The Township Board shall have the right to authorize other public or semi-public agencies to construct and or maintain the trail.

2. Physical Trail
 - a. Responsibility for, and use off the Trail Area shall remain with the Association until such time as the Township Board notifies the Association that the actual construction of the public trail is to take place, at which time the total responsibility for the Trail Area will rest with the Township.
 - b. The physical trail, when established, shall include marking of the boundaries of the Trail Area with no trespassing signs and/or fencing using rustic materials.
 - c. The public shall not have access to the dedicated trail area until such time as a trail is established and improved (such as marked trail with wood chip, packed gravel, diamond dust or asphalt)
 - d. The Trail Area shall be available for construction and maintenance of the physical trail.

- e. **The Trail Area may be used for public facilities and utilities if approved by both the Association and the Peninsula Township Board.**

November 21, 2016

Gordon Hayward
Director of Planning & Zoning
Peninsula Township
13235 Center Road
Traverse City, MI 49686

Dear Gordon,

Thank you for your continued review of the proposed Vineyard Ridge Planned Unit Development. As discussed at the October 17, 2016 Planning Commission meeting, we hope to have another Public Hearing for the project at the December 19th Planning Commission meeting. In advance of that hearing, we submit the following for review and discussion at the November 30th Planning Commission meeting:

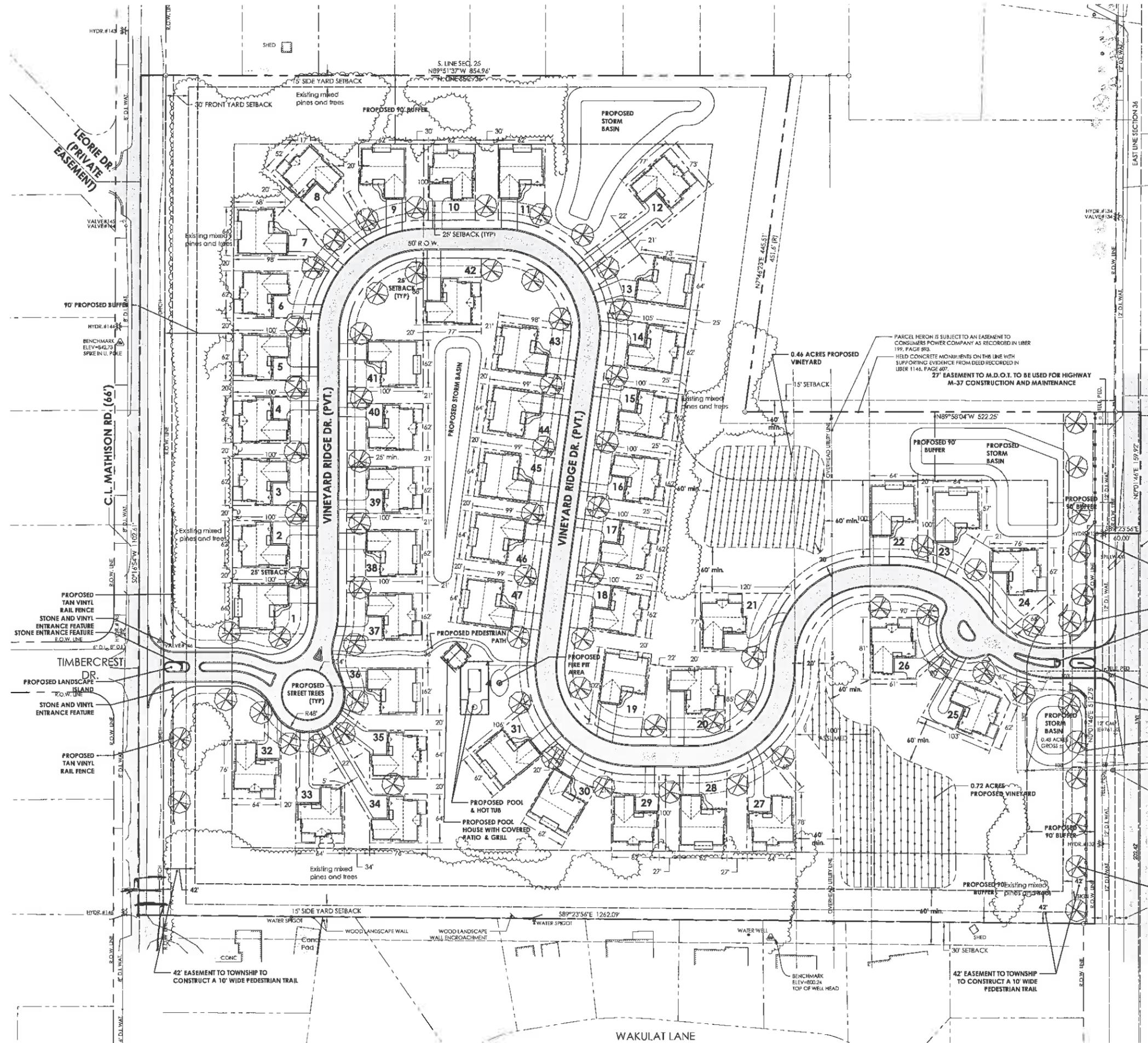
- Three full-size copies of the revised Site Plan drawing
- Twelve 11x17 copies of the revised Site Plan drawing
- Twelve 11x17 copies of the color Site Plan drawing

We will continue working on the proposed changes to the plans and associated documents and have them ready prior to the Public Hearing. Please let me know if you have any questions.

Sincerely,



Dusty Christensen, LLA



Parcel Zoned: R-1C, Suburban Residential
Setbacks: Front = 25', Side = 15', Rear = 30'

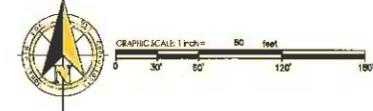
Proposed Use: 47 - Single Family Units
Proposed Street Trees: A total of 81 street trees are proposed to enhance the character of the development's interior roadways. Street trees will be a mix of Maple and Linden.

Notes:
 1. All building envelopes shown on the site plan will be surveyed and shown on the Exhibit B drawings created for the Condominium Documents that will be recorded following the approval of the Planned Unit Development. This will provide the necessary information to ensure compliance with the site plan when land use permits are requested for individual homes.

Parcel Calculations

Property Area/Use Requirements	
acres	
27.87	Total PUD acreage
2.79	10% net acreage as dedicated Township recreational use required (min.)
Property Area/Use Provided	
acres	
27.87	Total PUD acreage
2.82	10.10% [acreage as dedicated Township recreational use provided]

Density	
acres	Units
27.87	Total PUD acreage
5.57	Less 20% for roads (per Ordinance)
22.30	Available acreage for units
7.02	48.57 Units allowed under base R-1C Zoning
	Proposed Residential Building & Pool Building Envelopes
Maximum Lot Area allowed to be Covered by All Structures	
4.18	15% Maximum allowed per Ordinance
3.66	13.14% As provided per proposed PUD



830 Cottageview Dr., Ste. 201
 P.O. Box 4015
 Traverse City, MI 49685
 Phone: 231-946-9310
 www.mansfield.com
 info@mansfield.com

Mansfield

Land Use Consultants

REV	DATE	BY	CHK	DESCRIPTION
04	02-23-14	dm	dm	Revised per Township and client comments
05	04-02-14	dm	dm	Revised per Township comments
06	04-06-14	dm	dm	Revised per Township comments
07	04-29-14	dm	dm	Revised per Township comments
08	05-06-14	dm	dm	Revised per Township comments
09	05-21-14	dm	dm	Submitted
10	10-14-14	dm	dm	New road design
11	11-20-14	dm	dm	As-built on site plan location per client

Ken Schmidt
Vineyard Ridge
 SITE PLAN
 Section 36, Town 28 North, Range 11 West
 Peninsula Township, Grand Traverse County, Michigan

PRELIMINARY

DATE	11/11/14
SCALE	AS SHOWN
PROJECT	15119
CLIENT	C4.0



GRAPHIC SCALE: 1" = 60' feet
 0 30 60 90 120 150 180
 PARCEL ZONED: R-1C, SUBURBAN RESIDENTIAL
 SETBACKS: FRONT = 25'
 SIDE = 15'
 REAR = 30'
 PROPOSED USE: 47 - SINGLE FAMILY UNITS

830 Comptview Dr., Ste. 201
 P.O. Box 4015
 Traverse City, MI 49965
 Phone: 231-946-9310
 www.mansfield.com
 info@mansfield.com

Mansfield

Land Use Consultants

REV	DATE	BY	CHK	DESCRIPTION
04	10/25/14	dm	dm	Revised per Township and Client comments.
05	12/02/14	dm	dm	Revised per Township comment.
06	12/02/14	dm	dm	Revised per Township comment.
07	12/02/14	dm	dm	Revised per Township comment.
08	12/02/14	dm	dm	Revised per Township comment.
09	12/02/14	dm	dm	Revised per Township comment.
10	12/02/14	dm	dm	Revised per Township comment.
11	11/01/14	dm	dm	Revised per Township comment.

Ken Schmidt
Vineyard Ridge
 SITE PLAN
 Section 36, Town 28 North, Range 11 West
 Peninsula Township, Grand Traverse County, Michigan

PRELIMINARY
 15119