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MATTHEW L. CLASSENS

JEROME COLLIGAN - of counsel
+also admitted in Illinois

September 13, 2016

*Via email to: pwendling@upnorthlaw.com
and Via Hand Delivery*

Peter R. Wendling
Young, Graham, Elsinheimer & Wendling, P.C.
104 E. Forest Home Avenue
P.O. Box 398
Bellaire, MI 49615

Re: *Bonobo Winery*

Dear Peter:

I write in follow up to our discussion Friday regarding the Township Board hearing scheduled concerning Bonobo Winery on the 13th. Specifically the Township Board is scheduled to determine whether Bonobo has complied with the requirement that 75% of its acreage is in active production of fruit that may be used to make wine.

As you know, Bonobo summarized its plantings earlier this summer. My July 20, 2016 and August 9, 2016 letters, and statements from Dave Edmondson and Todd Oosterhouse all support the conclusion Bonobo planted at least 75% of its acreage. Those letters are attached for easy reference. Despite that evidence, the Township Board, at its August 9th meeting, scheduled a formal hearing for September 13th. The supposed purpose of that hearing was to allow the Township Board to hear evidence whether Bonobo was in compliance with the ordinance and special use permit (the Township had asked for supporting evidence 7 days before the hearing). We anticipated submitting documents in support of Bonobo's position on September 6, 2016.

However, when we discussed this matter last Tuesday morning, you were not aware of any evidence or testimony the Township intended to present (other than Ms. Reardon's report given at the August 9 meeting). You affirmatively indicated then the Township had not identified its expert, and confirmed the Township would adjourn the hearing on the 13th. I agreed an adjournment was appropriate in light of the circumstances, and we agreed Bonobo would not need to submit evidence before the end of the day on the 6th since the hearing would not be held until October.

Since then, it has become clear the Township had consulted with Mr. Duke Elsner from the Michigan State University Extension office. On or about August 26, Mr. Elsner provided a written

Peter R. Wendling
Young, Graham, Elsinheimer & Wendling, P.C.
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September 13, 2016

opinion to Claire Schoolmaster (which is also attached hereto for easy reference) which confirms Bonobo's position that it planted more than 75% of its acreage. The Township did not specifically disclose that submission to me or to Bonobo, and instead we first saw Mr. Elsner's August 26 letter while reviewing the Township Board's meeting packet for the 13th.

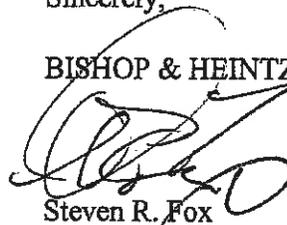
Before Bonobo learned of Mr. Elsner's August 26, 2016 letter, it had replanted pumpkin seeds on its acreage to remove any doubt in the eyes of the Township officials that Bonobo had not complied with the 75% threshold. (I have attached a short video of Mr. Oosterhouse planting the field). Specifically, Bonobo replanted pumpkin seeds in blocks 2, 3 and 4, in the same manner that experts have identified as appropriate. As a result of all of this evidence, it should be crystal clear to Peninsula Township that Bonobo has satisfied the 75% threshold for active production.

As a result, I respectfully suggest the Board accept the August 26, 2016 letter submitted to Ms. Schoolmaster as satisfactory evidence Bonobo has complied with the 75% threshold under of its ordinance. While the Board should not need any further evidence to finally dispose of the matter, the letters attached hereto further confirm Bonobo has satisfied the ordinance.

If you have questions, do not hesitate to call me.

Sincerely,

BISHOP & HEINTZ, P.C.

A handwritten signature in black ink, appearing to read "S. R. Fox", is written over the typed name "Steven R. Fox".

Steven R. Fox

SRF/jmc
Enclosures
cc: Todd Oosterhouse

MICHIGAN STATE
UNIVERSITY | Extension

August 26, 2016

Claire Schoolmaster
Peninsula Township
13235 Center Road
Traverse City, MI 49686

Dear Ms. Schoolmaster:

I must start this response by letting you know that I have been asked for assistance on this situation by Todd Oosterhouse of Bonobo Winery. I do not wish to be caught between two sides of this issue, but I will try to provide useful information that can be of use to all. The second thing I must make clear is that I am in no way an authority on pumpkin production.

I walked a portion of each planted area on Tuesday, August 23rd, but I have not seen these areas at any point earlier this year. Therefore, all I have to go on are my observations this week, the photos that you have provided to me and a copy of the memo that Michelle Reardon made for the township board on July 26 (provided to me by Todd). I did inspect each of the four blocks which Michelle Reardon identified in her report to the township board.

Here are my comments:

Direct seeding of pumpkins into existing plant residues is an accepted agricultural practice, supported by university research trials. In fact, it is actually recommended for sites that are prone to soil erosion or low soil moisture by some of the research reports. See

<https://projects.ncsu.edu/cals/agcomm/magazine/winter03/growing.htm>

<http://extension.psu.edu/business/ag-alternatives/horticulture/melons-and-pumpkins/pumpkin-production>

<http://www.ag.auburn.edu/auxiliary/nsdl/scasc/Proceedings/2004/HarreIson.pdf>

http://www.nrcs.usda.gov/Internet/FSE_PLANTMATERIALS/publications/kspmcpc012081.pdf

https://www2.ag.purdue.edu/hla/fruitveg/MidWest%20Trial%20Reports/2012/07-03_Jett_Pumpkin.pdf

The seeding rate (approximately 333 seeds/acre) was below the typical rates for commercial pumpkin production that I was able to find in articles published on the



MSU EXTENSION
Grand Traverse
County

520 West Front Street, Suite A
Traverse City, MI 49684

231-922-4620
Fax: 231-947-5783
msue2B@msu.edu
www.msue.msu.edu

web, but the suggested rates that I found were likely assuming richer, more productive soils than we have on Old Mission Peninsula. I do not know what is a typical seeding rate in northwest Michigan.

Nearly a full month has passed since Michelle Reardon visited the site, and much of the weather during this time was very hot and droughty. My inspection of the site allowed me to verify that seeding had occurred in all four blocks. This is based on the observation of some surviving pumpkin plants, and at numerous individual planting sites where there was no plant to be found, there were empty seed coats on the surface of the ground. Germinating pumpkin seedlings often pull the seed coat out of the soil as the seed leaves break loose from the soil, so even if the plant dies later the seed coats may be found on the surface of the soil.

While there are some seedling pumpkin plants remaining at the site, the overall condition of the planting would certainly be classified as a failure. It is my understanding the township has scheduled a hearing to determine whether Bonobo has satisfied the requirement that 75% of Bonobo's acreage has been planted with crops that can be used to make wine. It is my view that the general crop failure experienced at Bonobo should not be viewed as evidence that Bonobo did not plant its acreage.

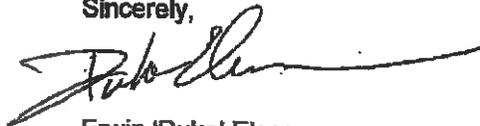
Based upon discussions with the township and Mr. Oosterhouse, I understand the township board intends to determine whether Bonobo has complied with the ordinance requirement:

"Not less than seventy-five (75%) percent of the site shall be used for the active production of crops that can be used for wine production, such as fruit growing on vines or trees."

In speaking with Mr. Oosterhouse, I know that he intends to, or may already have planted additional pumpkin seeds at Bonobo to remove doubts that he has planted at least 75% of the site with crops that can be used for wine. While this may satisfy the zoning ordinance, there are also other ways to naturally enrich and prepare the soil for future crops grape vines or other crops from which wine may be made. For instance, planting cover crops (for instance rye, orchard grass, or others) or rotating crops will better prepare the soils for future plantings and are generally accepted methods of agriculture which clearly constitute "active production" of the site for crops that can be used in wine production.

Let me know if there is anything further that I can do to assist you with this issue.

Sincerely,



Erwin 'Duke' Elsner
Extension Educator,
Michigan State University

cc: Michelle Reardon

BISHOP & HEINTZ P.C.
ATTORNEYS - COUNSELORS

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*registered patent attorney

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MATTHEW L. CLASSENS
JEROME COLLIGAN - of counsel
+also admitted in Illinois

August 9, 2016

Sent via email only to: planner@peninsulatownship.com

Michelle Reardon, Planner
Peninsula Township
13235 Center Road
Traverse City, MI 49686

RE: *Bonobo Winery*

Dear Michelle:

Further to our discussion this morning, I have reviewed your report included in the Township Board packet for tonight's meeting. Please consider the following information in connection with any update given to the Township Board.

First, I submitted correspondence on July 20, 2016 which identified more than 76% of Bonobo's vineyards were planted with fruit or other crops, which I have again attached for easy reference. Of the crops planted, pumpkin seeds were planted in 9.6 acres (5.8 acres of Block A and 3.8 acres of Block D).

Second, you will recall that Bonobo planted pumpkin seeds last year which satisfied the 75% requirement. I have attached a receipt from Harris Seeds and written statements from Dave Edmondson and Todd Oosterhouse which confirm that 3,000 pumpkin seeds were planted in the same areas and in the same way that Bonobo planted pumpkins last year.

Third, Mr. Oosterhouse disagrees with the findings of your report, which seem to indicate certain areas were not planted. In fact, Mr. Oosterhouse planted rows of pumpkin seeds 17-18 feet apart and individual seeds were placed 9-10 feet apart within each row. The written statements attached and the photographs sent to you July 20 confirm this planting method.

Fourth, it is clear the lack of rainfall and weather has had a significant effect on the growth of Bonobo's pumpkin seeds. While it is unknown how many pumpkins will be produced, it is almost certain that there will not be as many pumpkins as last year. That apparent

Michelle Reardon, Planner
Peninsula Township
Page 2
August 9, 2016

lack of production for 2016 is not, however, a factor relevant in weighing whether Bonobo has planted 75% of its vineyard.

Please consider this information in connection with any discussion at tonight's board meeting relative to this matter.

Sincerely,

BISHOP & HEINTZ, P.C.



Steven R. Fox

SRF/jmc
Enclosures
cc: Todd Oosterhouse

Harris Seeds Receipt

*** PLEASE PRINT RECEIPT AND RETAIN IT FOR FUTURE REFERENCE ***

Order Number 332643

Order Date 6/8/2016 10:43:06 AM

Bill To:

todd oosterhouse
12011 center road
traverse city, MI 49686
United States
231-383-5118
todd@bonobowinery.com

Ship To:

todd oosterhouse
12011 center road
traverse city, MI 49686
United States
231-383-5118

Order Date: 6/8/2016 10:43:06 AM	Locale/Currency: en-US / USD
Payment Method: CREDITCARD	Name On Card: todd oosterhouse
Card Type: VISA	Card Number: ****3166

SKU:	Product	Quantity	Price	Ext. Price
016840001025	Pumpkin Aladdin F1-250 Seeds	1	\$26.75	\$26.75
117190001025	Pumpkin Apollo F1-250 Seeds	2	\$31.95	\$63.90
116980005025	Pumpkin Gold Medal F1 FarMore®-250 Seeds	2	\$18.15	\$36.30
110250005025	Pumpkin Mrs. Wrinkles F1 FarMore®-250 Seeds	2	\$29.75	\$59.50
007010001025	Pumpkin Super Herc F1-250 Seeds	2	\$28.50	\$57.00
006910001001	Pumpkin Howden-1 Pkt.	10	\$2.25	\$22.50

Order Notes:

None

SubTotal: \$265.95
Shipping: Standard \$0.00
Tax: \$0.00
Total: \$265.95

Please note: Any applicable cash & loyalty discounts, tax exemption or expedited shipping will be calculated on your order after being submitted & processed, but before you are charged.

Thank you for your purchase! Please call (800) 544-7938 with any questions.

Harris Seeds
<http://www.harriseseeds.com>

8-9-16

Peninsula Township
Township Board

To whom it may concern:

I have read Ms. Reardon's report concerning plantings at Bonobo Winery. Bonobo planted approximately 3000 pumpkins seeds this year. Dave Edmonson planted about 2000 seeds, and I planted the remaining 1000 seeds, which were purchased from Harris Seeds in June.

I planted the rows of pumpkins in similar fashion as was done last year, using the same spacing between rows and plants (17-18 feet between rows and 9-10 feet between plantings) and placing 1-3 seeds in each hole. We then marked each hole with an orange flag. I completed planting on about June 17.

Sincerely,

Todd Oosterhouse

A handwritten signature in black ink that reads "Todd Oosterhouse". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

8-8-16

Peninsula Township
Township Board

To whom it may concern:

I Dave Edmondson had my guys plant pumpkins for Todd Oosterhouse (Bonobo winery) on or about June 10th 2016. We planted over 2000 seeds which were purchased by Todd Oosterhouse.

We planted in similar fashion as was done last year. Using the same spacing as well as similar methods. Putting 1-3 seeds in each hole which was in the general area of each of the orange flags.

We planted up by the winery as well as some in the back 20 acres in the valley. Todd Oosterhouse filled in where we did not plant.

Dave Edmondson

A handwritten signature in black ink, appearing to read "D. Edmondson", written over the printed name.

BISHOP & HEINTZ P.C.
ATTORNEYS - AT - LAW

DOUGLAS S. BISHOP*
PATRICK E. HEINTZ
DAVID A. CVENGROS
STEVEN R. FOX
*registered patent attorney

MEAGAN RAFTERY BELDEN+
MATTHEW L. CLASSENS

JEROME COLLIGAN - of counsel
+also admitted in Illinois

July 20, 2016

Sent email only to: planner@peninsulatownship.com
Michelle Reardon, Peninsula Township Planner
13235 Center Road
Traverse City, MI 49686

Sent via email only to: pwendling@upnorthlaw.com
Peter R. Wendling
Young, Graham, Elsinheimer & Wendling, P.C.
104 E. Forest Home Avenue, P.O. Box 398
Bellaire, MI 49615

RE: *Bonobo Winery*

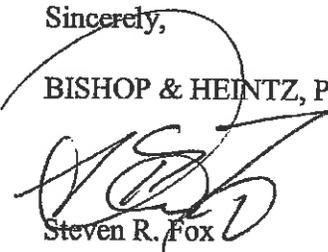
Dear Ms. Reardon and Mr. Wendling:

I am in receipt of Peter's letter regarding the status of the vineyards at Bonobo Winery. Contrary to that letter, Bonobo has, in fact, planted 75% of its total land. This calculation includes pumpkins, an annual vine, which were planted on or about June 10 of this season. Pumpkins were planted in the same areas last season.

Attached hereto find a map with notations which establishes the four "blocks" of land designated as winery chateau, and recent photographs of the areas planted with pumpkins. Block A consists of 1 acre of pinot gris grapevines and 5.8 acres of pumpkins. Block B consists of 19.1 acres of an existing vineyard (the same as last year). Block C consists of 9.3 acres of an existing vineyard (the same as last year). Block D consists of 3.8 acres which is planted with pumpkins. The total percentage is 76.71%.

Sincerely,

BISHOP & HEINTZ, P.C.


Steven R. Fox

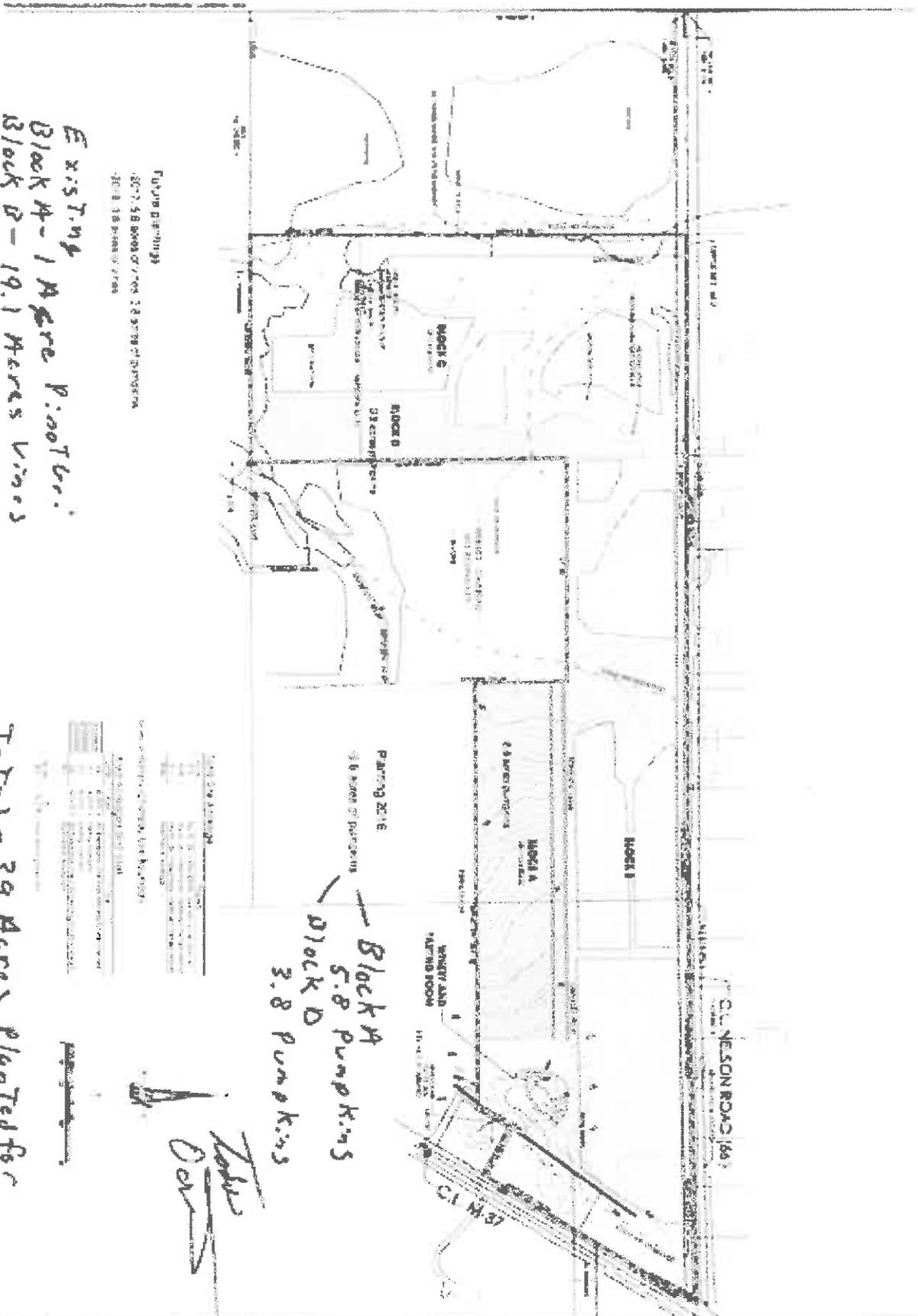
SRF/jmc
Attachment
cc: Bonobo Winery

EXISTING
 Block A - 1 Acre Pinot Noir
 Block B - 19.1 Acres Vines
 Block C - 9.3 Acres Vines

Future Buildings
 - 2071.58 sqm of vines 28 acres of vineyard
 - 2018.18 acres of vines

Total - 39 Acres Planted for
 production

Block A
 5.8 Pumpkins
 Block B
 3.8 Pumpkins



Block	Area (Acres)	Vineyard Type
Block A	1.0	Pinot Noir
Block B	19.1	Vines
Block C	9.3	Vines
Total	39.4	Vineyard

Scale	1" = 100'
North Arrow	Indicated
Sheet No.	18

Cresthouse Vineyard LLC
 Bonolo Winery
 Agricultural Land Use Map
 100 West 4th Street, Suite 200, Grand Rapids, MI 49503
 Phone: 616.454.1234 | Email: info@bonolo.com

1	As Shown
2	Proposed
3	Existing
4	Future
5	Other

Mansfield
 Land Use Consultants
 2000 West 10th Street, Grand Rapids, MI 49503
 Phone: 616.454.1234 | Email: info@mansfield.com







