

**AGENDA**  
**BOYNE CITY PLANNING COMMISSION**  
Monday, December 17, 2012, 5:00 p.m.  
Boyne City Hall



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1. Call to Order
2. Roll Call - Excused Absences
3. Consent Agenda  
*The purpose of the consent agenda is to expedite business by grouping non-controversial items together to be acted upon by one Commission motion without discussion. Any member of the Commission, staff, or the public may ask that any item(s) on the consent agenda be removed to be addressed immediately following action on the remaining consent agenda items. Such requests will be respected.*
  - A. Approval of minutes from the November 19, 2012 Boyne City Planning Commission meeting.
4. Hearing Citizens Present (*Non-Agenda Items*)
5. Reports of Officers, Boards, Standing Committees
6. Unfinished Business
  - A. Kirtland Products follow up
  - B. Water Street Center Plan Amendment
7. New Business
8. Staff Report
9. Good of the Order
10. Adjournment – Next Meeting, January 21, 2013

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**Meeting of  
November 19, 2012**

Record of the proceedings of the Boyne City Planning Commission meeting held at Boyne City Hall, 319 North Lake Street, on Monday, November 19, 2012 at 5:00 pm.

**Call to Order**

Chair MacKenzie called the meeting to order at 5:00 p.m.

**Roll Call**

Present: Gretchen Crum, George Ellwanger, Chris Frasz, Jim Kozlowski, Jane MacKenzie, John McCahan, Tom Neidhamer and Joe St, Dennis  
Absent: Lori Meeder

**Excused Absence**

**2012-11-19-2**  
McCahan moved, Ellwanger seconded, **PASSED UNANIMOUSLY** a motion to excuse the absence of Meeder

**Meeting Attendance**

City Officials/Staff: Planning Director Scott McPherson, City Manager Mike Cain, City Attorney Jim Murray and Recording Secretary Pat Haver  
Public Present: Twenty two, including representatives from the press

**Consent Agenda  
MOTION**

**2012-11-19-3**  
Neidhamer moved, Crum seconded, **PASSED UNANIMOUSLY** a motion to approve the consent agenda. Approval of the October 15, 2012 Planning Commission minutes as presented.

**Comments on  
Non-Agenda Items**

None

**Reports of Officers, Boards and  
Standing Committees**

None

**Unfinished Business**

**Kirtland Products  
follow-up**

Planning Director McPherson reviewed his staff report that was included in the agenda packet. Traverse City Noise Enforcement Officer Scott Maxon was in the area on November 8<sup>th</sup> and 9<sup>th</sup>, took readings through the night with his equipment that is calibrated and used for this specific purpose. He went to several locations at several different times and took noise readings for both the A scale and C scale. The Traverse City Noise Ordinance is based solely on the A scale, and measurements that were taken would have been in compliance with that ordinance. The measurements on the C scale that are representative of the lower frequency sounds produced by Kirtland are a little higher and as indicated in the RSG report were identified as the frequencies that are being produced; which are between 125 and 250 frequencies, so the readings from Officer Maxon confirmed the RSG results. When a noise standard or ordinance is identified as our own, we need to make sure the C scale is looked at. The City continues to get complaints regarding the odor and plume, the DEQ permit has not been obtained yet, unknown when that may happen.

**Tom Monley - Kirtland Products** -Handed out a Moisture Record that is required by DEQ to keep, along with 2012 chargeable total dryer hour chart (Appendix A). When they reviewed the A scale and C scale report from the 8<sup>th</sup> and the 9<sup>th</sup> of November, noted that when they had a problem with the machine running out of fuel, had to shut down around 1:30 am, and did not resume operations until 9:30 am on the 9<sup>th</sup>, higher readings were recorded, so we are unsure where the readings at 4:30 am and 6:30 am came from, but they were not running at that time.

**McPherson** - Between 6:00 pm and 10:00 pm you were running? **Monley** - yes  
The entire plant was shut down later, and started back up around 8:15 am.  
**McPherson** - When Officer Maxon went back out, at 7:40 am he noted that something was running.  
**Monley** - The blower may have been started before the dryer at 8:00 am.

#### **Public Comment opened at 5:10 pm**

**Don Nessen** - Wednesday night when I walked to town, it was really noisy, by the time I got back home, it was really bad, I called Scott to let him know, I was told that they were going to run a test, the noise died right down and called him back to let him know the noise was gone.

**Mike Lange: Kirtland Products** - At the start of the noise analysis at 6:30 pm, I walked the entire team through the facility and showed them every piece of equipment was running. We do not receive a truck that late at night, and the receiving system was down, so we physically turned all of that equipment on, conveyor and belts.

**Mike Hausler: 450 Cozy Nook and own a business in town** - We are not complainers, we don't want to be here, but I heard that they were not running when the officer was here. He was at our driveway at 6:00 am and you could hear noise in the house.

**Diane Hausler** - The whoop, whoop helicopter sounds were not there. What machine makes that noise?

**Monley** - Don't know what that noise is.

**Bridgette Nessen: 316 Boice St.** - I agree with Mr. Hausler, we don't want to be down here complaining, I thank you for your time.

**Ryan Glem: 421 Boice St.** - Just to confirm that September 16<sup>th</sup> was a Sunday and you were not running then. My other question is do you have a game plan in place, lets go in some direction.

**Malinda Startzel: 425 High St.** - I'm concerned with safety, there have been a lot of extra people driving up to the plant and there is a lot of congested traffic, and I'm afraid someone is going to get hurt. They have had to order signs and put up saw horses, which is a pain for them to continue to move when they need to get in or out. There are a lot of misleading stories out there.

**Mark Kowalski: Fall Park Rd.** - They were also at the Carter's building doing checks. It was not as loud as it normally is, and did the test on the inside and out. It was very annoying inside the building. I'm concerned that it will be hard for someone to put a store in that building under those conditions.

**John Harris: 1038 Roosevelt St.** - I questioned the officials that came to my property if the plant was running at full capacity. I was told that it was, however, I believe it was quieter than it normally is.

#### **Public Comments closed at 5:20 pm**

**Crum** - Why was it quieter during the test dates? What was done differently?

**Monley** - Nothing was done differently to our knowledge.

**McPherson** - I have no idea why there would be a difference. We talked to Officer Maxon about a C scale ordinance. There are no communities that really regulate the C scale. Only cases, which are few, are in regards to music. C scale is more appropriate to measure for this type of noise, and his equipment was appropriate for that.

**McCahan** - The C scale is a better representative for low frequency noise.

**McPherson** - Yes

**Ellwanger** – If the C scale is the way to go, what is the number to target, what is an acceptable C scale level? We need to get this finalized. If we solve this problem and the DEQ numbers come back abnormal, we are spending a lot of money to solve a problem, maybe for nothing.

**McPherson** – There is not an answer for an acceptable C scale level, not sure how to identify that either.

**Frasz** – We need to have a game plan to proceed, noise is just one issue. Is the Planning Commission responsible to create an ordinance, or is that for the City Commission?

**McPherson** – City wide noise ordinance, would be the City Commission responsibility to adopt, may refer back to Planning Commission for input. But for this specifically, you could establish conditions for use. A conditional use permit is held to higher standards, you can establish specific conditions to mitigate adverse impacts.

**Neidhamer** – I agree with everything said. Our dilemma is that we have the Traverse City Ordinance that states 60 db, the RSG report stated the World Health Organization between 40 and 45 db, we have a standard to adopt under the conditional use between 40 and 60 but it's the A scale. The C scale is what is invading the homes, and the C scale has not been tested nationally, so we are in unknown territory. Noises are penetrating homes, what is the game plan? We could go back to the conditional use conditions that were not completed, decoupling building and enclosing outside machines. I recognize that some days are quieter than others; is it the moisture in the wood? I can see atmospheric conditions changing, is there any conditions that would make it louder or quieter, moisture in the wood or softer or harder wood?

**Monley** – We use the same blend always, or close.

**McPherson** – Same amount of material going through the process.

**Monley** – Yes, typically it is 6 tons an hour, may have to cut back a bit if we have a problem, but 6 tons of material at full boar.

**Neidhamer** – I acknowledge it is better on some days.

**MacKenzie** – My office is at the airport, there are days that I hear noises outside in the parking lot, sometimes in the building. I think they must be running. Then I see in the neighborhood, a vehicle running that needs a muffler, so that may be a part of the noise issues.

**Monley** – People tell me they hear it at their house, and we are not running, and that it is stinky on a day that we are not running. I think people are tuned into noise and smells.

**Kozlowski** – Do you agree when they took these tests, that you were running?

**Monley** – Not at 4:00 am in the morning

**Kozlowski** – I'm talking previous tests, you were aware and running when they were taking the readings. You were running at a representative level of a running condition?

**Monley** – That is correct. Not sure what was creating the sound levels when we were not running. I know we were down during the night, and the plant was started at 8:00 am, so something may have been running when he was at the plant.

**Neidhamer** – Do you know what is the loudest or lowest piece of equipment is on the C scale?

**Monley** – No

**Neidhamer** – We were under the impression that you were going to come back to us with a game plan?

**Kozlowski** – That is correct, we have it written down they would have a plan on what they were going to do if anything at this meeting was requested.

**McPherson** – The Planning Commission did find you not in compliance, because of

reasons like there is outside equipment at over 40db.

**Jim Murray - City Attorney** - I was under the idea that Kirtland was seeking to propose something, short of adopting a new noise ordinance, and come back with what they called an amendment to the conditional use permit, make proposals to address the A scale and C scale noises that both sides could agree to make work, maybe at a level 60. Not adopting an entirely new ordinance, but incorporating something into a site plan amendment.

**Kozlowski** - Looking for time line to have all of the action plans discussed taken care of such as the equipment inside a building, tree planting/landscape.

**Monley** - My understanding was, the reason Traverse City was to come in, was to come up with a standard that we could apply to our amended conditional use permit, until we can agree on what standard we want to use, can't have a time line of work to be done, when we don't know what the goal is, we need to come up with a mutual agreement on what the standards would be. I thought the first step was to get the Traverse City Officer in to see what the levels were, and if that wasn't good, we would have to hire a consultant to go around the city to see when we were and were not running and at what levels, and establish what a reasonable standard is to modify the conditional use permit.

**Kozlowski** - What about the other issues that are not in compliance. Are you doing anything about them?

**Monley** - We submitted a landscaping plan.

**Kozlowski** - We know there are unknowns out there, are you going to proceed to do anything other than wait for the sound survey? Are you doing anything now to lower the sounds in your plant?

**Monley** - No, we don't want to spend any more money if it is not going to be useful. If we are looking at C scale levels and frequencies, and we are looking at correcting remediation for the A scale noises it may not have any impact, so we are not spending money to get us to a mutually agreeable standard.

**Kozlowski** - The sound scale that was done earlier, have you complied with all of those requirements?

**Monley** - No, the RSG recommendations, which we don't agree with, would have been \$250,000 worth of remediation. We don't want to spend. Even the RSG experts said that is remediated down to the 40dB, they couldn't say we would be audible.

**Neidhamer** - Is the noise indeed C scale?

**McPherson** - The 125/250 frequencies are the most prominent and are the ones that are being produced, which translates to the C scale, per RSG. Maybe have to identify which equipment is creating the noises at these frequencies.

**Murray** - Looked in Michigan to find C scale ordinances, and found nothing. Goal was that the incentive would come from Kirtland, on their dime, to get an expert proposal. The C scale standards are appropriate and reasonable.

**McCahan** - The way to mitigate low frequency noise is huge amounts of mass, move equipment inside concrete walls. What is left outside?

**Monley** - Just the fans are outside, all production equipment is inside.

**McCahan** - Is it the fans making the low frequency noise, or the production equipment?

**McPherson** - If you reference the RSG report they identify the fans were a major source of that frequency noise.

**Monley** - Looking at the Traverse City report, the C scale levels are very similar to when we are not running. Question is something else in the community creating the C scale noises?

**Frasz** - We need to consider, noise duration of the constant noise, how can they be reflected in this "one time" measurements? Prior to Kirtland, how many noise

complaints did you receive?

**McPherson** - Very few, mostly due to loud music.

**Frasz** - Nothing related to the industrial area, hard to believe the numbers are the same or lower. Obviously there is a noise issue when the plant is running.

**Neidhamer** - I have been out over 50 times, when the plant is running I circle the neighborhoods, and I can hear it. On the other days, when the plant is closed, I can't hear it. Whatever the data says, I can hear when it is running, and see the plume. It can be heard when it is running, and I can't hear it when I make the visits on the weekend. Sometimes the data is in conflict with the "hear" test.

**Michael Cain: City Manager** - Portion of Article 14 of the Zoning Ordinance, Planned Industrial District was read; Back in 2008, Kirtland came to the community with an opportunity for Boyne City. They have not been able to meet those requirements or what they originally promised. The City funded the RSG report, and the Traverse City work with their noise ordinance officer, we have tried to find a situation that works. The Planning Commission should not take on the burden of Kirtland Products who came to the community and presented their plant as not detrimental to the community. The November 17, 2008 Planning Commission minutes, per Mike Lange, the front end loader back up indicator bell will be the loudest piece of equipment. Kirtland painted a picture which they have not lived up to. It is up to them to find a solution for the city. The approved Conditional Use Permit was appropriate. There are certain things that the city can not regulate, such as DEQ standards, but the Planning Commission did approve the 24dB that Kirtland mentioned, that the noise won't be louder than the rustling of leaves. Those are the standards that they imposed upon themselves, and stated to the community, and those are the standards they haven't met. They need to step up and make something happen, propose something to get things done and to resolve the situation quickly. Go back to what was originally approved, see what was put into place, you have found they are not in compliance, now we need to see how they are planning to comply.

**Kozlowski** - Is the stack test available?

**Monley** - No, we anticipate having it available for the next meeting.

**Kozlowski** - I hate to try to bring the noise level up to something that is right for Kirtland, but the community has to live with, I'm not willing to accommodate Kirtland's requirements and make the community suffer. You need to get the noise down to an acceptable level for community peace; the lifestyle the community has enjoyed in the past is no longer there. The goal is to eliminate the nuisance.

**Murray** - Your focus should be on the November 2008 conditional use permit. I see that you have 3 options:

1. Do nothing,
2. Extend time before making final decision,
3. Move to make some decision, whether you find they are in compliance with the Conditional Use Permit that was adopted in 2008. Findings of fact making reference back to the 2008 conditional use permit; ie: it was stated that all equipment over 40dB would be inside, and that is not true.

**Neidhamer** - Did we not already find that they were not in compliance?

**Murray** - Correct

**Monley** - Along with the statement that everything over 40dB would be inside, we submitted a site plan showing all of the equipment that would be outside and what we did not expect was that equipment to be over 40dB, and we also showed which equipment would be inside.

**McPherson** - An incorrect statement was made to the Planning Commission. You said that all equipment over 40dB would be inside, and that is not the case.

**Monley** – It turned out to be louder than expected.

**McCahan** – You need to get some noise experts in, and decide what is a reasonable noise expectation in residential areas that will not be detrimental to a large number of people.

**Neidhamer** – With regards to what has been said and a time line, we need to have them come back to us with a plan to solve the noise issue. When does the time line start?

**Murray** – You decide, the legal time clock starts when you find them in violation of the conditional use permit, and it is your final decision. It is exactly what was done two meeting ago, however you must state it is your final decision.

**Frasz** – To hold them to task, support our decision of not in compliance, and make it our final decision. They come back with how and what they are going to do in a specific time period, if they choose.

**Kozlowski** – We need to move this forward.

**Ellwanger** – I agree with what has been said here tonight, a time line must be put into place. We have been generous, and the community is suffering. They are not in compliance.

**Murray** – When you made your motion of non compliance, you made (4) bullet points from the minutes of September 17, 2012 (restated here):

**Kozlowski moved, Ellwanger seconded, that Kirtland Products, LLC is not in compliance with the Conditional Use Permit based on the following factors:**

- *Sound produced by the plant exceeds levels represented to the Planning Commission,*
- *The sound abatement and landscaping measures as proposed by Kirtland and approved for the conditional use final site plan have not been completed as all equipment exceeding 40dB was not placed inside the building,*
- *Landscaping as shown and described in the final approved development plan has not been installed.*
- *Concerns for public health, safety or welfare by reason of excessive production of traffic, noise, smoke, odors or other such nuisance.*

I go back to what they represented in their proposal, dated November 16, 2009  
*In our last proposal, the plan was to have most of the operating equipment outside, with just pelleting and packaging equipment inside. To address noise, we planned to construct decoupled wall buildings around all equipment exceeding 40dB noise level. In the new plant design, we have placed all loud (over 40dB) equipment inside the building.*

Did that happen, I would make it clear for the minutes. They said all production equipment was inside. Is this representation accurate in 2012?

**Cain** – Making your decision final, it will push the city down a path, based also on what Kirtland has said so far, to a legal confrontation. We have had communications with Kirtland, and we have not received all information we have been looking for. A question for Kirtland, is there any reason to wait to keep you from taking the legal step? Encourage you to engage Kirtland at this point, and see what they have to say.

**Jim Baumann: Chamber of Commerce** – A few meetings ago Kirtland's attorney stated that a lot had been said in conversation in these earlier meetings, but what you have put down as actual conditions is what legally will guide what happens next.

**Crum** – Back to the original conditional use, we already voted on the non-compliance, specifically all noise over 40dB would not be outside, today was confirmed you have equipment outside over 40dB, so we know is not compliant.

**Monley** – Did the conditional use permit speak to the 40dB?

**McPherson** - The conditional use spoke to the approval of the final site plan, and on the final site plan you indicated all equipment over 40dB would be inside.

**Monley** - Final site plan showed that equipment outside.

**McPherson** - You made an incorrect statement, and this commission based their decision on that information.

**Crum** - That is what I want clarity on, we know some equipment is inside, and some outside, conditional use permit is based on any equipment outside not being over 40dB, tonight you said the blowers are well over 40dB.

**Murray** - Looking at the Kirtland Products, LLC proposal, submitted in connection with the conditional use permit/site development plan, on page 12 of 12 under landscaping/sound abatement. That is their proposal.

**Neidhamer** - Clear direction to go to speak with Kirtland, Have two more issues landscape plan and emissions, which is not here yet and is promised. Do we address all issues, or just big issue of noise?

**McPherson** - Look at the landscape plan before you tonight, give them feedback if it is acceptable or not, if not, let them present something else to you. Make mention of emissions permit. Conditional Use permit requirement is to obtain all other necessary permits, they have not done that.

**Murray** - They do have the PTI (Permit To Install). Stack test will tell us if they need an additional permit.

**McPherson** - That testing needed to be submitted 60 days after the stack test was done, that has not been done, and the 60 days has expired, so they are in violation of that. Technically, they have not obtained the permit.

**Murray** - They do have the permit to install, and it does appear, on its face, the 60 days has expired as of November 13<sup>th</sup>. I have not heard that it has been renewed; DEQ may work with them to find out where the stack test is.

**McCahan** - Is there anything else you can do to additionally mitigate noise? Where do you want to go from here?

**Leon Tupper - Kirtland Products** - We do want to mitigate noise, but to what level, who defines acceptability? We have no assurances at the end of work completion, if we move forward that it will be agreeable to the city. Work towards a goal of addressing 40dB, A scale levels. How do we achieve a level that is not defined? How do we achieve and maintain the levels?

**McCahan** - Can you get audio engineers to make recommendations on how to stop the blowers from their noise level, and what a reasonable C scale metric would be?

**Monley** - Will we be working to a C scale, or what we said in the permit; 40 dB on the A scale?

**McCahan** - I'm sure if you get to 40dB on the A scale at the property line, you might satisfy everybody. You have got to get it down at the property line.

**Lange** - Difficulty will be there are noises in the area that don't measure 40dB on the A scale. How do you measure a piece of equipment at 40dB, when during the night at a residence is higher than that noise? The ambient noise is greater. How do we measure and make the determination on a piece of equipment, when the noise around us, at times, is louder than 40dB?

**McCahan** - Get the noise down at the property line. The low frequency noises have to stop.

**Tupper** - If I get to 40dB, do I have some assurances that it will be acceptable to the commission?

**MacKenzie** - Discussing the 40 number listed in the material given to us by Kirtland, it seems to be the community concerns of 125/250 C scale levels. Can we direct them to get the lower tones taken care of?

**Murray** - You do need objective standards. You have them, as they represented that they would not be louder than 40dB outside. No one knows if that will fix the

C scale. It is reasonable to enforce the conditions you have. We need experts to answer those questions.

**MacKenzie** - We can't answer that for you. We have hired (2) different experts to come out and have done testing this far.

**Murray** - Right now, is it our duty to say yes? Or do we think Kirtland should propose a C scale of an established number to be reasonable? Does Kirtland have a desire to make a proposal to the City to make a reasonable objective on the C scale, and what is reasonable? No one knows what that standard is.

**Tupper** - We are prepared to come back with a proposal, we believe is attainable and achievable within the time frame based on investments, and will look to your response for acceptance.

**Neidhamer** - Proposal is going to meet 40 db with outside equipment?

**MacKenzie** - Wait and see. They have listened like we have.

**Murray** - The focus is on the C scale. If you want to take action, you would do that on the A scale that was presented. To solve the real problem, C scale, you can do that, short of adopting the ordinance, by having them make a proposal you agree with, and having them seek to amend the conditional use permit to assure those standards will be met.

**MacKenzie** - It sounds like they are willing to come up with a proposal.

**Monley** - We thought we were going to get Traverse City here, to evaluate that and see if another step had to be taken to come up with a quantifiable standard, so we were not doing any mitigation for A scale noises. This meeting has asked us to come up with our own standard to present to you to consider, that we all can live with.

**Kozlowski** - In the conditional use permit, 40dB at the property line was what you were suppose to achieve.

**Monley** - In 2008 /2009 minutes that was stated, yes.

**Kozlowski** - Is that still your goal to achieve 40dB at property line?

**Monley** - Our goal is to get some consultants in to tell us what will take care of the problem, either the A scale or C scale, what is reasonable to do.

**Kozlowski** - Are you still trying to achieve that goal?

**Monley** - Don't know the answer to that.

**Frasz** - What do we do if they come back with something, and we don't have the information or knowledge to make a decision, if we don't know, do we hire someone?

**Murray** - You can either rely on their expert, or get one of your own. They can exercise their legal right, and challenge in court. If there is a violation, you can revoke the permit. They can appeal a decision to circuit court. You are setting something in motion, if you make the decision final.

**Neidhamer** - If we don't make final, in good faith, we are relying on them to come back to us in 30 days with a proposal that includes a time line, and proposed changes. I would like to see three things happen:

1. Come back to us in 30 days with a complete proposal.
2. Come back with emission report
3. Table landscape plan for 30 days.

**McPherson** - Do you want to look at the plan submitted to see if it meets your expectations, and give them feedback.

**Lange** - Various slides were viewed by the board and they explained the submitted landscaping plans. The original plans submitted in 2008, 2009 & 2010 had pictures of trees on them for sound abatement and screen blockage for the equipment. RSG report indicated the amount of foliage was not significant enough to be considered enough for the report, need to have a significant amount in depth. We would never be able to achieve that, so the landscaping does not provide noise

abatement, so will use as screening only. A driver on M-75 is the only way to see the equipment. The zoning ordinance article talks about landscaping requirements for existing facility landscaping requirements, which is 30% of landscaping required for a new facility. The amount of 12 proposed trees exceeds that requirement, to put in more, serves no purpose to screen from M-75. Looking at MSU planting guidelines.

**St. Dennis** - It is going to take 60 - 70 years to get to a 35' diameter when you start with a 3' caliber tree.

**Neidhamer** - I have a concern with 618 feet and only 12 trees.

**St. Dennis** - In the previous plan the next door property owners, Car Quest, Carter's building were considered, not just the view corridor, I was thinking much larger buffer than 12 trees.

**McPherson** - Because this was a conditional use, with outside storage, landscaping for screening was apart of that consideration. Noise attenuation was mentioned. As Mike indicated, it was not going to do anything, so now is visual only.

**MacKenzie** - Would like to look at this with your proposal.

**McCahan** - Should have protection for the neighboring properties.

**McPherson** - What I am hearing is this is not quite accurate, and need more screening between the properties.

**Neidhamer** - I would like to see a complete proposal in 30 days at the next meeting, along with the emissions report.

**New Business  
209 S. Lake Street  
Development plan  
amendment**

Planning Director McPherson reviewed the staff report that was included in the agenda packet. In 1996 the original site plan was approved for a commercial building with apartments above, with 17 parking spaces being adequate for the use, however, there is no way 17 cars could be parked there. In reality it is used for a public lot, even though it was established for the building and uses. With recent reconstruction in the area, Mr. Kirkby wanted to give the lot to the city for the purpose of underground utilities box placement. However, during the site plan approval, the parking lot area was tied to the business/apartment building. In order to accept the property and continue with the current use and future development of potential uses, a couple of actions are required; the first is to waive the parking requirement and to rescind the previous tying of the two properties together. In the CBD, Planning Commission does have the ability to waive parking taking in other parking factors, and building use. It is an alley, and there is a easement over a portion of that lot, already.

**Cam** - It will benefit the city for downtown area beautification projects that are under way and there are adjacent spaces available for parking.

With no additional board discussion, **motion by Kozlowski, seconded by Crum** to approve the proposal as presented by:

1. Waiving the required 17 space parking requirement and
2. Rescind the requirement that the parking lot (parcel number 051-341-138-10) be combined with 209 S Lake Street (parcel number 051-055-063-00)

**2012-11-19-7A**

**Roll Call:**

Aye: Crum, Ellwanger, Frasz, Kozlowski, MacKenzie, McCahan, Neidhamer, St. Dennis.

Nay: None

Absent: Meeder

**Motion Carries**

**1 Water Street Sketch Plan Review**

Planning Director McPherson reviewed the staff report that was included in the agenda packet. Final design plans have been submitted for units #8 & #9, the duplex on the SW corner of the lot. Combining the duplex into one hotel unit and one residential unit. One garage will be eliminated, so one parking space will be eliminated. Small modification in the roof line by 1/2 story will raise height by a couple of feet, but still fall within the height limitations. Looked at as an administrative review, but wanted to keep the Planning Commission updated.

**Mr. Hunt: Catt Development** - Potential buyer, wanted the whole thing, so will remove the dividing wall and making into one unit. Taking the concept of the A and C floor plan, removing the wall. The pattern book architectural items will be followed. The deck on the roof has been asked of us to pursue, so we are pricing at the moment, the buyer is not sure he wants it or not. This is a motivated buyer and wants to break ground in early spring. Glen Catt has committed to build the unit next to it, so that two units will be built right away, as well as the pool on the south. The footprint will not change. After discussion the Planning Commission agree the changes are consistent with the administrative review process.

**Staff Report**

1. There will not be a Planners Moment tonight, the cd is not here.
2. S. Park Street construction is wrapping up, looking at other potential projects in the downtown area for additional grants for infrastructure work including streets,
3. Storm sewer project on Douglas St. will have a public information meeting tomorrow night at 5:30 pm. This project will have curb and gutter, possible sidewalks, possible rain garden to help filter additional run off, look at the possible closure of Douglas Street between Cedar and Pleasant Streets.
4. On December 4<sup>th</sup> at 6:00 pm, will be the annual Joint Board and Commission meeting in the auditorium,
5. Jane Mackenzie has been hired as the Executive Director of the Boyne City Housing Commission.

**Good of the Order**

Thank you for the trees that were planted.  
Jim Kozlowski will not be at the December 17<sup>th</sup> meeting.  
Master Plan needs to be updated, so will look into that.

**Adjournment**

The next meeting of the Boyne City Planning Commission is scheduled for December 17, 2012 at 5:00 pm in the Commission chambers.

**\*\*MOTION**

2012-11-19-10  
Crum moved, St. Dennis seconded, **PASSED UNANIMOUSLY** a motion to adjourn the meeting at 7:50 p.m.

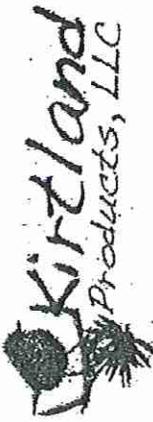
\_\_\_\_\_  
Jane MacKenzie, Chair

\_\_\_\_\_  
Pat Haver, Recording Secretary

## Appendix A

Map #	Time	Location	A scale	C scale
1	6:35 pm	Kirtland S prop line	66	81
2	6:44 pm	Altair Dr intersection (towards Kirtland)	56	71
3	6:44 pm	Altair Dr intersection (towards Lexamar)	56	71
4	6:54 pm	421 Boice backyard	46	60
5	6:59 pm	421 Boice inside house	43	47
6	7:05 pm	1038 Roosevelt backyard	46	60
7	7:16 pm	Airport	48	60
8	7:25 pm	1210 Nordic driveway	46	57
9	7:30 pm	1210 Nordic front porch	46	57
10	7:35 pm	1210 Nordic inside house	43	46
11	7:40 pm	Carters in front of bldg	53	65
12	7:47 pm	Carters inside (heating system blowers on) off	(48) 47	(67) 65
13	8:00 pm	450 Cozy Nook	46	57
4	10:45 pm	421 Boice backyard	45	61
6	10:55 pm	1038 Roosevelt backyard	46	60
8	11:20 pm	1210 Nordic driveway	44	55
13	11:35 pm	450 Cozy Nook	41	58
14	11:50 pm	1010 Kuhn Dr	42	56
4	4:00 am	421 Boice backyard	42	60
6	4:10 am	1038 Roosevelt backyard	42	58
8	4:25 am	1210 Nordic driveway	44	57
13	4:40 am	450 Cozy Nook	40	58
14	5:00 am	1010 Kuhn Dr	41	54
2	6:35 am	Altair/Air Ind Park intersection	48	59
4	6:20 am	421 Boice backyard	39	54
6	6:25 am	1038 Roosevelt backyard	38	50
8	6:10 am	1210 Nordic driveway	36	49
13	6:45 am	450 Cozy Nook	37	51
14	6:55 am	1010 Kuhn Dr	36	49
1	7:40 am	Kirtland South property line ( plant still running )	62	77

The readings were taken by officer Scott Maxson on the evening/morning of November 8-9, 2012. Officer Maxson was accompanied by Scott McPherson, Tom Neidhamer, Ryan Giem and Mike Lange. Winds were calm and the temperature was in the 40's.



# Moisture Record

Date/Year	Time	AM/PM	Pellet Temp Mill		Pellet Temp Mill #2	Dryer Infeed	Abort Bunker		Process Feed		Flour Pellet Mill #1		Flour Pellet Mill #2		Pellets Pellet Mill Moisture	Pellets Pellet Mill Ash	Pellets Cooler Final
			#1	#2			3 min	Final	3 min	Final	3 min	Final	3 min	Final			
5/18/12	7:30	PM	210°	211°	211°				12.25							.72	6.58
	7:45	PM			215°				12.28			10.27					
	8:00	PM	212°						13.76								
	8:15	PM							10.86								
	8:30	PM	215°	216°	206°	30.73			11.43								
	8:45	PM	211°	209°					11.64			10.61					
	9:00	PM							12.29								
	9:15	PM	214°	209°					10.91								
	9:30	PM	211°	209°					11.30							.47	6.74
	9:45	PM							12.13								
	10:00	PM	207°	207°					11.87			10.49					
	10:15	PM							12.87								
	10:30	PM	211°	206°					11.59								
	10:45	PM	209°	206°					12.22							.55	6.76
	11:00	AM	206°	201°					12.53								
	11:15	AM							12.03								
	11:30	AM	206°	204°					12.72								
	11:45	AM	206°	204°					13.15								
	12:00	AM							12.01								
	12:15	AM	203°	201°					12.85								
	12:30	AM							13.00								





## CITY OF BOYNE CITY

**To:** Chair Jane MacKenzie and fellow Planning Commissioners

**From:** Scott McPherson, Planning Director

**Date:** December 17, 2012

**Subject:** Kirtland Product Conditional Use Permit Review



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### **BACKGROUND**

At the November 19, 2012 Planning Commission meeting the Commission directed the representatives from Kirtland Products to submit their plans for bringing the plant into compliance with the provisions of the approved site plan for their conditional use permit and to submit verification that the stack testing results have been obtained and submitted to the DEQ.

### **Discussion**

At the time of preparation of this report staff has not received any materials from Kirtland. Representatives from Kirtland indicated that they were waiting on materials to be submitted to them from some of their sources and would not have information available for distribution prior to the meeting.

### **Recommendation**

Make determination on status of compliance and establish next steps.

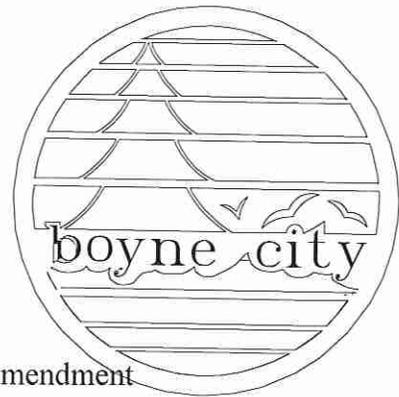
## CITY OF BOYNE CITY

**To:** Chair Jane McKenzie and fellow Planning Commissioners

**From:** Scott McPherson, Planning Director

**Date:** December 17, 2012

**Subject:** Kruzel Apartments and Water Street Center Plan Amendment



---

### Background Information

In October Y&T Properties owned by Gale Neff submitted a request to amend the previously approved development plan for the Water Street Mall. Mr. Neff would like to sell a 20' x 165' portion of the parking lot to the adjacent property owner Ken Kruzel. At that time the Commission tabled the request pending additional information and details on what would happen to the property after it was transferred.

In December of 2011 Mr. Kruzel requested to add two residential uses for his building located at 310 S Lake Street for a total 5 dwelling units comprised of three 1 bedroom units and two 2 bedroom units. The total parking required for the proposal was 9 spaces. In 1988 a variance for the property was approved that stipulated 8 parking spaces needed to be provided for the property. The Planning Commission waived the one additional parking space and approved the request. Mr. Kruzel has since reconsidered his plan and is now proposing to construct two additional 2 bedroom units. The building would now contain four 2 bedroom units and three 1 bedroom units. As each 2 bedroom unit requires 2 parking spaces this proposal would require 4 additional parking spaces. As previously discussed, Mr. Kruzel is proposing to purchase a 20'x 165' portion of the adjacent property to be used for parking. This area contains a total of 13 parking spaces.

For this proposal the Planning Commission would need to approve an amendment to the development plan for the Water Street Center that was approved in 1986 and also approve a site plan amendment for Mr. Kruzel's building approved in 2011. If both amendments are approved a lot reconfiguration would also need to be approved. The proposed plan for the Water Street Mall would reduce the lot by 3,300 square feet and reduce the amount of parking for the Water Street Mall by 14 spaces from 55 to 41 total spaces and increase Mr. Kruzel's property by the same. The property would be maintained as parking spaces but the use may be restricted to the owners and tenants of Mr. Kruzel's building. No other improvements or proposals for the transferred property have been submitted. The proposed site plan amendment for Mr. Kruzel would increase the total number of dwelling units from 5 to 7 and increase the parking for the property to a total of 14 spaces. The image below shows the two adjacent properties owned by Ken Kruzel (blue and green), the Water Street Mall property (yellow) and the area proposed to be transferred (hatched). The other two adjacent properties are owned by the America Legion and Lake Street Market.



### **Process**

The proposed request would be an amendment to an approved development plan. The City of Boyne City Zoning ordinance provisions for requesting and approving amendments to an approved development plan are contained in section 19.65 Amendments to Approved Development Plans which is as follows:

#### **Section 19.65 Amendments to Approved Development Plans.**

The development plan, if approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved development plan unless a change or addition conforming to this Ordinance receives the mutual agreement of the landowner and the Planning Commission. Incidental and minor variations of the approved development plan, with written approval of the Administrator, shall not invalidate prior development plan approval. Amendments to the approved final development plan may occur only under the following circumstances:

- A. An applicant or property owner who has been granted final development plan approval shall notify the Planning Director of any proposed amendment to such approved development plan.
- B. Minor changes may be approved by the Administrator upon certification in writing to the Planning Commission that the proposed revision does not alter the basic design, compliance with the standards of this Ordinance, nor any specified conditions of the plan as agreed upon by the Planning Commission. In considering such a determination, the Administrator shall consider the following to be a minor change:
  1. For residential buildings, the size of structures may be reduced, or increased by up to five percent (5%), provided that the overall density of units does not increase.
  2. Square footage of nonresidential buildings may be decreased or increased by up to five percent (5%) or one-thousand (1,000) square feet, whichever is smaller.

3. Horizontal and/or vertical elevations may be altered by up to five percent (5%).
  4. Movement of a building or buildings by no more than ten (10) feet.
  5. Designated Areas not to be disturbed may be increased.
  6. Plantings approved in the final development plan landscape plan may be replaced by similar types and sizes of landscaping which provides a similar screening effect on a one-to-one or greater basis, provided they comply with the landscaping standards of this Ordinance, with approval of the Planning Director.
  7. Improvements to site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc., which conform to the requirements of this Ordinance.
  8. Changes of building materials to another of higher quality, as determined by the Planning Director.
  9. Changes in floor plans which do not alter the character of the use.
  10. Slight modification of sign placement or reduction of size.
  11. Relocation of sidewalks and/or waste receptacles.
  12. Internal rearrangement of parking lot which does not affect the number of parking spaces or alter access locations or design.
  13. Changes required or requested by the City for safety reasons shall be considered a minor change.
- C. Should the Planning Director determine that the requested modification to the approved final development plan is not minor; the Planning Commission shall be notified in writing that the development plan has been suspended, and, if construction has initiated, a stop work order shall be issued for the section of the project deemed not to be in compliance. Thereafter, the applicant may revise the development plan and submit to the Administrator for resubmission to the Planning Commission.
  - D. Should the Planning Commission determine that the modifications to the final development plan significantly alter the intent of the preliminary development plan, a new submittal shall be required.
  - E. Any deviation from the approved final development plan, except as authorized in this section, shall be considered a violation of this Ordinance and treated as such.

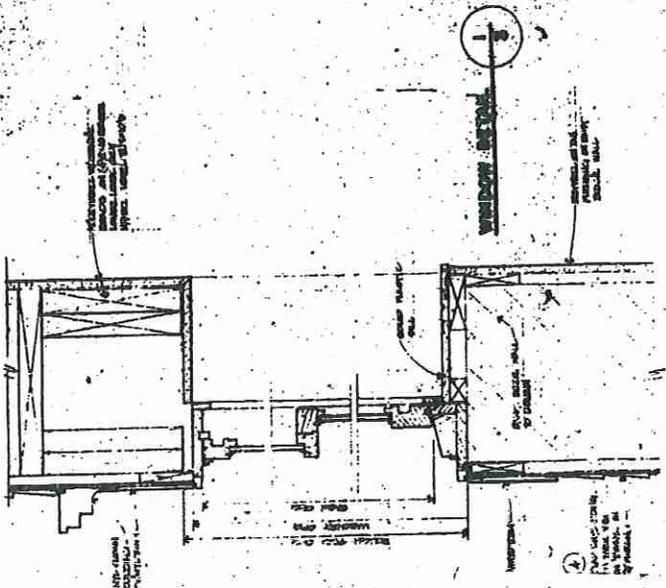
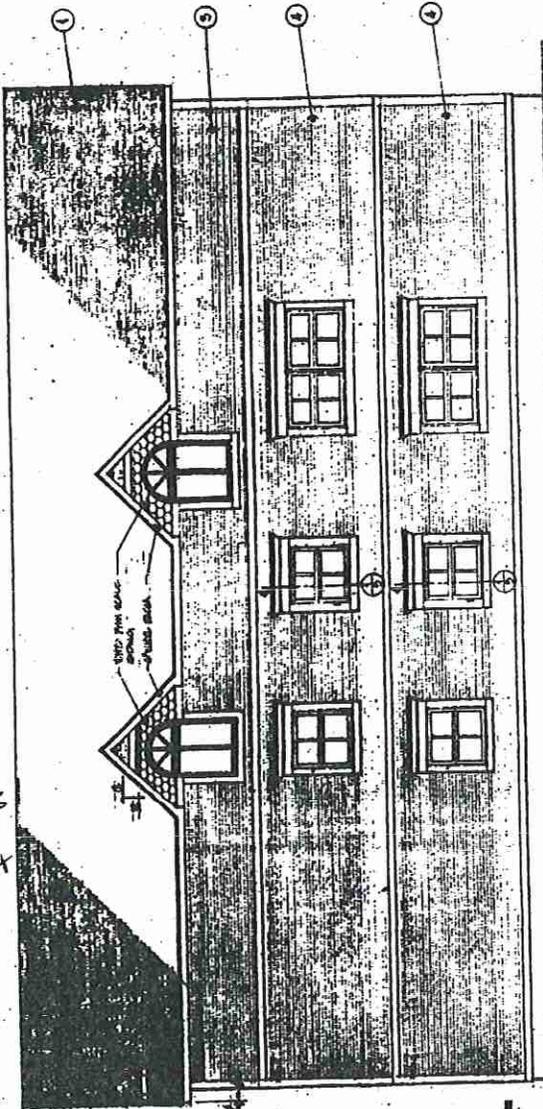
### **Process**

If the Planning Commission determines that the proposed amendment does not significantly alter the intent of the approved plan, and is in conformance with the Ordinance standards the requested amendment may be approved through the mutual agreement of the landowner and the Planning Commission.

### **Options**

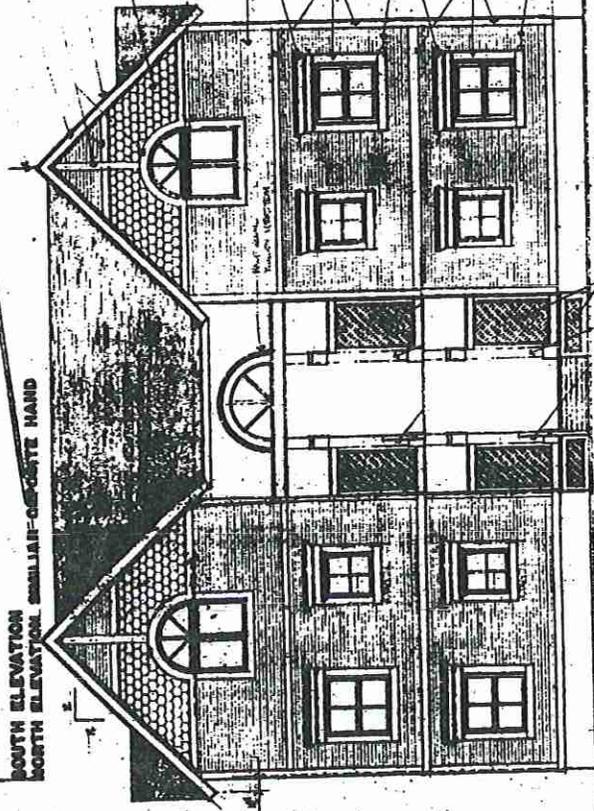
The Planning Commission can agree to the changes presented and approve the amendment; the Planning Commission can decide not to agree to the changes as presented and not approve the amendment; or, modifications to the proposed amendment that the applicant and the Planning Commission mutually agree on can be made and the proposed amendment with modifications can be approved by the Planning Commission.

1 inch  
5 feet



SOUTH ELEVATION  
NORTH ELEVATION (REVERSE OF EAST HAND)

NOTE: ALL UNFINISHED  
INTERIOR SURFACES  
TO BE FINISHED AS SHOWN  
ON FINISH PLAN



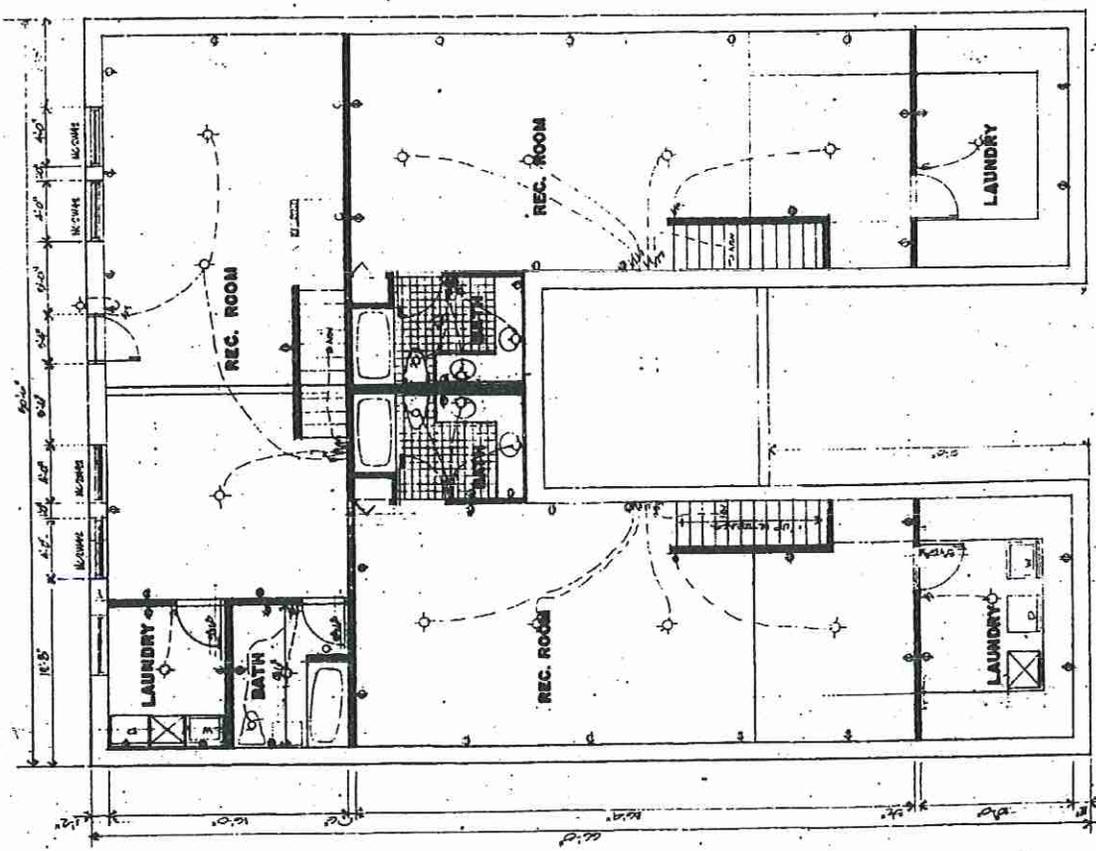
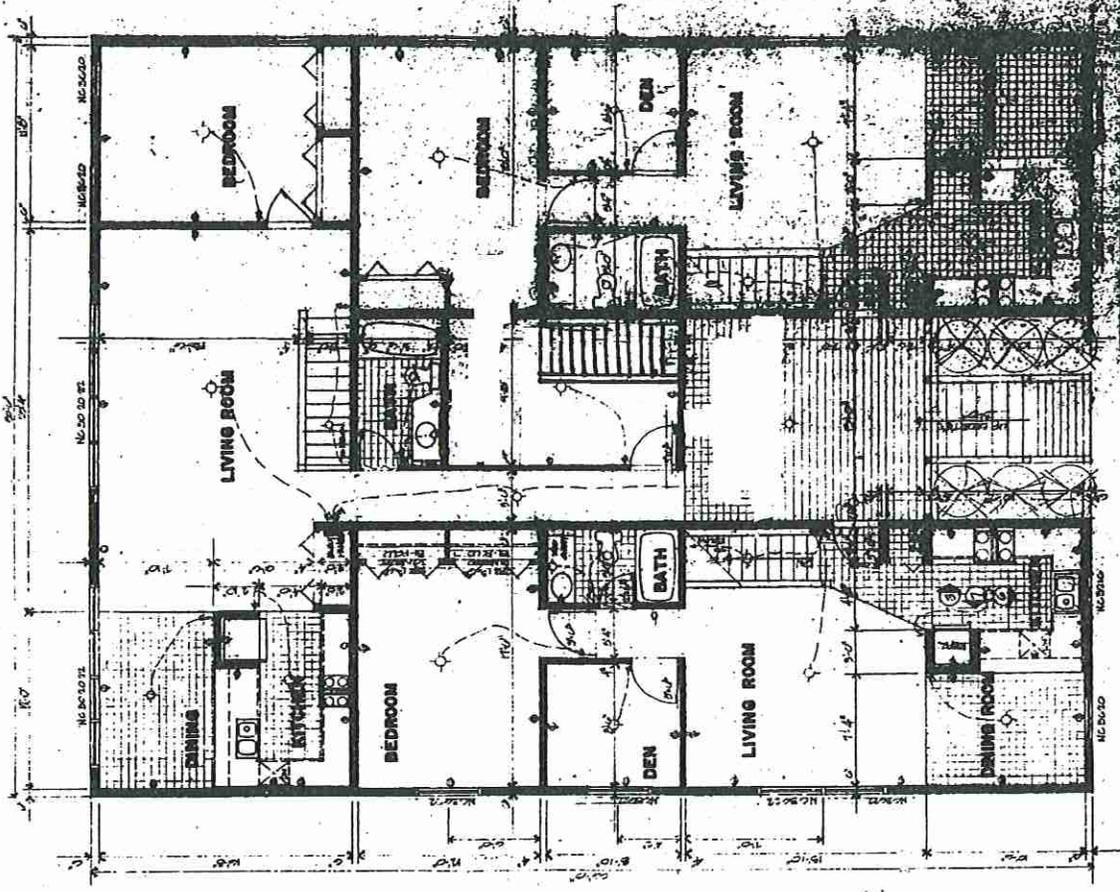
EAST ELEVATION

NOTE: ALL UNFINISHED  
INTERIOR SURFACES  
TO BE FINISHED AS SHOWN  
ON FINISH PLAN

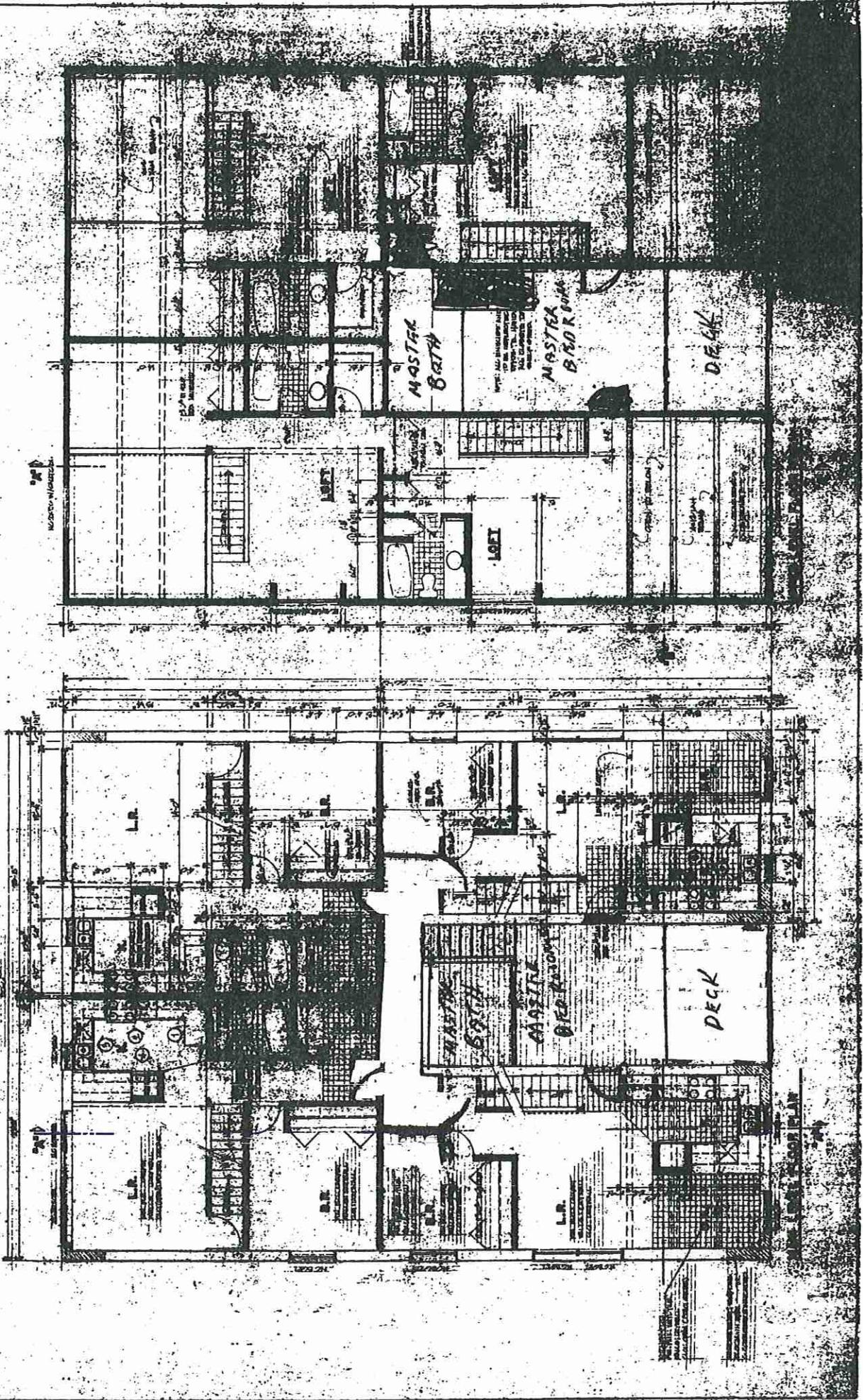
1  
2  
3  
4

NOTE: ALL UNFINISHED  
INTERIOR SURFACES  
TO BE FINISHED AS SHOWN  
ON FINISH PLAN

3 APT LOWER LEVEL + 1ST FLOOR



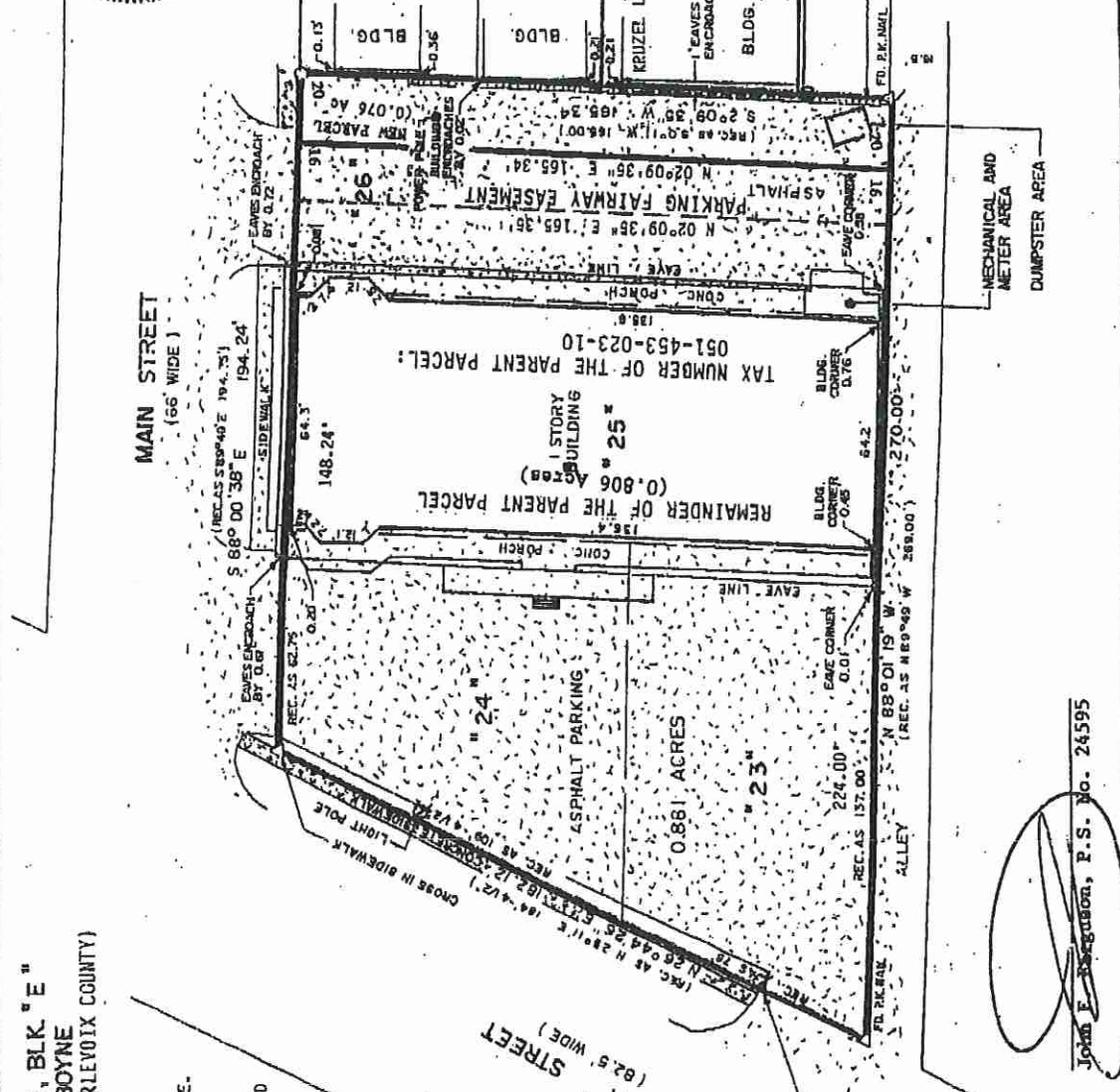
2ND Floor & LOFT



PROFESSIONAL SURVEYORS  
 103 W. UPRIGHT STREET, CHARLEVOIX, MICHIGAN 49720  
 (231) 547-6882 - FAX (231) 547-0021  
 EMAIL: info@casurveying.com

I HEREBY CERTIFY that I have surveyed and mapped the property hereon delineated and that the ratio of position closure of the unadjusted field data exceeds 1:5000; and that it complies with P.A. 132, 1970.

FIELD: SC, SP STAGED: DWYMH: 11-19-12  
 DATE: 11-20-12  
 JOB#: SB-24096C-12



LOTS 23, 24, 25 & 26, BLK. "E"  
 VILLAGE OF SOUTH BOYNE  
 (CITY OF BOYNE CITY, CHARLEVOIX COUNTY)

LEGEND:  
 ALL DIMENSIONS ARE IN FEET.  
 BEARINGS ARE ON AN ASSUMED BASE.  
 Δ - DENOTES P.K. NAIL  
 ○ - DENOTES 1/2" ROD SET  
 ● - DENOTES 1/2" ROD FOUND  
 ● - DENOTES T-IRON STAKE FOUND

221 West Hurbit Street  
 Charlevoix, Michigan 49720  
 and  
 02462 Wailoon Valley Road  
 Boyne City, Michigan 49712  
 REVISED: Dec. 12, 2012

CERTIFICATE OF BOUNDARY SURVEY  
 SHEET 1 OF 2

SCALE 1" = 40'  
 NORTH

John E. Ferguson, P.S. No. 24595

**THE NEW PARCEL**

In the City of Boyne City, Charlevoix County, Michigan,  
The East 20 feet of Lot 26, Block "E" of the Village of South  
Boyne as recorded in the office of the Register of Deeds for  
Charlevoix County and containing 0.076 acres. Subject to the  
rights of the public and of any governmental unit in any part  
thereof taken, used or deed for street, road or highway purposes.

**PARKING FAIRWAY EASEMENT**

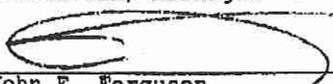
In the City of Boyne City, Charlevoix County, Michigan,  
The West 16 feet of the East 36 feet of Lot 26, Block "E" of the  
Village of South Boyne as recorded in the office of the Register  
of Deeds for Charlevoix County. Subject to the rights of the  
public and of any governmental unit in any part thereof taken,  
used or deed for street, road or highway purposes.

**REMAINDER OF THE PARENT PARCEL**

In the City of Boyne City, Charlevoix County, Michigan,  
The Lots 23, 24 25 and 26 of Block "E", EXCEPT the East 20 feet of  
Lot 26, Block "E", all in the Village of South Boyne as recorded  
in the office of the Register of Deeds for Charlevoix County and  
containing 0.806 acres. Subject to the rights of the public and  
of any governmental unit in any part thereof taken, used or deed  
for street, road or highway purposes.

**Prepared by:**

FERGUSON & CHAMBERLAIN ASSOCIATES, INC.  
103 West Upright Street  
Charlevoix, Michigan 49720

  
John E. Ferguson  
Professional Surveyor No. 24595

November 20, 2012  
REVISED: December 12, 2012

For: Y & T Properties, LC and Kruzel Land Holdings. LLC  
Job Number: SB-24096c-12

Sheet 2 of Two Sheets



# 2013

## City of Boyne City Planning Commission

January							February							March							April						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
6	7	8	9	10	11	12	3	4	5	6	7	8	9	3	4	5	6	7	8	9	7	8	9	10	11	12	13
13	14	15	16	17	18	19	10	11	12	13	14	15	16	10	11	12	13	14	15	16	14	15	16	17	18	19	20
20	21	22	23	24	25	26	17	18	19	20	21	22	23	17	18	19	20	21	22	23	21	22	23	24	25	26	27
27	28	29	30	31			24	25	26	27	28			24	25	26	27	28	29	30	28	29	30				

May							June							July							August						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
5	6	7	8	9	10	11	2	3	4	5	6	7	8	7	8	9	10	11	12	13	4	5	6	7	8	9	10
12	13	14	15	16	17	18	9	10	11	12	13	14	15	14	15	16	17	18	19	20	11	12	13	14	15	16	17
19	20	21	22	23	24	25	16	17	18	19	20	21	22	21	22	23	24	25	26	27	18	19	20	21	22	23	24
26	27	28	29	30	31		23	24	25	26	27	28	29	28	29	30	31				25	26	27	28	29	30	31

September							October							November							December						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
8	9	10	11	12	13	14	6	7	8	9	10	11	12	3	4	5	6	7	8	9	8	9	10	11	12	13	14
15	16	17	18	19	20	21	13	14	15	16	17	18	19	10	11	12	13	14	15	16	15	16	17	18	19	20	21
22	23	24	25	26	27	28	20	21	22	23	24	25	26	17	18	19	20	21	22	23	22	23	24	25	26	27	28
29	30						27	28	29	30	31			24	25	26	27	28	29	30	29	30	31				