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September 13, 2012

MEMORANDUM

To: Boyne City Planning Commission
From: Joseph E. Quandt, on behalf of Tupper Enterprises, LLC/Kirtland Products, LLC
Re: Public Hearing on the Potential Termination of the Conditional Use Permit of Kirtland Products, LLC

By way of introduction, the undersigned represents the legal interests of Tupper Enterprises, LLC and Kirtland Products, LLC (“Kirtland”). We respectfully submit this memorandum in support of the continued operation of Kirtland at 1 Altair Drive, Boyne City, Michigan 49712. We request that you accept this memorandum and the attachments as part of the record in this matter and also in the spirit of cooperation in which it is intended.

Overview

Kirtland, in its desire to be a positive corporate citizen of the Boyne City community, continues to seek reasonable solutions to the concerns of the community related to noise. In May 2012, Boyne City engaged a noise consulting expert to evaluate noise which may emanate from the Kirtland facility. Kirtland received the results of these consultants in July and immediately engaged an engineering firm to implement mechanical solutions referenced in that report. The mechanical changes recommended by Kirtland’s engineers are 90% complete and should be entirely complete within the next two weeks. As a result of these mechanical changes, it appears that the most significant noise complaint related to an effect called “tonal pulsation” has been eliminated. Kirtland, its management and employees, believe that the issue should now be resolved. Further, for the reasons stated within this memo, there is no legal basis for revocation of Kirtland’s Conditional Use Permit, based upon the contents of the permit itself and the permit’s supporting documents. Please review the contents of this memorandum carefully and ask yourself if the wiser course of action is to continue to work with the company towards an objective solution, or revoke the permit, put a multi-million dollar operation out of business, put thirty employees out of work, and threaten community resources with another idle property and litigation cost.

September 13, 2012

Page 2

History

In November of 2008, Kirtland submitted an application for plan review and a conditional use permit for a new manufacturing business at the above referenced property. (A copy of the Boyne City Planning Commission agenda for November 2008, approved minutes of December 2008, and preliminary approval documents are attached hereto as Exhibit 1.)

In November 2009, Kirtland again appeared before the Planning Commission requesting final approval of a Conditional Use Permit. (A copy of the meeting agenda and approved minutes from December 2009 are attached hereto as Exhibit 2.) Both preliminary and final plan approval were unanimous decisions of the Planning Commission.

In November 2010, Kirtland, once again, appeared before the Boyne City Planning Commission requesting a minor site plan amendment, which was also unanimously approved. (A copy of which is attached as Exhibit 3.)

Each of these approvals culminated with an approved Zoning Permit Application signed by Scott McPherson, Planning Director, on behalf of the City on March 21, 2011. (A copy of which is attached hereto as Exhibit 4.) It is important to note that *the approved Zoning Permit specifies no specific conditions to the issuance of the permit*. When reviewing the administrative record related to the approval of the Kirtland project, it is clear that there were numerous discussions related to noise concerns, with officials from Kirtland providing their best estimates with respect to contemplated noise. The administrative record was distilled into the final site plan review findings of fact (which you will find as Attachment A to Exhibit 2 and is tabbed for your ready reference). On page 4 of these findings of fact, there is an ordinance requirement related to noise with a finding of fact from the Planning Commission that the site meets the requirement with conditions. The conditions to the permit are that trees must be planted on the west and south sides of the property¹ and equipment be located inside the building. Even in the preliminary site plan review findings of fact (findings of fact which were superseded by the final review findings of fact), it states that the plan meets the ordinance requirements with condition, once again noting the condition that trees be planted on the west and south side of the property, that the greatest noise producing equipment be

¹The berms noted in this comment have been constructed but all trees have not yet been planted. Scott McPherson extended the time for planting until 2012 and the planting/transplant of conifers is most successful in the fall. Thus, planting of the trees will be completed this fall, but Kirtland notes that the RSG sound consultants report indicates that the trees will not provide a significant noise reduction benefit. Accordingly, Kirtland may seek an amendment to the CLUP to remove this requirement, since it appears that the requirement will not serve its intended purpose.

September 13, 2012

Page 3

placed in a decoupled building (a requirement superseded by later design), and notation that equipment would be constructed to minimize noise.

These documents, Exhibits 1 through 4, are the documents which establish the legally enforceable criteria by which compliance with the Conditional Use Permit must be measured. Stated another way, if you find that Kirtland meets the specified criteria of the permit, it would be legally improper to vote for revocation of the permit.

Legal Analysis

When carefully evaluating these documents, it appears clear that, from a strictly legal standard, the requirements of the permit have been met for the following reasons.

First, *in looking at Exhibit 4, the Zoning Permit itself, it contains no specific conditions to the approved land use.* There is a notation at the bottom of the page that it is “as per site plan approved 11-17-08 as amended.” The approved site plan was amended and was further approved in November 2011, thus the only approval limitation appears to be related to site plan compliance, which is not an issue in front of the Planning Commission at this time.

From the letters and comments written by Mr. McPherson, the Planning Director, it appears that it is his belief that the findings of fact become a legally enforceable condition to the permit. Kirtland does not share that belief, but even if Mr. McPherson is correct in this assertion, the specific findings of fact relied upon by the Planning Commission in its unanimous approval sets forth only two objective criteria related to noise control. (1) that berms with trees are required on the west and south side of the property and (2) that production equipment be located inside the building. Condition number 1 is addressed in footnote 1 of this memo. Condition number 2 has been satisfied.

I have received copies of several letters authored by Mr. McPherson. A memo from Mr. McPherson to City Manager Michael Cain on February 14, 2012 (a copy of which is attached as Exhibit 5), states: “Kirtland provided *estimates* that noise from the loudest piece of equipment at the plant would be no more than 24 db at the lot line and that any piece of equipment that exceeded 40 db would be placed inside the building.” (Emphasis added) *First*, Mr. McPherson admits that the information provided by Kirtland were “estimates”. *Second*, the 24 db reference was related to a specific piece of equipment noted in the original proposal from Kirtland, not for the entire operation. (Please see original proposal contained in Exhibit 1, where it specifically states estimated sound travel from the Hammermill building.) *Third*, Mr. McPherson references in his February 14 memo, that noisy equipment (“equipment that exceeds 40 db”) would be placed inside the building. We find nothing in the zoning permit, or findings of fact which support this contention. Mr. McPherson’s

September 13, 2012

Page 4

memo goes on to state that some residents have complained about the smell from the facility, but a specific quantitative standard for odor is not contained within the Permit and there is no indication in Mr. McPherson's memo that the odor rises to the intensity of a nuisance, as established under the City's general ordinances. Mr. McPherson also notes in his February 14 memo that dust collects in a nearby area and Mr. McPherson attributes the dust to the operation of the Kirtland plant. However, Mr. McPherson provides no objective basis that demonstrates that the dust is attributable to Kirtland's operations, rather than other ambient sources of dust. Once again, these are not objective criteria which can be legally relied upon for purposes of revoking a conditional land use permit, shutting down a plant operation with financial consequences in the tens of millions of dollars and putting approximately thirty people out of work. Thus, while Mr. McPherson's frustration is clearly palpable, and to some extent understandable, *the Planning Commission must remain focused on legally enforceable and objective criteria in evaluating the revocation of a permit.*

Kirtland's Remedial Efforts

When complaints related to noise emanating from the Kirtland facility first surfaced, Kirtland met with city officials to address the noise concerns articulated by some members of the community. Regardless of whether or not the noise issue is a legal criteria for revocation, Kirtland strongly desires to be a good citizen of the community and to do what it reasonably can to address the concerns of the community. In an effort to mitigate the noise concern, Kirtland agreed to limit its hours of operation as long as it was economically feasible to do so. Even while limiting hours of operation, Kirtland sought other remediation alternatives to deal with the noise concern. Kirtland and the City jointly agreed to engage consulting engineers who are specialists in the area of noise mitigation. A report was generated which helped define the scope of the concern with some recommendations. Kirtland then immediately engaged the engineering firm of Kodiak Consulting to provide specific equipment retrofitting proposals which would address the most significant noise emission, a condition called "tonal pulsation". Tonal pulsation can roughly be described as a condition created by the frequency of motor components which are not harmonized with other motor components and thereby create a pulsating cavitation noise. To date, Kirtland has implemented nearly all of the recommendations of Kodiak and Kirtland has been advised by individuals recently evaluating the noise that it has almost entirely been addressed.

Community Engagement

We understand that some very vocal opponents to the Kirtland facility have expressed their strong desire to Mr. McPherson to have the Conditional Use Permit of Kirtland revoked. A petition has been circulated, asking individuals to indicate whether or not they support the revocation of the Conditional Use Permit or support the company in its efforts to continue in operation. *Over 890*

September 13, 2012

Page 5

people signed the petition supporting Kirtland's continued operation, with only 90 individuals expressing the desire of revocation. Accordingly, it appears as though Kirtland has significant community support in its efforts to remain in operation while addressing the concerns of the community with respect to the noise issues. I have not attached a copy of the remediation recommendations, engineering reports, and petition signatures to each of your packets, due to their volume, but I will have delivered to Mr. McPherson's office one master copy of these documents, expecting that they will be made available for your review and ready reference. Kirtland also respectfully requests that these documents be made part of the administrative record in this proceeding.

Other Community Standards

The existing lawful standard for noise in Boyne City is based upon the City's general nuisance standard which, as I am sure your legal counsel would tell you, is highly subjective and appears unenforceable due to its vagueness and subjectivity. Other communities have abandoned these types of subjective noise nuisance standards and have established specific scientific criteria which can be objectively demonstrated and effectively enforced. Attached as Exhibit 6 are noise ordinance standards from other communities. You will notice that the standard for Traverse City ranges from 60 db to 75 db at the property line, depending upon the land use. The City of Alpena has a similar standard, as does Ludington. The USEPA also endorses a similar standard, and states that those standards must be measured at the receiving property, not at the boundary of the emitting property. In fact, in the EPA standard, the technical reference states that the standards are "levels below which there is no reason to suspect that the general population will be at risk from any of the identified effects of noise."

Conclusion

With the viability of a community business at risk, along with its millions of dollars in investment and over thirty jobs, it is important to make every effort to find a solution that works for the community and Kirtland. We appreciate your patience and careful review of the attached materials. Although Kirtland is confident in its legal position and ability to prevail in a legal dispute, the company would strongly prefer to continue to work with the City to find an acceptable solution which reasonably addresses the concerns of the community and allows the company to remain vibrant. Our strong recommendation would be to table a decision on revocation of the Conditional Use Permit and, instead, conduct a new evaluation of noise levels, now that significant capital improvements have been made to remediate noise concerns. It is our belief that you will find that there is no additional noise from the Kirtland facility above the background (ambient) noise which generally exists in this area. If the Planning Commission feels that additional action is needed after conducting a new noise analysis, it would be wise for Kirtland and the City to work together on

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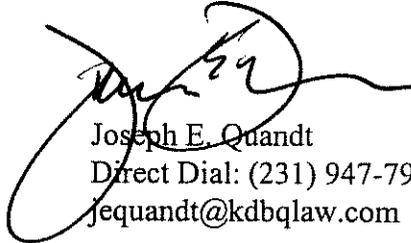
September 13, 2012

Page 6

amending the Conditional Use Permit to establish actual enforceable standards for future operations consistent with the standards adopted by other communities. We hope that the information provided in this memo and its attachments are helpful and informative. Company officials will be available to address any questions the Planning Commission may have at the public hearing. If you have any questions about the content of this memo, you may contact me at the address or phone number referenced above.

Respectfully Submitted,

KUHN, DARLING, BOYD AND QUANDT, PLC



Joseph E. Quandt
Direct Dial: (231) 947-7901 x115
jequandt@kdbqlaw.com

JEQ:shp

Exhibit 1



City of Boyne City
Founded 1856

AGENDA

319 N. Lake Street

Boyne City, Michigan 49712

BOYNE CITY PLANNING COMMISSION

www.boyne-city.com

Phone 231-582-6597

Fax 231-582-6500

Monday, November 17, 2008, 5:00 p.m.

Boyne City Hall

1. Call to Order
2. Roll Call
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 October 20, 2008 Boyne City Planning Commission meeting.
 - B. Request from Lou Cyrulik to illuminate Harborage Heights Sign
4. Hearing Citizens Present (Non-Agenda Items)
5. Reports of Officers, Boards, Standing Committees
6. Unfinished Business
7. New Business
 - A. Larry Sullivan Charlevoix County Planning. Presentation of draft County Future Land Use Plan.
 - B. Conditional Use and Development Plan Review for Kirtland Products LLC to develop and operate a wood pellet manufacturing facility.
 - C. DVD Presentation of Planners Moments, Unit 1 Introduction to Smart Growth and Unit 2 Affordable Housing
 - D. Review Boyne City Comprehensive Plan Chapter 7 Energy and Smart Growth.
 - E. Adopt 2009 meeting calendar
 - F. Referral of proposed amendment to article 21.17 back to Planning Commission by City Commission
8. Staff Report
9. Good of the Order
10. Adjournment – Next Meeting, December 15, 2008

Approved: December 15, 2008

Meeting of November 17, 2008

RECORD OF THE PROCEEDINGS OF THE REGULAR **BOYNE CITY PLANNING COMMISSION** MEETING HELD AT BOYNE CITY HALL, 319 NORTH LAKE STREET, ON MONDAY, NOVEMBER 17, 2008 AT 5:00P.M.

Call to Order

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

Roll Call

Present: Gretchen Crum, Jerry Douglas, Chris Frasz, Jane MacKenzie, Tom Neidhamer, and Joe St. Dennis

Absent: Dan Adkison, George Ellwanger, and Jim Knurick

****MOTION**

2008-11-17-02

Neidhamer moved, St Dennis seconded, PASSED UNANIMOUSLY a motion to excuse the absences of Adkison, Ellwanger and Knurick.

Meeting Attendance

City Officials/Staff: City Planner Scott McPherson, City Manager Mike Cain, City Commission Mike Cummings and Recording Secretary Pat Haver

Public Present: There were nine member(s) of the public present.

Consent Agenda

2008-11-17-03A

Douglas moved, MacKenzie seconded, PASSED UNANIMOUSLY a motion to approve the consent agenda.

- a. Approval of the October 20, 2008 Planning Commission minutes as presented.
- b. Illumination of Harborage Heights Sign was pulled and moved to item 7G.

Comments on Non-Agenda Items

None

Reports of Officers, Boards and Standing Committees

Planning Director McPherson indicated the Sign Committee had recently met with different downtown businesses; they had a productive session, with a lot of good input. The Sign Committee will reconvene in the next couple of weeks, implement some of the ideas, and bring them back to the Planning Commission for recommendations.

Unfinished Business

None

New Business

**Charlevoix County
Planning presentation of
the draft County Future
Land Use Plan**

Dennis Jason and Mike Buttigieg, members of the Charlevoix County Planning Commission were on hand to ask this board to review and make a recommendation to the proposed draft Charlevoix County Future Land Use Plan. The County Board would like to finalize their plan in January/February of 2009. They are asking all governmental agencies to review and make comment. This plan will be a working tool for the board to use county wide. The draft plan can be viewed on the county website: www.charlevoixcounty.org. The city planning board will review and have agreed to place this on the December agenda for discussion.

**Conditional Use and
Development Plan Review
for Kirtland Products,
LLC**

Planning Director McPherson gave his staff report. Arete Industries Inc. has submitted an application for Development Plan Review and Conditional Use for Kirtland Products LLC to manufacture wood fuel pellets. The proposed use would be located at 1 Altair drive at the Arete Industries building owned by Tupper Enterprises LLC. The property is zoned Planned Industrial District (PID). The property is a square 10 acres and the existing building on the property is 48,000 square feet. The parcel is mostly flat and cleared with some trees along the western edge of the property. Adjacent to the north of the property is the airport that is zoned Community Service. To the west of the parcel is zoned Regional Commercial/Industrial and the property is adjacent to parcels owned by Boyne Area Gymnastics, GCC Enterprises and St. Matthew's Church.

The proposed use would manufacture wood fuel pellets from wood chips that would be delivered to the site. The chips would be stockpiled, dried and milled outside and then transported inside to be pressed into pellets and packaged for shipment. Because of the outside activities on site the use is considered a conditional use. The proposal was presented to the EDC/LDFA on November 10, 2008; however the parcel is not within the boundaries of Phase I or II of the Air Industrial Park and is not subject to deed restrictions.

The proposed use meets ordinance requirements in regards to setbacks, lot coverage, height, and parking and loading. The primary concerns that staff has with the proposed use is that of noise and visual impact. The process will have several pieces of equipment outside that will produce noise. Of the outside equipment the milling machine produces the most noise and to abate this noise of the machine the applicant has proposed to enclose the equipment in a decoupled building. The applicant has provided estimates that the noise from the enclosed equipment would be approximately 24 decibels at the property line. The visual impact of the use will be from the outside equipment and storage of materials and the lighting that will be used. It is proposed that the plant will operate 24 hours a day and it will be necessary to illuminate the site. A specific site lighting plan has not been developed. Prior to the issuance of a zoning permit a site lighting plan needs to be approved. In addition to illumination, some landscaping should also be required. Screening of the north property line should be required with staggered rows of evergreen trees. To help the buffering and screening a berm should be installed if possible.

The proposed use will also require approvals from several other agencies. Air quality permits will be required as well as approval from the FAA for the height of the stack. A soil erosion permit and storm water plan will be required to be reviewed by the County Drain Commissioner.

The manufacture of wood pellets is not specifically listed in the PID district but uses with very similar characteristics are listed. Section 14.30 (O) states: Other industrial uses not specifically stated or implied elsewhere which, in the determination of the Planning Commission, are similar to the principal permitted uses provided herein, and in harmony with the character of the District and the purpose and intent of this Article and the Comprehensive Plan of the City. In section 14.30 Conditional Uses the following uses are listed:

G. Millwork lumber and power saw and planing mills.

K. Outside storage of materials

If the Planning Commission determines the use is similar and in harmony with permitted use in the district, the planning commission needs to review the conditional use standards of approval criteria listed in section 2.70 and the development plan approval criteria as listed in section 19.40.

Tom Monley, Leon Tupper, and Mark Lange from Kirtland Products were on hand to answer any questions, and after a brief overview of the site, and the hopes to create 60 to 75 jobs, Mr. Monley turned the floor over to Mark Lange for the presentation. During the slide presentation (the exact format of the proposal that was provided in the agenda packets), Mr. Lange made a few additional comments:

- A couple of corrections to the staff report. The square footage of the current building is 66,900 square feet, and not the 48,000 square feet indicated, and the proposed abatement berms would be on the south side of the building, and not on the north side.
- No additional size increase for the sign, they anticipate the same as the current operations sign,
- There has not been an engineered lighting plan. The directional signs will be for operations only,
- There has not been a grading plan engineered yet,
- The circle of chips must be on asphalt
- Retention ponds may need to be redesigned,
- Proposing a berm on the west side (closest to St. Matthew's Church), and the south side, unsure as to the height
- They will not allow wet wood to ferment. It will be turned over for stock materials every couple of days, they plan on working 5 days and upwards to 7 days, so hoping turn over will be quick.
- Proposing relative construction outside to begin April 2009, inside possibly earlier. The goal is to have production begin mid summer 2009, and have products to customers and retail before the 2009 heating season.
- We have options into the FAA for placement of the smoke stacks. Preferred location is next to the building somewhere at 35 ft in height, another possible location is closer to the south property line at 58 ft.

Public Comment opened at 6:03 p.m.

Mike Buttigieg - do you have a night sky initiative? A storm water retentive plan, possibly you could do a rain guard pond.

McPherson - The current lighting standards are what will be followed. The city follows the county storm water ordinance, and as far as the rain guard pond, I don't have any information on them, but the Tip Of the Mitt maybe able to help

John McCahan - The sound graph provided, is that for inside the buildings?

Mark Lange - We will be erecting a decoupling enclosure around the equipment, or may move the louder pieces into the building. You can be assured that we will abate the noise as much as possible.

McCahan - What time will the trucks arrive during the day?

Lange - The wood operations will happen during the day light hours. A couple of the later trucks could arrive well after dark, maybe in the summer up until midnight. We are using stock from a 75 mile radius.

City Manager Cain - The airport board has a couple of concerns that I would like to share; (1) stack heights and (2) the vapor production, will it obscure any of the runway? I would like to share a couple of additional concerns:

- I am unable to envision size of the chip pile, I see width and length, not height,
- What is the time frame that the chips will remain in the pile,
- What is the noisiest piece of equipment,
- I understand the preference in the stack placement is closer to the building, if the south side location is needed, will the tube that planned close to the property line, be buried so that emergency equipment can access from the South?

Lange - The vapor will be larger and taller in the winter due to the air structure, comparable in size to Lexamar, it will be double the size. The pile size will be approximately 200 ft in diameter; we are unable to determine the height at this time. However, the product will be turned over quickly. The front end loader will be the noisiest piece of equipment, the back up indicator bell.

Denny Jason - If you have to clean the stack down to asphalt, it can't be too high, as you indicate a quick turn over

With no further public comments, closed at 6:14 p.m.

Board Discussion/Deliberation

Crum - Because this is a public hearing, the notices were sent out, have you received any comments?

McPherson - The 300 ft notice was sent out, and I have not received any comments.

St. Dennis - We don't have a landscape plan with berm placement, these will help determine noise levels or a lighting plan, how are we going to decide?

Crum - Before we get to the decision on the development plan, we need to through the Conditional Use Plan to see if they even meet the criteria of the zoning district.

Neidhamer – Let us go through the Conditional Use Plan findings of fact
Frasz – The development plan findings of facts "O & P" specifically address the berms, landscaping and lighting.

At this point in the meeting, the Conditional Use Plan findings of fact were examined, and based on the findings under 2.70, the plan is compatible with other uses in the district. (See results attached to the minutes)
Vice Chair Neidhamer facilitated the discussion on the Development Plan Review. (See results attached to the minutes)

****MOTION**

2008-11-17-7B – Development Review Plan

With no further discussion, Motion by MacKenzie, seconded by Crum for preliminary approval of the Development Plan for Kirtland Products, LLC as presented (11/17/08) with the conditions noted. The final plan to come back to the Planning Commission for approval.

Roll Call:

Ayes: Crum, Douglas, Frasz, MacKenzie, Neidhamer, and St. Dennis

Nays: None

Absent: Adkison, Ellwanger, and Knurick

Motion Carried

2008-11-17-7B – Conditional Use

Motion by Crum, seconded by St. Dennis based on the findings of fact for the conditional use, the plan is similar to the principal permitted uses for the district, the plan meets all criteria, so to recommend as a conditional use.

***MOTION**

Roll Call:

Ayes: Crum, Douglas, Frasz, MacKenzie, Neidhamer, and St. Dennis

Nays: None

Absent: Adkison, Ellwanger, and Knurick

Motion Carried

Adopt 2009 Meeting Calendar

The 2009 meeting calendar was supplied in the agenda packet. The schedule for the planning commission is the 3rd Monday of each month.

****MOTION**

2008-11-17-7E

MacKenzie moved, Frasz seconded, PASSED UNANIMOUSLY a motion to approve the 2009 Meeting Calendar.

Referral of proposed amendment to article 21.17 back to the Planning Commission by the City Commission

At the last City Commission meeting the proposed amendment language was referred back to the Planning Commission in order to give the Planning Commission the opportunity to review the comments submitted from Alaina Zanke-Jodway on August 26, 2008. The comments have been attached to the agenda for your review. Planning Director McPherson believes the language is sound, and legal council has no concerns with the new language proposed.

Board Discussion

Questions were asked about the language and the reason for returning this to the Planning Commission by the City Commission. It was felt that the Planning Commission should have the opportunity to review the comments submitted in August.

2008-11-17-7F

After reviewing the attached comments and discussion, **MacKenzie moved, St. Dennis seconded** to refer to the City Commission recommending section 21.17 as written, with no changes.

Roll Call:

Ayes: Crum, Douglas, Frasz, MacKenzie, Neidhamer, and St. Dennis

Nays: None

Absent: Adkison, Ellwanger, and Knurick

Motion Carried

This item was pulled from the consent agenda, and presented now for public comment and board discussion. There was no public in attendance at this time for comment.

Planning Director McPherson gave his staff report. The applicant is proposing to use external illumination on both sides of the existing entrance sign for Harborage Heights at 701 W. Division St. Exterior signs that are illuminated require Planning Commission review.

A photo showing the existing sign, including a sketch showing the approximate height and location of the proposed flood light was attached in the agenda packet. Also included is a catalog page showing the properties of the proposed fixture.

The light fixtures are upward facing, but hooded to minimize light spill. The proposed lights are 35 Watt floodlights.

Board Discussion

Frasz -I requested to have this item pulled from the consent agenda, so that I can briefly advise that the sign committee has spent a great deal of time on lighting. We, as a board in the past have proposed downward lit signs only, this proposal is for an upward lit sign, which is shielded to minimize light spill. I do like that it is only 15" above the ground, and is directly aimed at the sign, this should decrease any spillage. If we authorize this one, what about others in the future?

Neidhamer - Does it meet all the lighting standards?

McPherson - Yes, it meets them all as proposed.

2008-11-17-7G

With no further discussion, **motion by Frasz, seconded by Douglas** to approve the lights for the Harborage Heights sign with conditions. No light

MOTION

**Harborage Heights Sign
Illumination**

****MOTION**

spillage allowed, and it must be reviewed by staff once installed.

Roll Call:

Ayes: Crum, Douglas, Frasz, MacKenzie, Neidhamer, and St. Dennis

Nays: None

Absent: Adkison, Ellwanger, and Knurick

Motion Carried

Staff Report

None

Good of the Order

Discussion on the allotted time that it would take to view the DVD presentation of Planners moments, Unit 1 Introduction to Smart Growth and Unit 2 Affordable Housing. Along with reviewing the Boyne City Comprehensive Plan, Chapter 7 – Energy and Smart Growth (Agenda items 7C and 7D), after board discussion, it was decided to have everyone watch the video on their own time, and prepare for discussion in December. There are copies of the DVD in Scott's office, and you should also be able to view it on line.

Frasz – Expressed his disappointment that the Planning Commission did not have any input into the lighting at the memorial at Veteran's Park. The board indicated that because the Planning Commission did not have any input on the lighting, it is upward lit, against the Ordinance.

McPherson – Mike Wiesner, Director of the DPW was the staff liaison on that project, changes were made after the finalization of the plan.

Douglas – Could they use less wattage? I will be in attendance at the Joint Boards meeting; I will bring it up then, to see why the decision was made without Planning Commission input.

Joint Boards Meeting, to be held on December 2, 2008 at 6:00 p.m. in the Auditorium at City Hall. It has been requested that each board have a representative in attendance, although it does not need to be the chair.

MacKenzie left at 7:16 p.m.

Next Meeting

The next regular meeting of the Boyne City Planning Commission is scheduled for December 15, 2008

**Adjournment
MOTION

2008-11-17-10

Crum moved, St Dennis seconded, PASSED UNANIMOUSLY a motion to adjourn the meeting at 7:19 p.m.

Pat Haver

Pat Haver, Recording Secretary

KIRTLAND WOOD PELLET MANUFACTURING CONDITIONAL USE FINDINGS

2.70 Standards of Approval. For the purpose of this Ordinance these uses shall be known as conditional uses as set forth in the individual district and shall be allowed within that particular district subject to the development requirements for the district, provided the Planning Commission finds the conditional use affirmatively meets the following criteria deemed applicable in each case:

ORDINANCE REQUIREMENT	STATUS	COMMENTS
1. The conditional use will promote the use of land in a socially and economically desirable manner for persons who will use the proposed land use or activity, for landowners and residents who are adjacent thereto and for the City as a whole;	Standard Met	The proposed use will be located in a existing underutilized building and it is anticipated the proposed use will create as many as 20 jobs.
2. The conditional use is compatible and in accordance with the goals, objectives and policies of the City's Comprehensive Plan;	Standard Met	The comprehensive plan encourages the production of fuel from renewable resources and the adaptive reuse of underutilized sites.
3. The conditional use is necessary for the public convenience at that location;	Standard Met	The proposed use would provide wood pellet fuel from northern Michigan forests for local and regional markets.
4. The conditional use is compatible with adjacent uses of land, and can be constructed, operated and maintained so as to continue to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed;	Standard Met	The use an industrial use which would be located in the Planned Industrial District
5. The conditional use shall be of such location, size and character, that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts;	Standard Met	The proposed use would be located on a existing developed site. The proposed use will not impact the use and development of adjacent properties.
6. The conditional use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;	Standard Met	The proposed use is located in a industrial zoned property and has been designed to mitigate possible adverse impacts.
7. The conditional use can be adequately served by public services and facilities without diminishing or adversely affecting public services and facilities to existing land uses in the area;	Standard Met	Existing public services to the site are adequate to serve the proposed use.
8. The conditional use will not cause injury to the value of other property in the neighborhood in which it is to be located;	Standard Met	It is not anticipated the proposed use will affect property values.
9. The location and use and assembly of persons in connection with the proposed conditional use will not be hazardous to the district in which the use is located, hazardous to a specific use or life and property within the district, or be incongruous therewith or in conflict with the normal traffic of the district.	Standard Met	It is not anticipated that the use will significantly increase the traffic of the district and

**KIRTLAND WOOD PELLET MANUFACTURING
CONDITIONAL USE FINDINGS**

ORDINANCE STANDARD	STATUS	COMMENTS
<p>10. The conditional use will protect the natural environment, help conserve natural resources and energy, and will not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment, public health, safety or welfare by reason of excessive production of traffic, noise, smoke, odors or other such nuisance;</p>	<p align="center">Standard Met</p>	<p>Truck traffic of 34 trips per day is anticipated. Noise generated by equipment will be 24 dB at property line. DEQ and EPA must approve air emissions.</p>
<p>11. The vehicular circulation for the proposed conditional use will be in the best interest of the public health, safety and welfare in relationship to egress/ingress to the site, vehicular turning movements related to street intersections and street gradient, site distance and potential hazards to the normal flow of traffic; and</p>	<p align="center">Standard Met</p>	<p>Vehicular circulation will consist of trucks traveling to and from the site on M-75, Air Industrial Park Dr. and Altair Dr.</p>
<p>12. The conditional use is within the provisions of uses requiring conditional use approval as set forth in the various zoning districts herein, is in harmony with the purposes and conforms to the applicable regulations of the zoning district in which it is to be located, and the proposed site layout is in compliance with the general standards of Article XIX, regarding site development and shall insure that:</p> <p>(a) The use and associated activities on the property are so located as not to hinder the projected development of the adjacent properties or impair the existing uses of adjacent lands. This shall include all uses associated with the particular use such as parking, lighting, display signs, etc.</p> <p>(b) Sufficient landscaping, fencing, walls and other means of buffering are provided to insure that operation of the use will not be objectionable to nearby uses or dwellings by reason of noise, fumes or flash of lights nor interfere with an adequate supply of light and air, nor increase the danger of fire or otherwise create the potential of endangering the public safety.</p>	<p align="center">Standard Met with Condition Final Development Approved by Planning Commission</p>	<p>Conditional use meets ordinance requirements for the Planned Industrial District. Landscape buffer on the south property line is should be installed, fighting plan needs to be submitted</p>

**KIRTLAND WOOD PELLET MANUFACTURING
DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT**

Section 19.40 Development Plan Approval Criteria.

In order that buildings, open space and landscaping will be in harmony with other structures and improvements in the area, and to ensure that no undesirable health, safety, noise and traffic conditions will result from the development, the Planning Commission shall determine whether or not the development plan meets the following criteria, unless the Planning Commission determines that one or more of such criteria are inapplicable:

ORDINANCE REQUIREMENT	STATUS	FINDINGS
<p><u>A. General.</u> All elements of the development plan shall be designed to take into account the site's topography, the size and type of plot, the character of adjoining property, and the traffic operations of adjacent streets. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance. The development plan shall conform with all requirements of this Ordinance, including those of the applicable zoning district(s).</p>	<p>Meets</p>	<p>Site is mostly cleared and flat with an existing industrial building. Some mature trees are located on the west side of the property. Site is at the end of Alfair drive</p>
<p><u>B. Building Design.</u> The building design shall relate to the surrounding environment in regard to texture, scale, mass, proportion, and color. High standards of construction and quality materials will be incorporated into the new development. In addition to following design guidelines adopted in specific district or sub-area plans, the building design shall meet the architectural and building material requirements of this Ordinance.</p>	<p>Meets with condition(s): (1) Any new buildings must be approved by the Planning Commission</p>	<p>Existing building will be used.</p>
<p><u>C. Preservation of Significant Natural Features.</u> Judicious effort shall be used to preserve the integrity of the land, existing topography, and natural, historical, and architectural features as defined in this Ordinance, in particular wetlands designated /regulated by the Michigan Department of Environmental Quality, and, to a lesser extent, wetlands which are not regulated by the Department.</p>	<p>N/A No Issues</p>	<p>No significant natural features are located on the site.</p>
<p><u>D. Streets.</u> All streets shall be developed in accordance with the City of Boyne City Subdivision Control Ordinance and City Municipal Standards, unless developed as a private road in accordance with the requirements of the City.</p>	<p>N/A</p>	<p>No new streets are proposed</p>

**KIRTLAND WOOD PELLET MANUFACTURING
DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT**

<p><u>E. Access, Driveways and Circulation.</u> Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site shall be provided. Drives, streets, parking and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points. All driveways shall meet the design and construction standards of the City. Access to the site shall be designed to minimize conflicts with traffic on adjacent streets, particularly left turns into and from the site. For uses having frontage and/or access on a major traffic route, as defined in the City of Boyne City Comprehensive Plan, the number, design, and location of access driveways and other provisions for vehicular circulation shall comply with the access management provisions of this Ordinance.</p>	<p>N/A</p>	<p>Existing driveway will be used.</p>
<p><u>F. Emergency Vehicle Access.</u> All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the Fire Department, Ambulance Department and Police Department.</p>	<p>Meets with condition(s): The potential placement of the smoke stack on the South side of the building, it will need to be buried to allow access for Emergency Vehicles</p>	<p>Emergency vehicles have good to the building and proposed equipment. A fire hydrant is located on the parcel.</p>
<p><u>G. Sidewalks, Pedestrian and Bicycle Circulation.</u> The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and sidewalks/pedestrian or bicycle pathways in the area. There shall be provided a pedestrian circulation system which is separated from the vehicular circulation system. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals and other such facilities may be required in the vicinity of primary and secondary schools, playgrounds, local shopping areas, fast food/service restaurants and other uses which generate a considerable amount of pedestrian or bicycle traffic.</p>	<p>N/A</p>	<p>No pedestrian access is provided.</p>
<p><u>H. Barrier-Free Access.</u> The site has been designed to provide barrier-free parking and pedestrian circulation.</p>	<p>N/A</p>	<p>Existing parking area has barrier free access</p>

**KIRTLAND WOOD PELLET MANUFACTURING
DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT**

<p><u>L. Parking.</u> The number and dimensions of off-street parking [spaces] shall be sufficient to meet the minimum required by this Ordinance. However, where warranted by overlapping or shared parking arrangements, the Planning Commission may reduce the required number of parking spaces, as provided in this Ordinance.</p>	<p align="center">Meets with condition(s): Must provide a site plan to address parking</p>	<p>Site meets ordinance minimum for required parking.</p>
<p><u>J. Loading.</u> All loading and unloading areas and outside storage areas, including refuse storage stations, shall be screened in accordance with this Ordinance.</p>	<p align="center">Meets with condition(s): Must provide site plan to address this requirement</p>	<p>Loading area will be on the west side of building. Screening on south property line is required.</p>
<p><u>K. Landscaping, Screening, and Open Space.</u> The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Landscaping, landscape buffers, greenbelts, fencing, walls and other protective barriers shall be provided and designed in accordance with the landscaping provisions of this Ordinance. Recreation and open space areas shall be provided in all multiple-family residential and educational developments.</p>	<p align="center">Meets with condition(s): Must provide landscape plan to include the west side and south side buffers in place, specifically substantial berms with plantings</p>	<p>Screening on south property line is needed</p>
<p><u>L. Soil Erosion Control.</u> The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material. The final determination as to adequacy of, or need for, lateral support shall be made by the Planning Director or City Engineer, and have a valid Charlevoix County Soil Erosion permit.</p>	<p align="center">Meets with condition(s): Must obtain proper permits</p>	<p>If required soil erosion permit must be obtained</p>

**KIRTLAND WOOD PELLET MANUFACTURING
DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT**

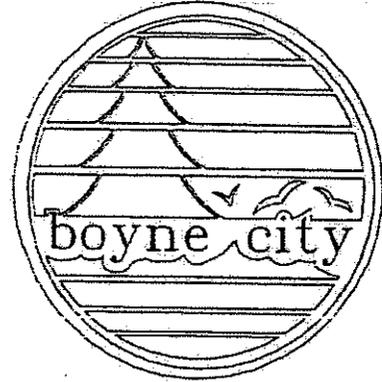
<p>M. Stormwater Management. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater which complements the natural drainage patterns and wetlands, prevent erosion and the formation of dust. Sharing of stormwater facilities with adjacent properties shall be encouraged. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water. All such measures shall comply with the Charlevoix County Stormwater Ordinance.</p>	<p>Meets with condition(s):</p> <ol style="list-style-type: none"> (1) Must obtain proper permits (2) Must provide a drainage and grading plan 	<p>Existing storm water retention areas will be resized to accommodate increase in impervious surfaces. Engineered grading a drainage plan will be required.</p>
<p>O. Lighting. Exterior lighting shall be arranged so that it is directed preferably downward onto the subject site and deflected away from adjacent properties. Lighting shall not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.</p>	<p>Meets with condition(s):</p> <p>Must provide a lighting plan, and must meet current ordinance</p>	<p>Site lighting must be directed inward photometric plan must be submitted.</p>
<p>P. Noise. The site has been designed, buildings so arranged, and activities/equipment programmed to minimize the emission of noise, particularly for sites adjacent to residential districts.</p>	<p>Meets with condition(s):</p> <ol style="list-style-type: none"> (1) berms with trees required on the west side and south side of the property (2) Decoupling building is required 	<p>Equipment will be constructed to minimize noise.</p>
<p>Q. Mechanical Equipment. Mechanical equipment, both roof and ground mounted, shall be screened in accordance with the requirements of this Ordinance.</p>	<p>Meets with condition(s)</p> <p>Screening of south and west property line is required</p>	<p>Screening of south property line is required</p>
<p>R. Signs. The standards of the City of Boyne City's Sign Ordinance are met.</p>	<p>Meets with condition(s):</p> <p>Must adhere to the current sign ordinance when drawings are submitted</p>	<p>No new signs are included with this proposal</p>

**KIRTLAND WOOD PELLET MANUFACTURING
DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT**

<p><u>S. Hazardous Materials or Waste.</u> For businesses utilizing, storing or handling hazardous material such as automobile service and automobile repair stations, dry cleaning plants, metal plating industries, and other industrial uses, documentation of compliance with state and federal requirements shall be provided.</p>	<p align="center">N/A</p>	<p>No hazardous material will be stored on site</p>
<p><u>T. Other Agency Reviews.</u> The applicant has provided documentation of compliance with other appropriate agency review standards, including, but not limited to, the Michigan Department of Natural Resources, Michigan Department of Environmental Quality, Michigan Department of Transportation, Charlevoix County Drain Commissioner, Northwest Michigan Community Health Agency, Charlevoix County Building Department, and other federal and state agencies, as applicable.</p>	<p align="center">Meets with condition(s): Must obtain all necessary permits</p>	<p>Plan must meet requirements and obtain any necessary permits/approvals from FAA, MDEQ, EPA, Charlevoix County Building Dept, Charlevoix County Soil Erosion.</p>
<p><u>U. Approval Process.</u> The development plan shall be reviewed by the Planning Commission. If disapproval is recommended, the Planning Commission shall cite reasons for such disapproval. If the Planning Commission finds a development plan not in conformity with this section, it may, at its discretion, return the development plan to the applicant with a written statement of the modifications necessary to obtain approval. Upon resubmission of the modified development plan, the Planning Commission shall review the plan. The Commission may approve, disapprove or approve subject to compliance with such modifications and conditions as may be deemed necessary to carry out the purpose of this Ordinance and other ordinances and resolutions of the City. If disapproved, the Planning Commission shall cite reasons for such disapproval.</p>	<p>Motion by MacKenzie, seconded by Crum for: Preliminary approval of the Development Plan for Kirtland Products, LLC as presented (11/17/08) with the conditions noted. The final plan to come back to the Planning Commission for approval.</p>	

CITY OF BOYNE CITY

To: Chair Jim Knurick and fellow Planning Commissioners
From: Scott McPherson, Planning Director
Date: November 17, 2008
Subject: Kirtland Wood Pellet Manufacturing



BACKGROUND

Arete Industries Inc., has submitted an application for Development Plan Review and Conditional Use for Kirtland Products LLC to manufacture wood fuel pellets. The proposed use would be located at 1 Altair drive at the Arete Industries building owned by Tupper Enterprises LLC. The property is zoned Planned Industrial District (PID). The property is a square 10 acres and the existing building on the property is 48,000 square feet. The parcel is mostly flat and cleared with some trees along the western edge of the property. Adjacent to the north of the property is the airport that is zoned Community Service. To the west of the parcel is zoned Regional Commercial/Industrial and the property is adjacent to parcels owned Boyne Area Gymnastics, GCC Enterprises and St. Matthew's Church.

The proposed use would manufacture wood fuel pellets from wood chips that would be delivered to the site. The chips would be stockpiled, dried and milled outside and then transported inside to be pressed into pellets and packaged for shipment. Because of the outside activities on site the use is considered a conditional use. The proposal was presented to the EDCALDFA on November 10, 2008; however the parcel is not within the boundaries of Phase I or II of the Air Industrial Park and is not subject to deed restrictions.

DISCUSSION

The proposed use meets ordinance requirements in regards to setbacks, lot coverage, height, and parking and loading. The primary concerns that staff has with the proposed use is that of noise and visual impact. The process will have several pieces of equipment outside that will produce noise. Of the outside equipment the milling machine produces the most noise and to abate this noise the machine the applicant has proposed enclose the equipment in a decoupled building. The applicant has provided estimates that the noise from the enclosed equipment would be approximately 24 decibels at the property line. The visual impact of the use will be from the outside equipment and storage of materials and the lighting that will be used. It is proposed that the plant will operate 24 hours a day and it will be necessary to illuminate the site. A specific site lighting plan has not been developed. Prior to the issuance of zoning permit a site lighting plan needs to be approved. In addition to illumination some landscaping should also be required. Screening of the north property line should be required with staggered rows of evergreen trees. To help the buffering and screening a berm should be installed if possible.

The proposed use will also require approvals from a several other agencies. Air quality permits will be required as well as approval from the FAA for the height of the stack. A soil erosion permit and storm water plan will be required to be reviewed by the County Drain Commissioner.

PROCESS

The manufacture of wood pellets is not specifically listed in the PID district but uses with very similar characteristics are listed. Section 14.30 (O) states: Other industrial uses not specifically stated or implied elsewhere which, in the determination of the Planning Commission, are similar to the principal permitted

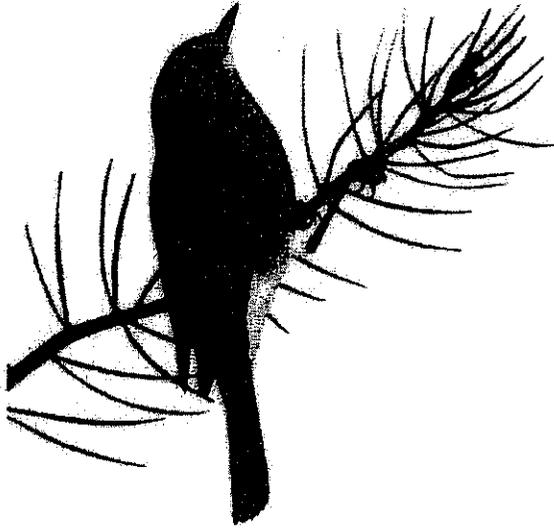
Excerpt from November 10, 2008 Minutes From EDC/LDFA meeting

At its November 10, 2008 meeting the EDC reviewed the draft plans for a new business, Kirtland Wood Pellet Manufacturing that would occupy the Arte' building at 1 Altair Drive. Part of the facility would be outside, with a concern with the steam production, and emissions so close to a residential area. There would be approximately twenty trucks a day coming in, with about ten a day going out. They would employ 3 to 5 people per shift. City Manager Cain stated that this is for informational purposes only, as this building does not fall in their jurisdiction. Discussion regarding if the planning board would have any control on the outside storage issues, Cain stated that this will be going to the Planning board at the November 17th meeting. He shared with the board that the Airport board had issues with the height of the chimney and emissions from that chimney.

KIRTLAND PRODUCTS, LLC

1 Altair Drive, Boyne City, MI 49712 (231) 582-4470

Proposal for



KIRTLAND WOOD PELLET MANUFACTURING

**KIRTLAND
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**KIRTLAND
PRODUCTS, LLC**



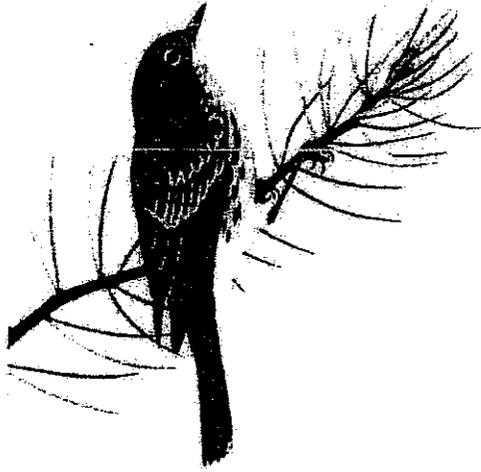
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KIRTLAND PRODUCTS, LLC

KIRTLAND WOOD PELLET MANUFACTURING

Introduction

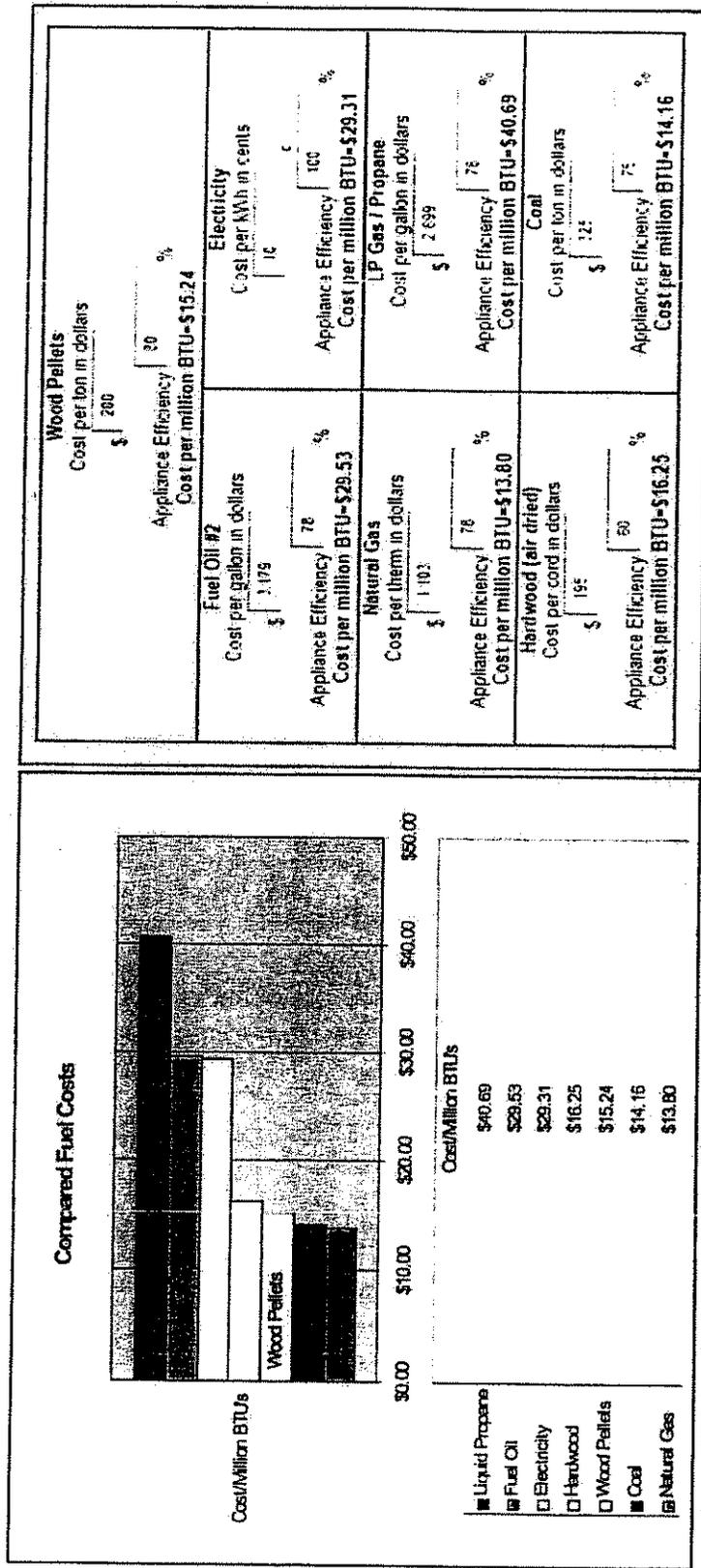
One doesn't have to look far to find someone who is struggling to make ends meet in today's economy. Perhaps gazing into the mirror is far enough. Our community has recently lost over 100 jobs. The state of Michigan is seeing economic conditions that are reminiscent of our grandparents' time. Our nation is at war. We have realized that our dependency on foreign oil has created a financial burden for Americans across the country.

It is difficult to identify products and businesses that are not affected by the significant increases in oil prices. Many products we buy are made of plastic, packaged in plastic containers, and delivered in trucks burning diesel fuel. The food we eat is harvested with tractors burning fuel. Many of our homes are heated with propane, fuel oil, natural gas, or electricity (which may have been produced by burning coal or natural gas). Painting an ugly picture is not difficult.

What can we do? We can sit back and wait to see what happens next. Or we can take action and do something about it. At Kirtland Products, LLC, we feel the latter is the most appropriate course of action. Say hello to Kirtland Wood Pellets.

Home Heating

As Americans, we have many options for heating our homes. Some of the more popular options are; liquid propane, fuel oil, natural gas, hardwood, coal, and wood pellets. Some of us have a great number of options. Others are limited by the resources in our area. The choice we make may have a significant impact on our pocket books. Below is a snapshot of home heating costs based on Fall 2008 Northern Michigan prices:

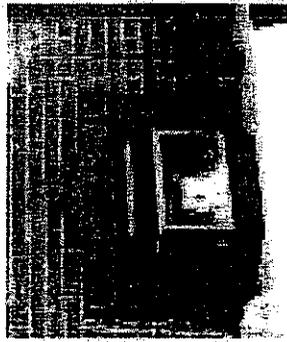


Appliance Efficiency Source: Pellet Fuels Institute, Wood Pellet Cost Source: Matejski Lumber, Fuel Oil Cost Source: Derr Oil, Electricity Cost Source: Great Lakes Energy, Natural Gas Cost Source: DTE, LP Gas Cost Source: Petoskey Propane, Hardwood Cost Source: Local Producers, Coal Cost Source: KW Feeds, Farwell



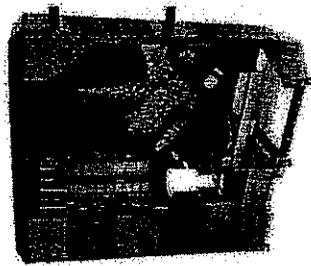
Wood Pellet Heat

Wood pellet fuel provides clean, inexpensive, efficient heat for many homes across the country. There are a variety of stove styles including fireplace inserts, outside pellet burning boilers, pellet fuel furnaces, and free standing pellet stoves:



Wood pellet fuel provides clean, inexpensive, efficient heat for many homes across the country.

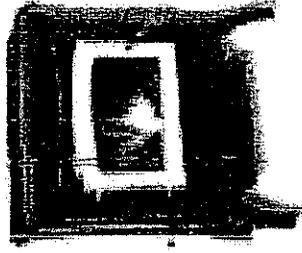
Pellet Fireplace Insert



Pellet Fuel Boiler



Pellet Fuel Furnace



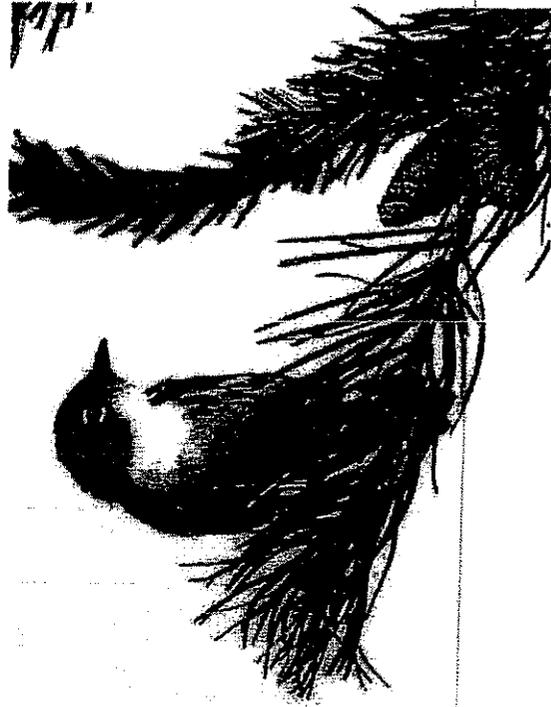
Free Standing Pellet Stove

Natural Resources

Following recommendations from the Michigan Department of Natural Resources, we intend to primarily use Jack Pine as the feedstock for the Kirtland Wood Pellets. Northern Michigan is home to very mature stands of Jack Pine. Jack Pine only grows in Canada and the Northern Great Lakes region. Because of the low density of Jack Pine, it is a poor choice for conventional wood stoves. After it is compressed into wood pellets, Jack Pine actually produces more BTU's per pound than hardwood. Jack Pine is not a straight growing tree. It is also cursed with having low tensile and compressive strength, making it a bad choice for lumber. To put it simply, there is a very limited market for Jack Pine. This creates a problem for the DNR.

Kirtland's Warbler

Kirtland's Warblers are found only in ten counties on Michigan's northern Lower Peninsula and four counties in the Upper Peninsula. Kirtland's Warblers nest only on the ground near the lower branches of large stands of young jack pines that are five to 20 feet tall and six to 22 years old. The tree's age is crucial. The birds need low branches near the ground to help conceal their nests. Before the trees are six years old, the lower branches are not large enough to hide the nest. After 15 years, these lower branches begin to die. Kirtland's warblers will not nest without young jack pines, and the Warbler's population dwindled dramatically before scientists realized that forest fires were actually good for Kirtland's Warblers. In the absence of forest fires, the Jack Pine forests have become mature, thus dwindling the habitat of the Kirtland's Warbler. Kirtland Wood Pellets will be made from mature Jack Pine. The harvest of mature Jack Pine will allow the young growth to flourish, thus providing a larger habitat for the Kirtland's Warbler.



CO₂ Emissions

When considering the carbon emissions from fuel, one must consider nature's intake of carbon along with the output of carbon when fuel is burned. Fossil fuels consumed carbon from the Earth millions of years ago. Burning these fuels today releases carbon in the form of CO₂, contributing to greenhouse gasses. Because fossil fuels consumed carbon millions of years ago, there is not a present day offsetting consumption of carbon associated with burning fossil fuels.

Burning wood pellets is considered carbon neutral. When a mature Jack Pine tree is harvested, the tree had spent the last 50 years consuming CO₂ through photosynthesis. When the wood fuel from the tree is burned, this CO₂ is released back into the atmosphere, where it can be consumed by new growth. Every gram of carbon released by the wood when burned is represented by a gram of carbon consumed through photosynthesis when the tree was growing. For this reason, biofuels, including wood, are considered carbon neutral.

How many lbs. of carbon emissions can be saved by burning one ton of wood pellets?

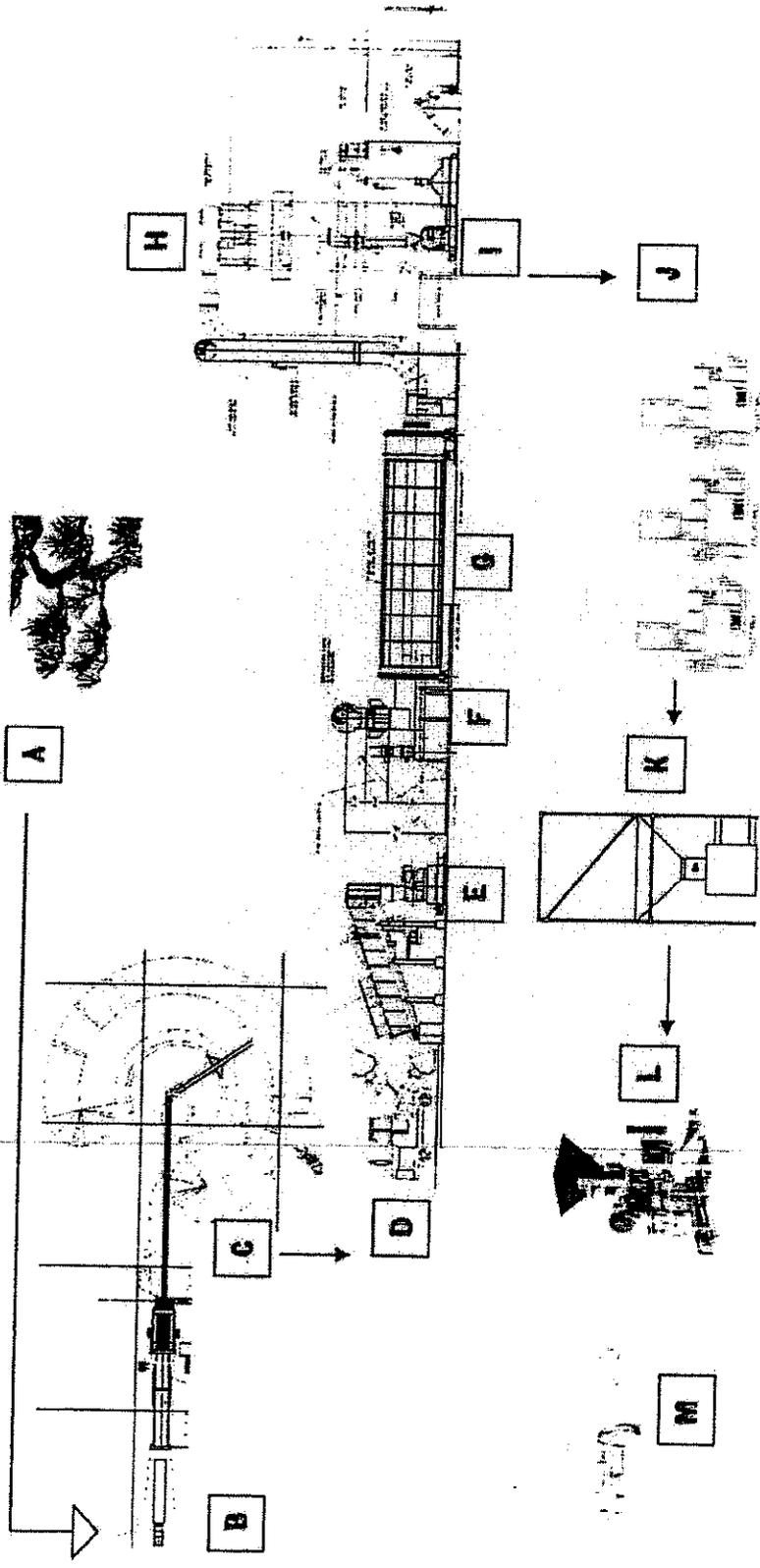
- If you heat with electricity you will save 3323 lbs.
- If you heat with oil you will save 943 lbs.
- If you heat with lpg you will save 709 lbs.
- If you heat with natural gas you will save 549 lbs.

The average household would use 2.67 tons of pellets, saving 8872 lbs. of carbon emissions if you heat with electricity, 2518 lbs. if you heat with oil, 1893 lbs. if you heat with LPG, and 1466 lbs. if you heat with natural gas.

If every household converted to wood pellet (or equivalent renewable source) for heating, the total carbon emissions of the United States would drop by more than 8%.

GLOBAL WARMING? You "can" do your part.

Data taken from Dr. Jerry Whitfield's talk "Reduction in Greenhouse Gases Using Biomass Pellets for Residential Space Heating", 6.3.08



Wood Pellet Manufacturing

- A. Timber producers harvest the tree by selecting only mature Jack Pine. The tree is then delimbed, debarked and chipped in the woods. The limbs, bark and needles are collected from the woods and sold to local energy companies as biomass fuel. The clean chips will be trucked into Boyne City in covered box trailers (20 trucks/day).
- B. The chips will be unloaded outside of the manufacturing facility by use of a hydraulic truck dump.

- G.** The chips will then be conveyed into a radial stacker. The purpose of the radial stacker is to distribute the various densities of wood chips and saw dust, creating a consistent dispersion of product into the pelleting operation.
- D.** The chips are loaded with a front end loader into a conveyor which distributes the chips for grinding.
- E.** The chips are then conveyed into a hammer mill for course grinding.
- F.** Biomass fuel is used in the burner for drying.
- G.** The ground wood chips are passed through the dryer three times before exiting.
- H.** Once dried, these chips are sent through a cyclone to separate the wood from the air. A small percentage of the chips are fed back to the biomass burner.
- I.** The chips are sent through another mill for fine grinding. At this point the wood is in a state called wood meal.
- J.** The heated wood meal is transferred into the pellet mills where pellets are formed by pressing the wood meal through 1/4" dies, similar to the way a grist mill presses wheat into flour. But, instead of grinding grain into flour, a pellet mill presses wood through hundreds of small holes (dies).
- K.** The hot pellets, held together by the wood's own lignin, are screened to remove fines. Then, the wood chips are transferred to a cooling hopper.
- L.** The cooled pellets are then placed into 40 pound bags. These bags are sealed and palletized, 50 bags to the pallet; or 2000 pounds to the pallet.
- M.** Pallets are trucked to retail stores for market distribution (14 trucks/day).

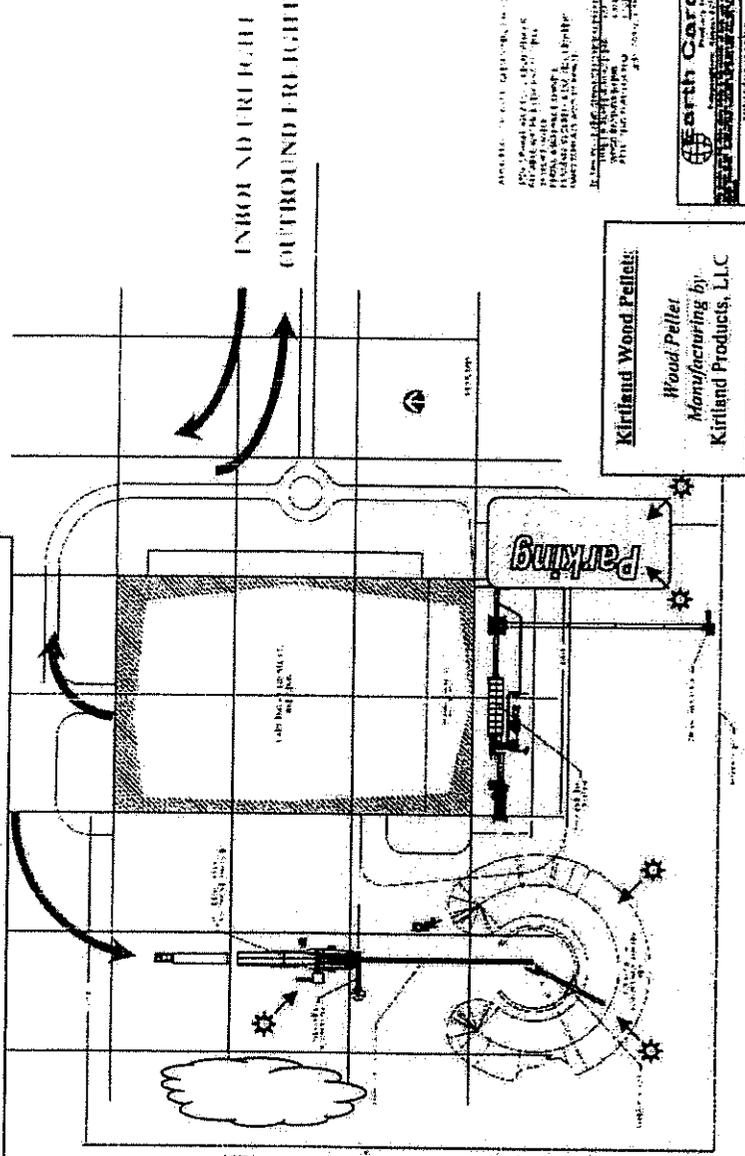
Site Plan – Kirtland Products, LLC; Wood Pellet Manufacturing

The owners of Kirtland Products, LLC are Leon Tupper, Tom Monley, and Mike Lange. The below described property is owned by Tupper Enterprises, LLC; which is solely owned by Leon Tupper:

Tax ID: 015-136-165-15; Legal Description: LDFA PA 281 OF 1986 89SP1188 FROM 336-165-00 & 336-166-00 COM AT S 1/4 COR SEC 36 T33N R6W TH N89 DEG36'51"W AL S L1 SEC 36, 335.78FT TH N1 DEG19'49"E 621.00FT TO POB TH N89 DEG 36'43"W 618.49FT TH N1 DEG09'08"E 727.15 FT TO C/L OF EARTH BERM TH SRT DEG39'56"EAL SD C/L 620.76FT TH S1 DEG19'49"W 706.10FT TO POB PART OF SE 1/4 OF SW 1/4 SEC 36 T33N R6W REF: IFT 051-990-008-00/051-995-008-00



APP. 10/27/2010



Storm drainage and retention ponds will be located on the premises based on engineering analysis of site requirements.

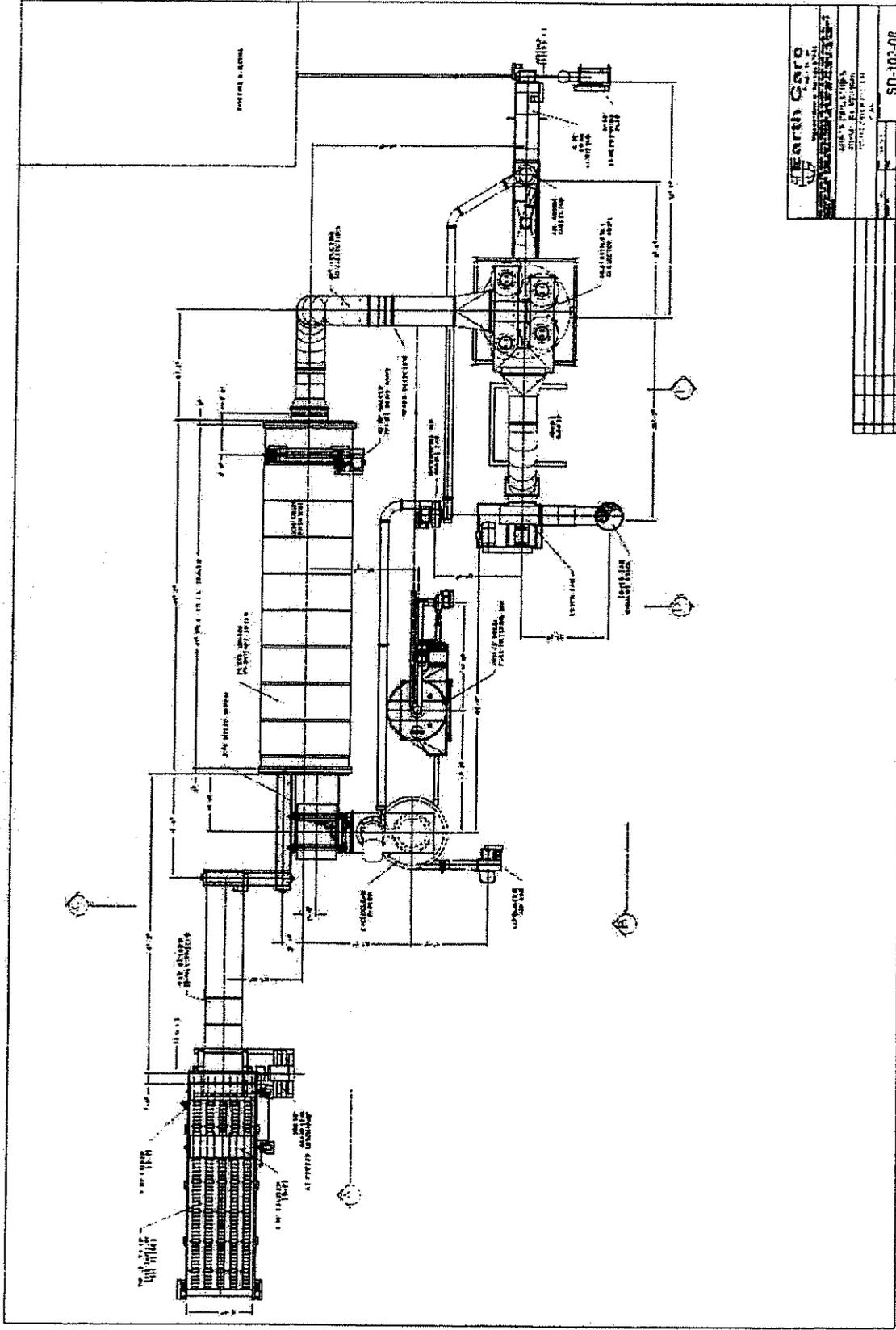
Inbound and outbound trucks will enter and exit the facility via Altair Drive. No access point changes will be required.

APPLICANT: KIRTLAND PRODUCTS, LLC
 1000 S. 10TH ST., SUITE 100
 P.O. BOX 100
 KIRTLAND, SD 57051
 CONTACT: MIKE LANGE
 605-336-1660
 PROJECT NO: 1001-1001-1001

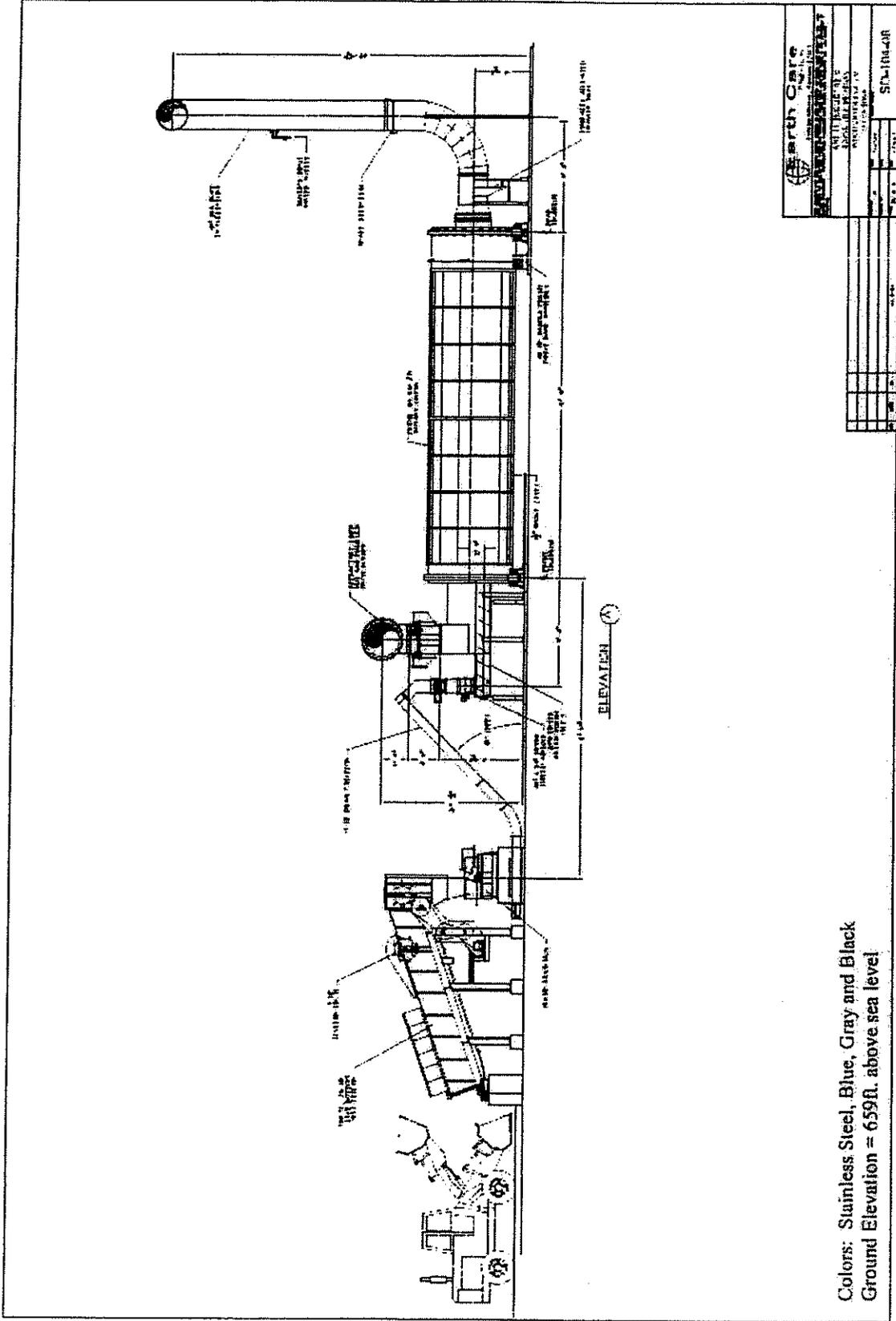


SD-102-400

Site Plan - Kirtland Products, LLC; Wood Pellet Manufacturing



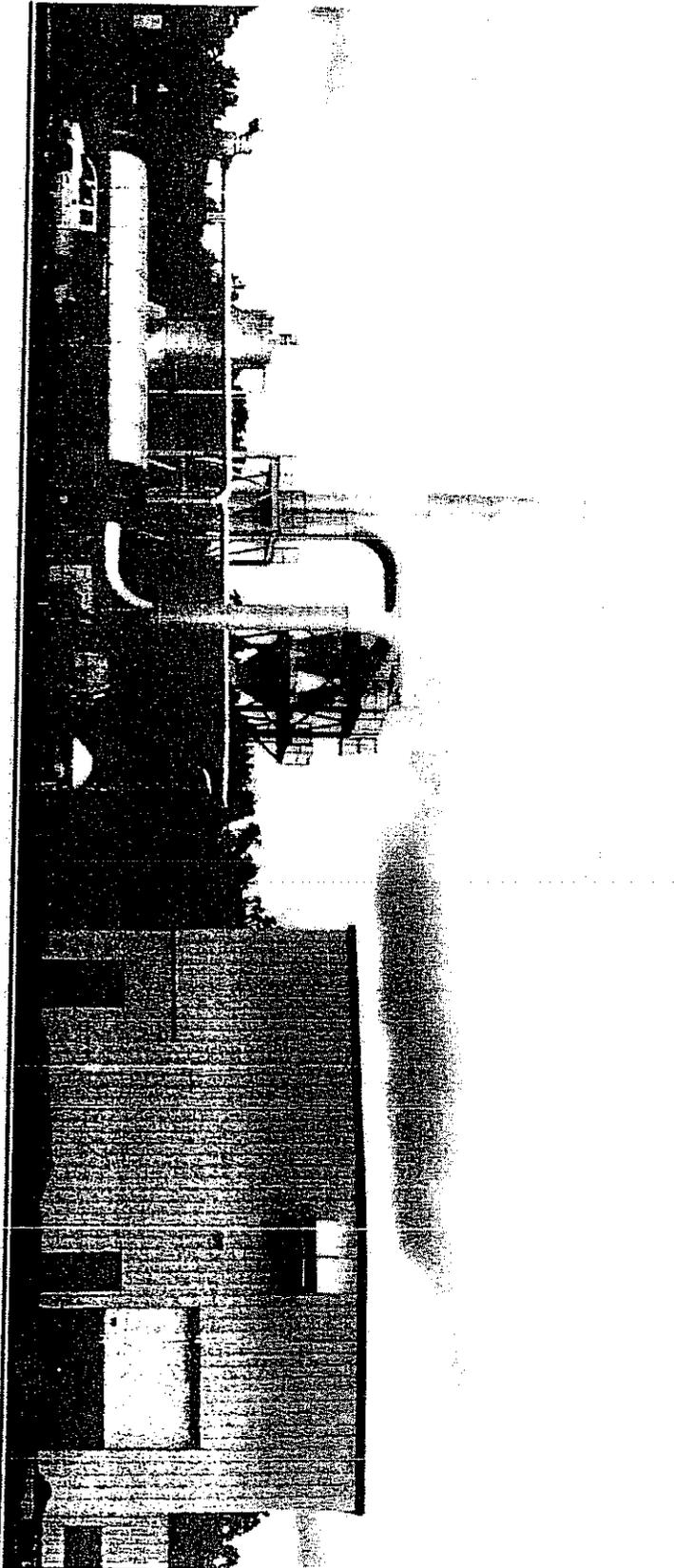
Site Plan - Kirtland Products, LLC; Wood Pellet Manufacturing



Colors: Stainless Steel, Blue, Gray and Black
 Ground Elevation = 659ft. above sea level

ANTHONY J. BROWN ARCHITECT 1000 S. W. 10th Ave. Fort Lauderdale, FL 33304 Phone: 754.467.1111 Fax: 754.467.1112	SHEET NO. 418 DATE: 11/11/11

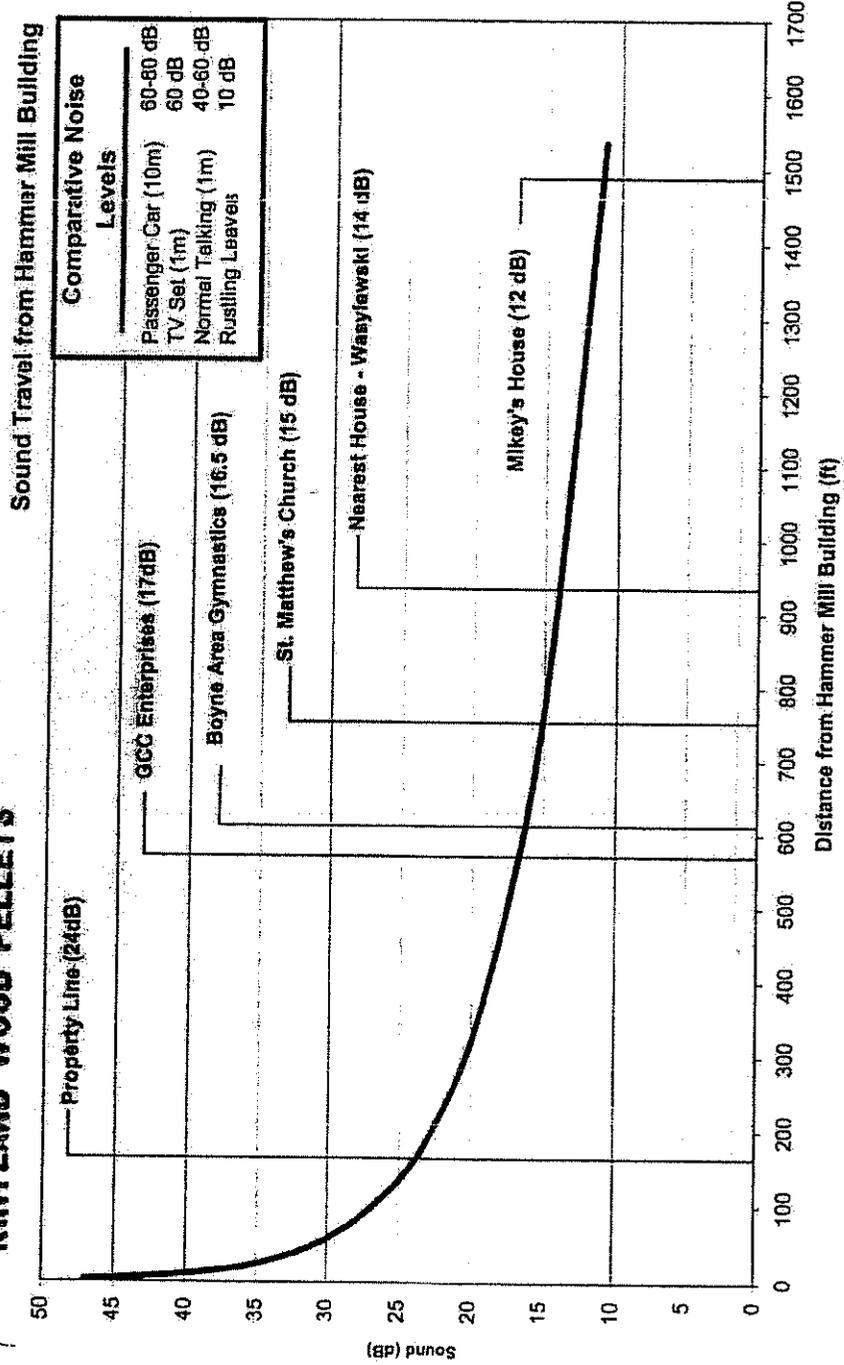
Pelleting Plant



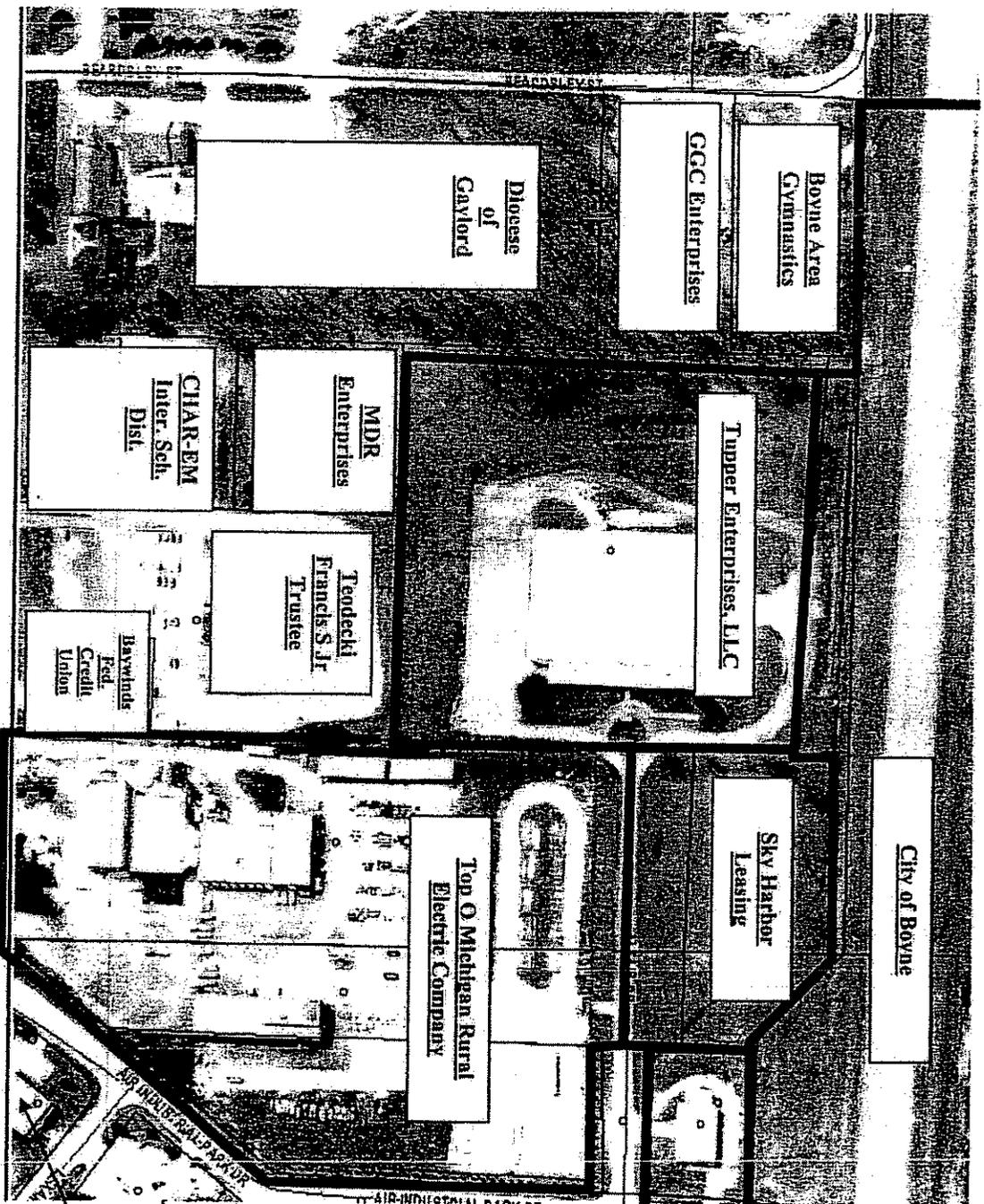
Noise

The manufacturing equipment required to make wood pellets produces noise. The highest volume of sound is produced by the wood grinding operation. The grinding equipment will be isolated in a "decoupled" building designed to minimize the noise output.

KIRTLAND WOOD PELLETS



Property Lines



City of Boyne

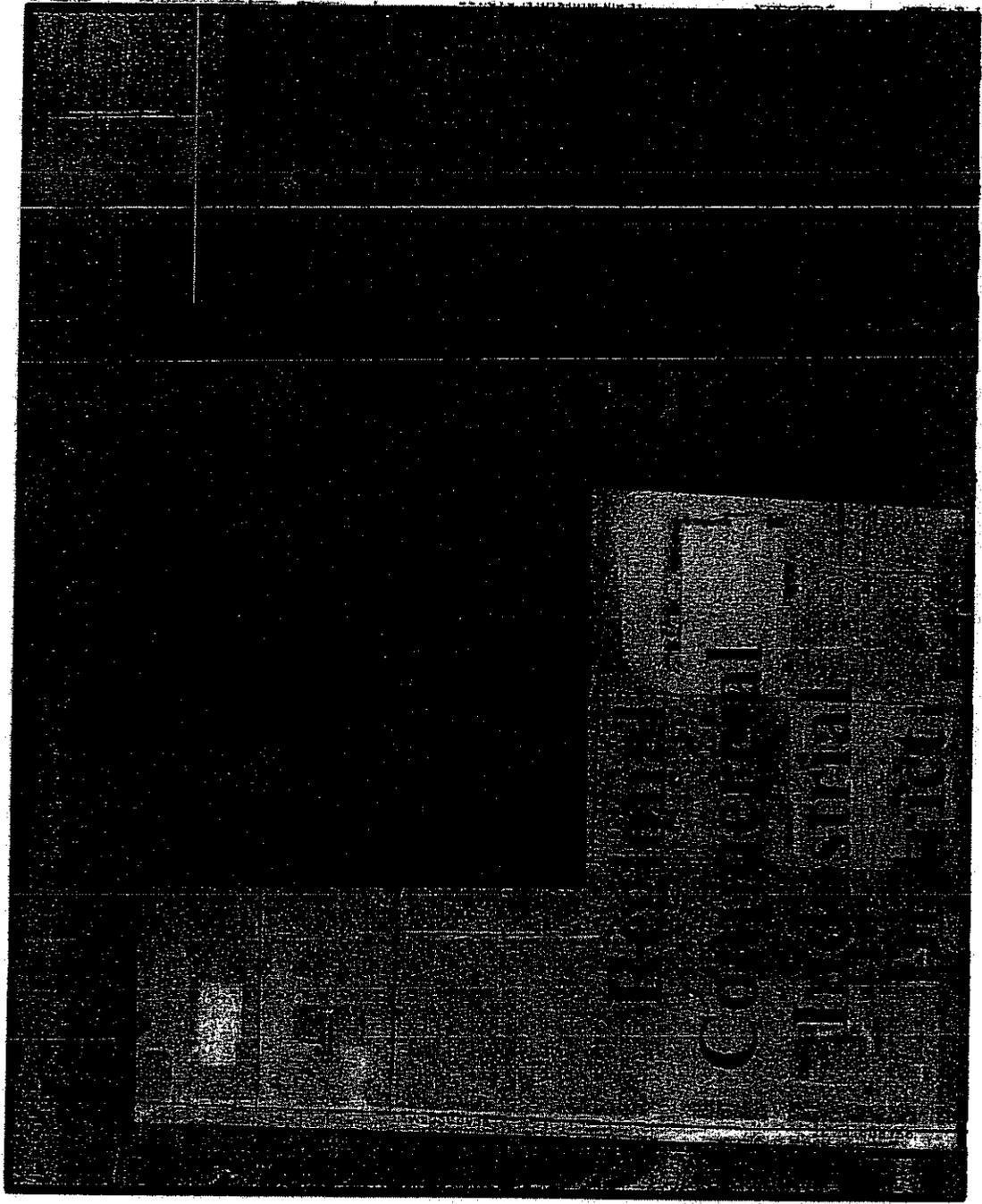
Sky Harbor
Leasing

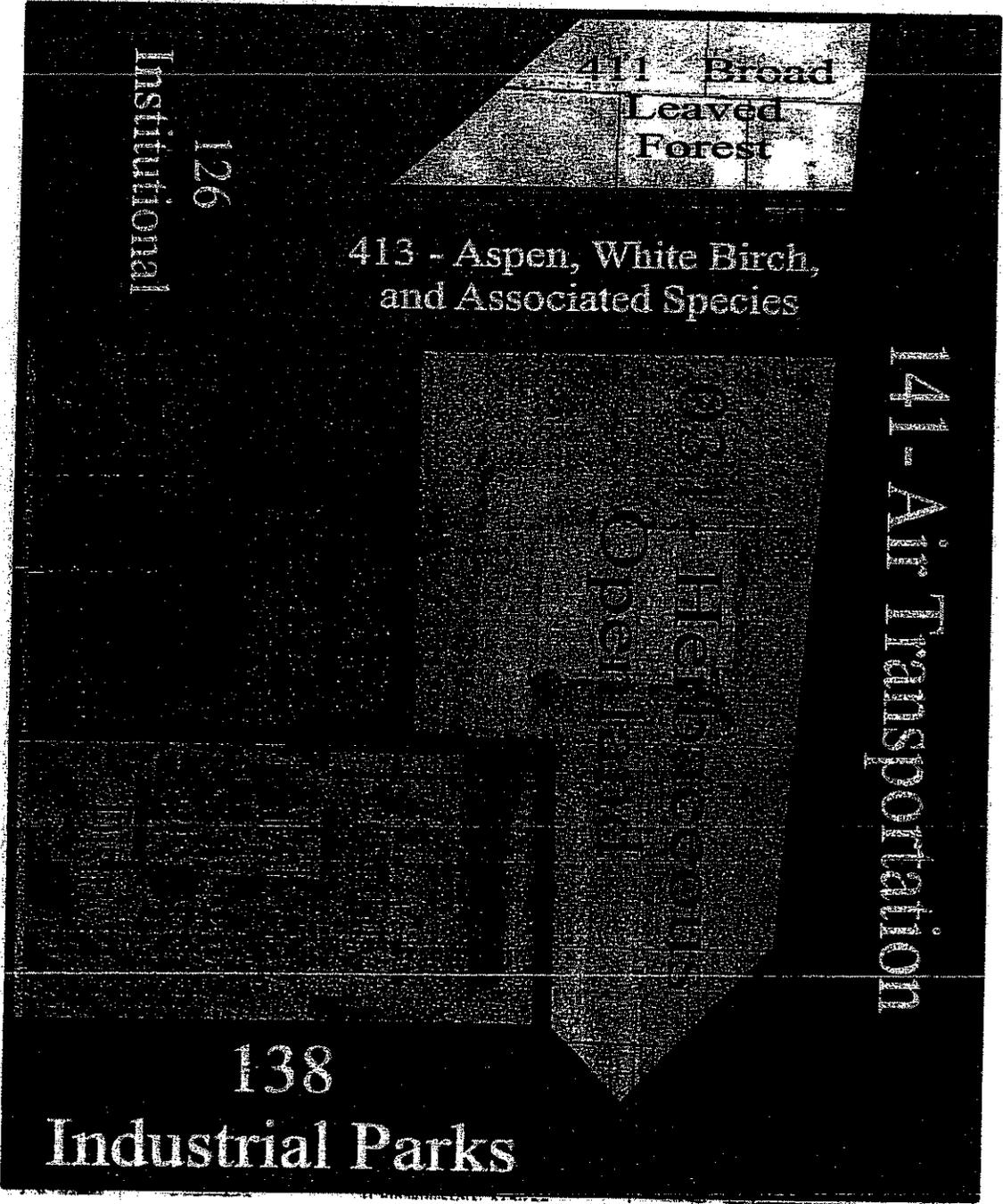
Top O Michigan Rural
Electric Company

Phillips, Rodney
City of Boyne

Redmer Gilbert
Mascow, Sharon K.

Zoning





Parking, Signs, Lighting and Grading

Modifications will be made to the site's parking. The equipment required for this operation will encompass the area currently used for parking on the site. All changes to parking, signs, lighting and grading will be done in accordance with the requirements of Boyne's Zoning Ordinance, and storm water standards.

Construction

Construction would begin in the April 2009 time frame, and conclude in November 2009. Due to frost law constraints, some equipment may deliver to the site prior to April.

Healthy Vibrant Diverse Manufacturing Community

It is our vision to help Boyne regain its standing as a healthy, vibrant, diverse, manufacturing community.
Thank you!

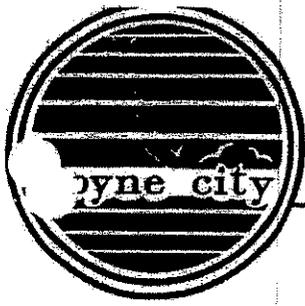
Contact Us:

Leon Tupper
ltupper@aretenorth.com
24400 Northwestern Hwy
Suite 204
Southfield, MI 48075
Phone: (248) 352-7205
Fax: (248) 356-0525

Tom Manley
tmanley@aretenorth.com
Arete Industries
1 Altair Drive
Boyne City, MI 49712
Phone: (231) 437-0275
Fax: (231) 582-4472

Mike Lange
milange@gtlukes.com
Lange & Associates
1110 Boyne Summit
Boyne City, MI 49712
Phone: (231) 675-0350
Fax: (231) 582-2809

Exhibit 2



City of Boyne City
Founded 1856

319 N. Lake Street

Boyne City, Michigan 49712
www.boynecity.com

Phone 231-582-6597
Fax 231-582-6506

AGENDA

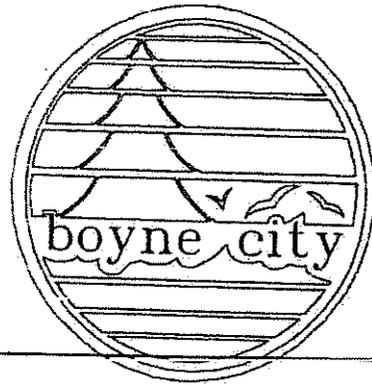
BOYNE CITY PLANNING COMMISSION Monday, November 16, 2009, 5:00 p.m. Boyne City Hall

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 October 19, 2009 Boyne City Planning Commission meeting.
4. Hearing Citizens Present (Non-Agenda Items)
5. Reports of Officers, Boards, Standing Committees
 - A. None
6. Unfinished Business
 - A. Final Site Plan Review Kirtland Products LLC
7. New Business
8. Staff Report
9. Good of the Order
10. Adjournment – Next Meeting, December 21, 2009

Hometown Feel, Small Town Appeal

CITY OF BOYNE CITY

To: Chair Tom Neidhamer and fellow Planning Commissioners
From: Scott McPherson, Planning Director
Date: November 16, 2009
Subject: Kirtland Wood Pellet Manufacturing



BACKGROUND

In November of 2008 Arete Industries Inc. submitted an application for Development Plan Review and Conditional Use for Kirtland Products LLC to manufacture wood fuel pellets. The Planning Commission reviewed the application and approved the Conditional Use permit. The Planning Commission also reviewed the development plan and gave preliminary approval to the plan with the condition a revised plan showing landscaping, grading and lighting must be submitted to the planning commission for final approval.

On the previously submitted plan wood chips were delivered to the site then stockpiled, dried and milled outside and then transported indoors to be pressed into pellets and packaged for shipment. On the current plan the dryer and fine milling equipment has been moved indoors. This updated plan should help mitigate some of the noise issues that were present with the initial proposal. The updated plan also shows landscaping and lighting for the site and a revised site circulation plan with a proposed access drive from the south for employees.

DISCUSSION

The proposed use meets ordinance requirements in regards to setbacks, lot coverage, height, and parking and loading. The primary concerns that staff had with the preliminary plan is that of noise and visual impact. As the update plan moves some of the equipment inside the building some of the noise and visual impacts have been mitigated. The visual impact of the use will be from the outside equipment and storage of materials and the lighting that will be used. It is proposed that the plant will operate 24 hours a day and it will be necessary to illuminate the site. A site lighting plan been developed. Three thirty foot poles are proposed to be used to illuminate the chip pile and loading area. Screening of the south property line is proposed with 2 staggered rows of white pine trees. To help the buffering and screening a berm along the southwest corner is proposed.

The proposed use has received required approval from the FAA for the height of the stack. A soil erosion permit is not required and storm water issues have been reviewed by the County Drain Commissioner.

PROCESS

The plan is being submitted to the planning commission for final plan review. The development plan findings checklist completed at the preliminary review has been attached for your reference. Review the plan and determine if the proposed plan meets the requirements and conditions stipulated in the preliminary review.

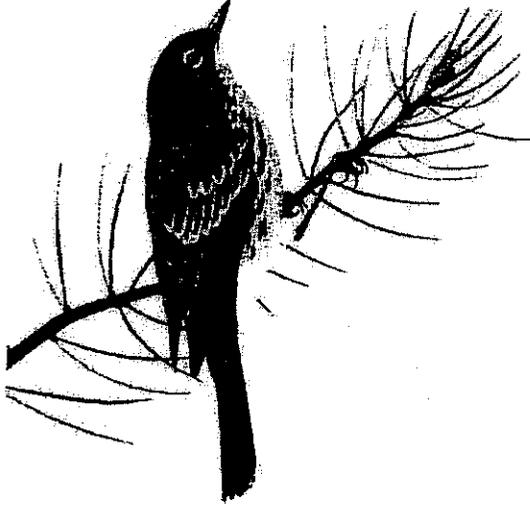
RECOMMENDATION

Staff recommends approval of the development plan with appropriate conditions as determined by the Planning Commission.

KIRTLAND PRODUCTS, LLC

DIVISION OF LMT ENTERPRISES, LLC

1 Altair Drive, Boyne City, MI 49712 (231) 582-4470



KIRTLAND WOOD PELLET MANUFACTURING



KIRTLAND PRODUCTS, LLC

KIRTLAND WOOD PELLET MANUFACTURING

Introduction

One year ago, the members of Kirtland Products, LLC; Leon Tupper, Tom Monley, and Mike Lange; introduced the Boyne City Planning and Zoning Commission to the Kirtland Wood Pellet Manufacturing Project. In the project proposal, Kirtland addressed its plans to build a wood pellet manufacturing facility in the Boyne City Industrial Park, at 1 Altair Drive, Boyne City, MI 49712.

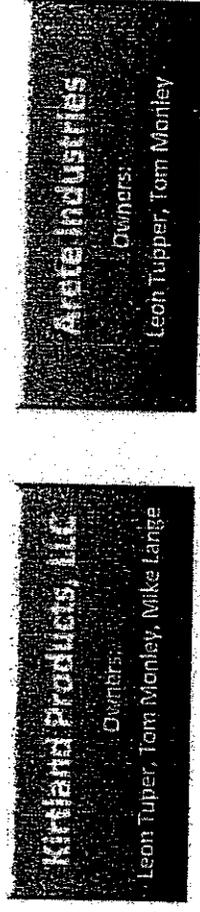
As a result of this meeting, the Board unanimously approved Kirtland Products' Conditional Use application. The board also granted conditional Site Plan approval based on the drawings presented in November 2008. The follow-up items resulting from this meeting were landscaping, sound abatement, grading and storm water management, exterior lighting and traffic flow.

Since November 2008, Kirtland Products' plan to manufacture wood fuel pellets is still strong. The mechanisms by which this will be accomplished have changed. The following information will detail the changes and address the open questions.

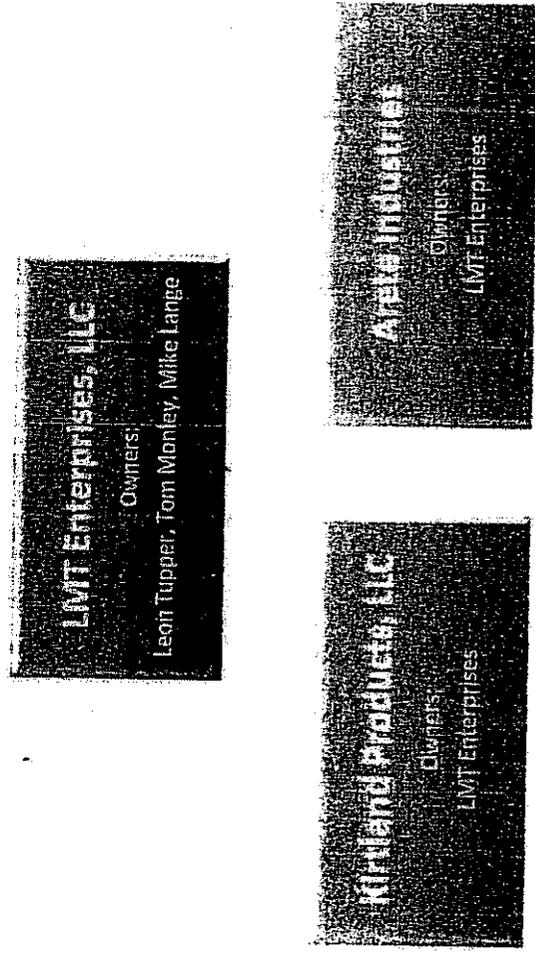
Company Structure

Kirland Products, LLC was developed to design and build a wood pellet facility in Northern Michigan. This operation will operate at 1 Altair Drive in Boyne City's industrial park. This facility is also the home of Areté Industries. The members of Kirland Products have made the decision to incorporate these two companies under one holding company, LMT Enterprises, LLC. The illustrations below show the old and new structure:

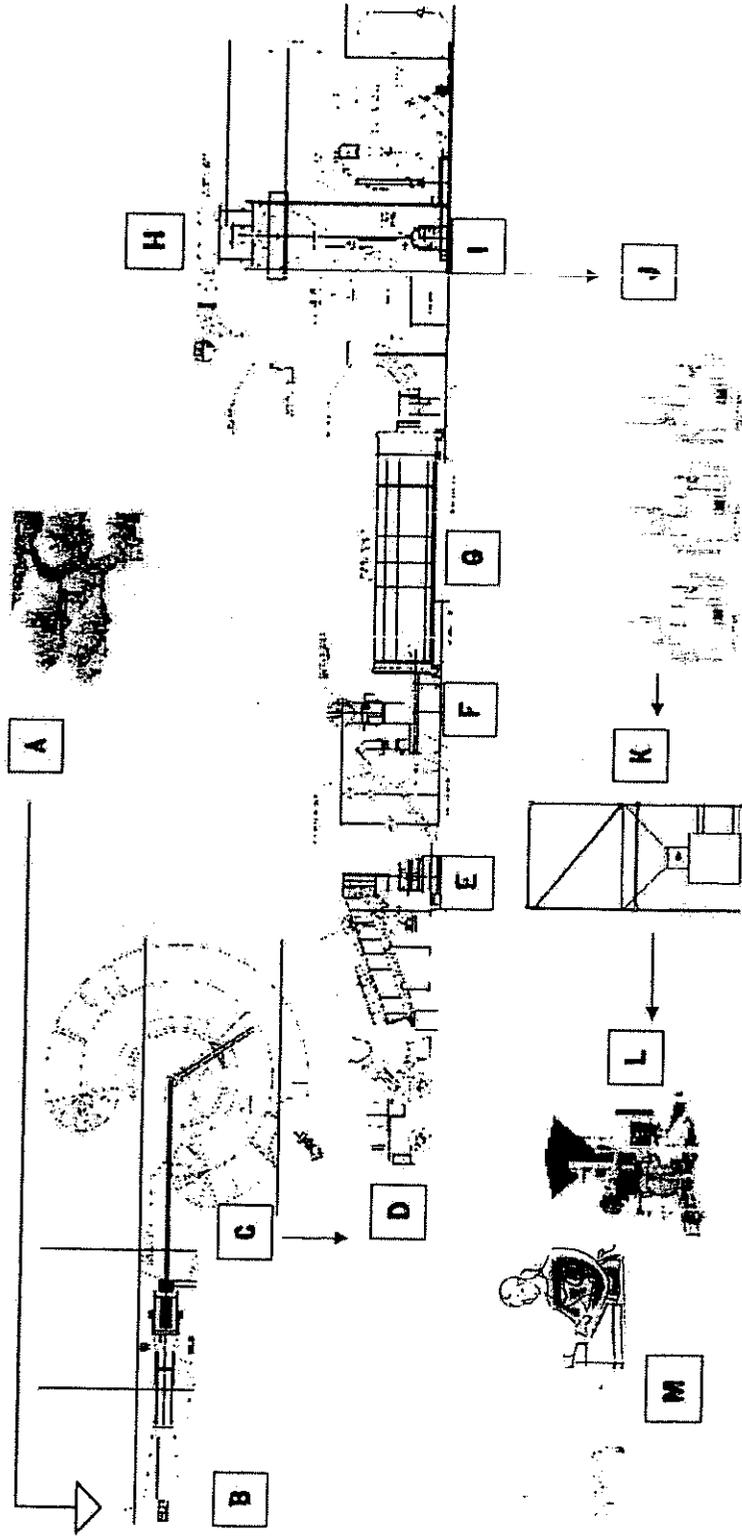
Old Structure



New Structure



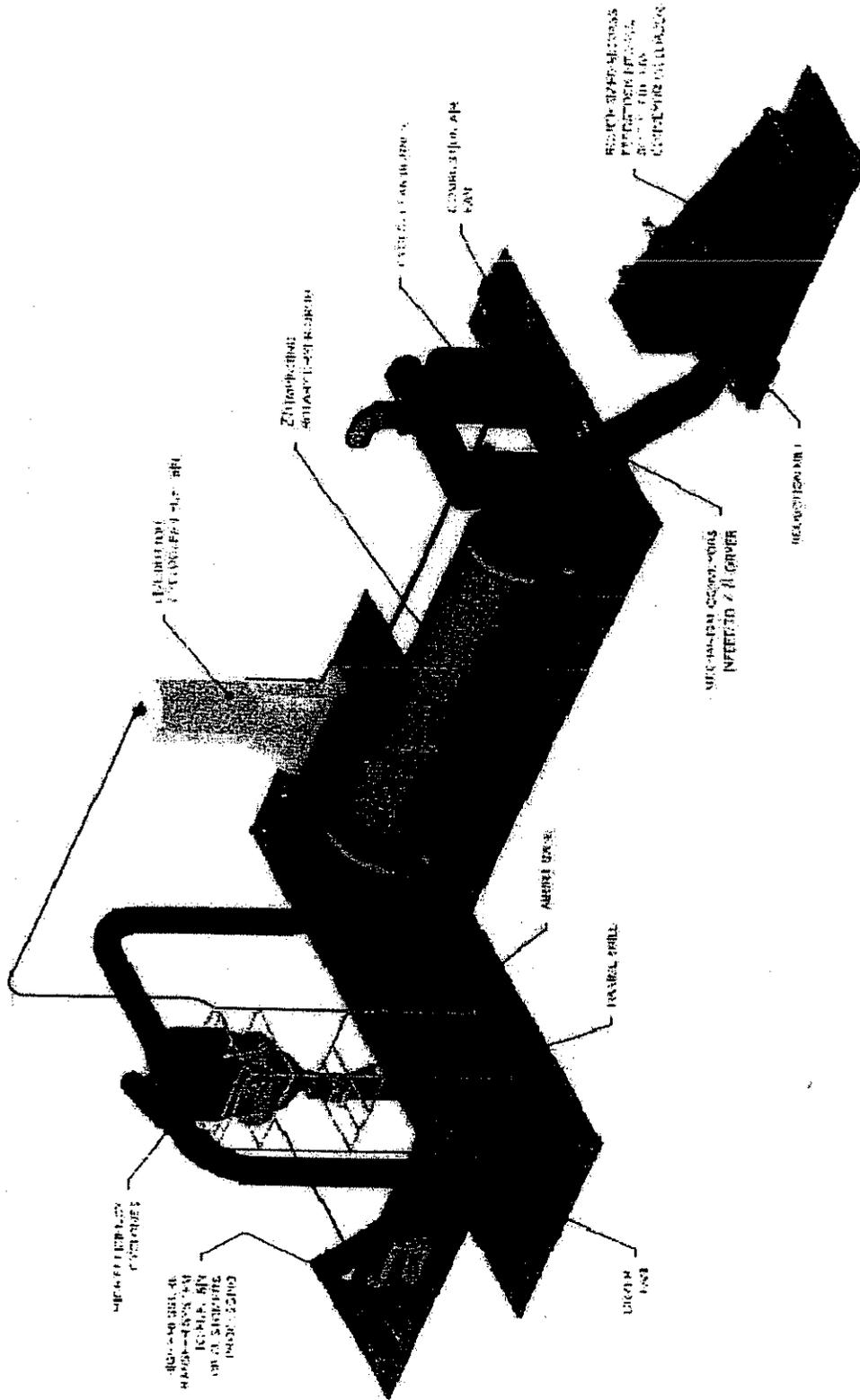
Pellet Manufacturing Process



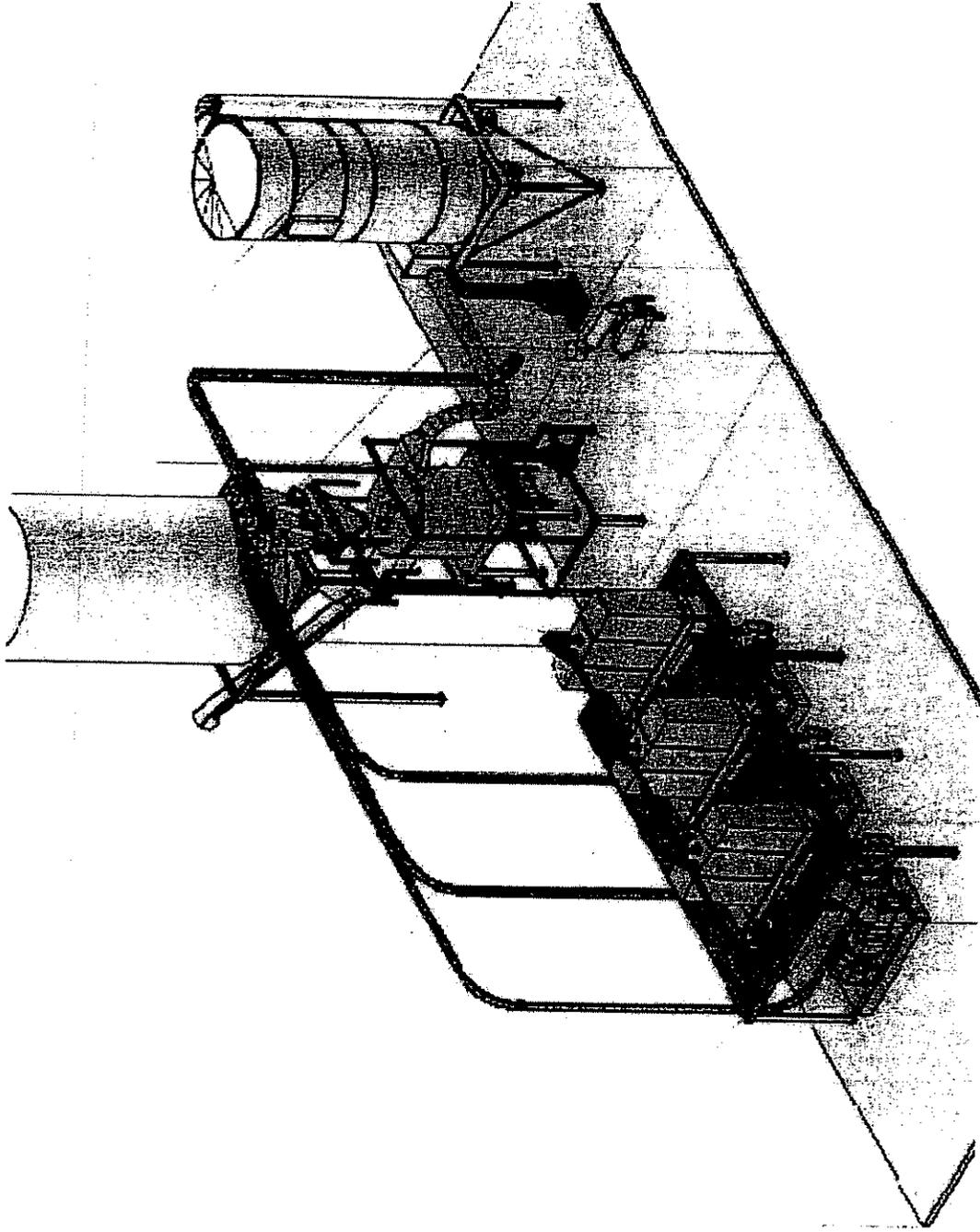
Pellet Manufacturing Process

- A. Timber producers harvest the tree by selecting only mature Jack Pine. The tree is then delimbed, debarked and chipped in the woods. The limbs, bark and needles are collected from the woods and sold to local energy companies as biomass fuel. The clean chips will be trucked into Boyne City in covered box trailers; 232 tons/day max. (10 trucks/day).
- B. The chips will be unloaded outside of the manufacturing facility by use of a hydraulic truck dump.
- C. The chips will then be conveyed into a stacker.
- D. The chips are loaded with a front end loader into a two conveyors separated by species type. These conveyors are proportional loaders designed to meter the wood species according to the process recipe.
- E. The chips are then conveyed into a hammer mill for coarse grinding.
- F. Biomass fuel is used in the burner for drying.
- G. The ground wood chips are passed through the rotary drum dryer.
- H. Once dried, these chips are sent through a cyclone to separate the wood from the air. A small percentage of the chips are fed back to the biomass burner.
- I. The chips are sent through another mill for fine grinding. At this point the wood is in a state called wood meal.
- J. The heated wood meal is transferred into the pellet mills where pellets are formed by pressing the wood meal through ¼" dies.
- K. The hot pellets, held together by the wood's own lignin, are screened to remove fines. Then, the wood chips are transferred to a cooling hopper.
- L. The cooled pellets are then placed into 40 pound bags. These bags are sealed and palletized, 50 bags to the pallet; or 2000 pounds to the pallet.
- M. Pallets are trucked to retail stores for market distribution (up to 6 trucks/day). Pellets will also be available for retail sale at the plant.

Pellet Manufacturing Process



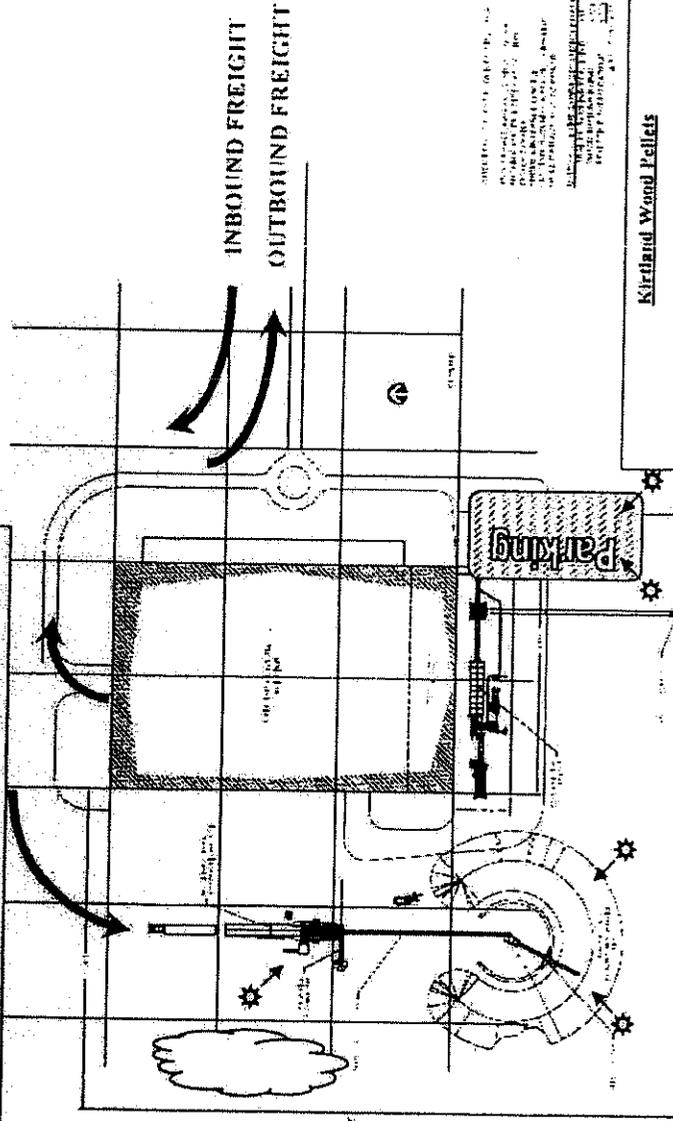
Pellet Manufacturing Process



Site Plan – as presented in November 2008

The owners of Kirtland Products, LLC are Leon Tupper, Tom Menley, and Mike Lange. The below described property is owned by Tupper Enterprises, LLC, which is solely owned by Leon Tupper.

Tax ID: 015-336-165-15; Legal Description: LDFA PA 281 OF 1965-8558R188 FROM 336-165-00 & 336-166-00 COM AT S 1/4 COR SEC 36 T33N R65W TH N89 DEG 09'36" W AL S 1/4 SEC 36, S35.78FT TH N106G1949"E 621.00FT TO POB TH N89DEG 36'45"W 618.49FT TH N106G09'08"E 727.15 FT TO C/L OF EARTH BERM TH S87DEG39'36"E AL SD C/L 620.76FT TH S106G1949"W 706.10FT TO POB PART OF SE 1/4 OF SW 1/4 SEC 36 T33N R65W REF: IFT 051-990-008-006S1-995-008-008



Storm drainage and retention ponds will be located on the premises based on engineering analysis of site requirements.

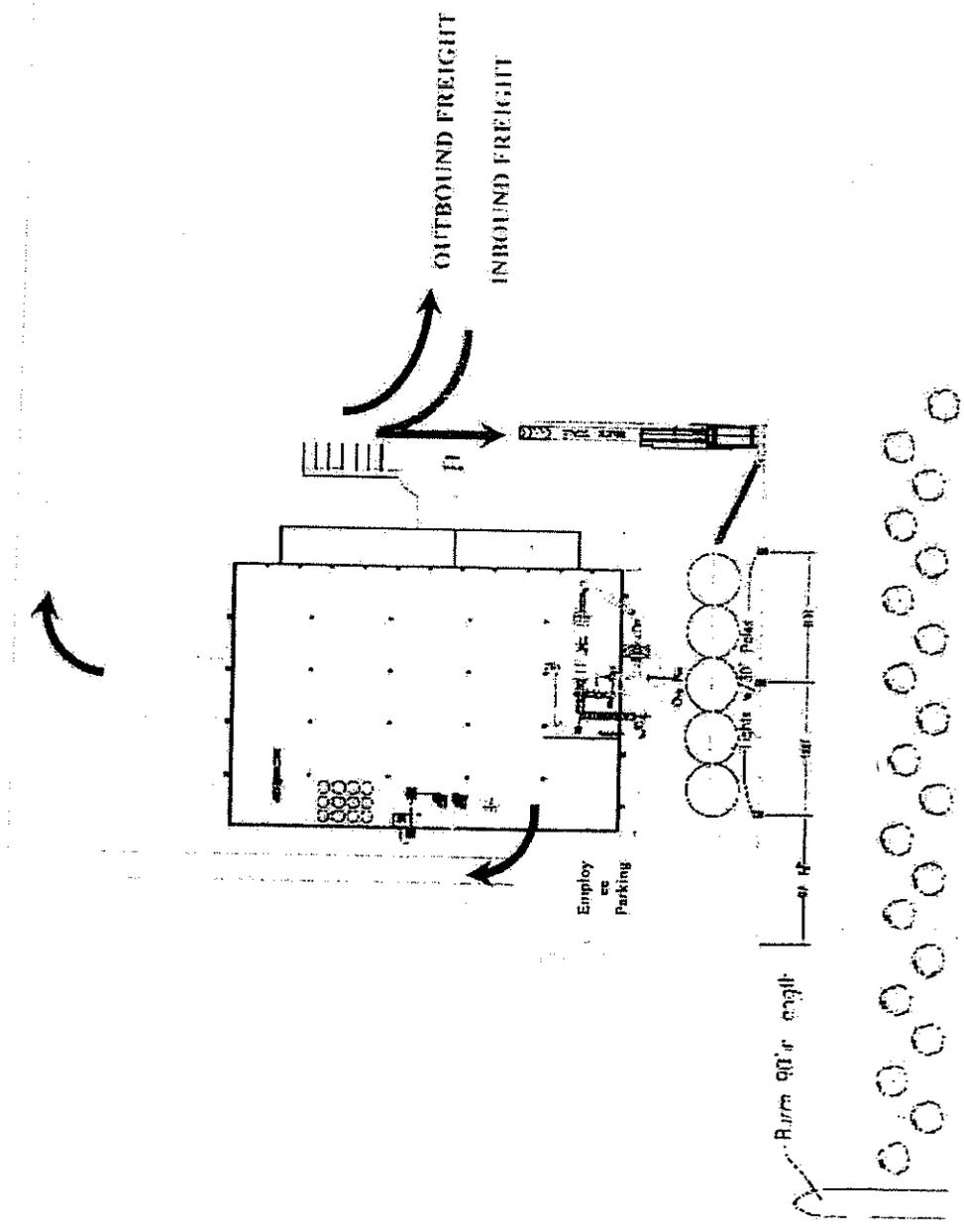
Inbound and outbound trucks will enter and exit the facility via Altair Drive. No access point changes will be required.

Kirtland Wood Pellets

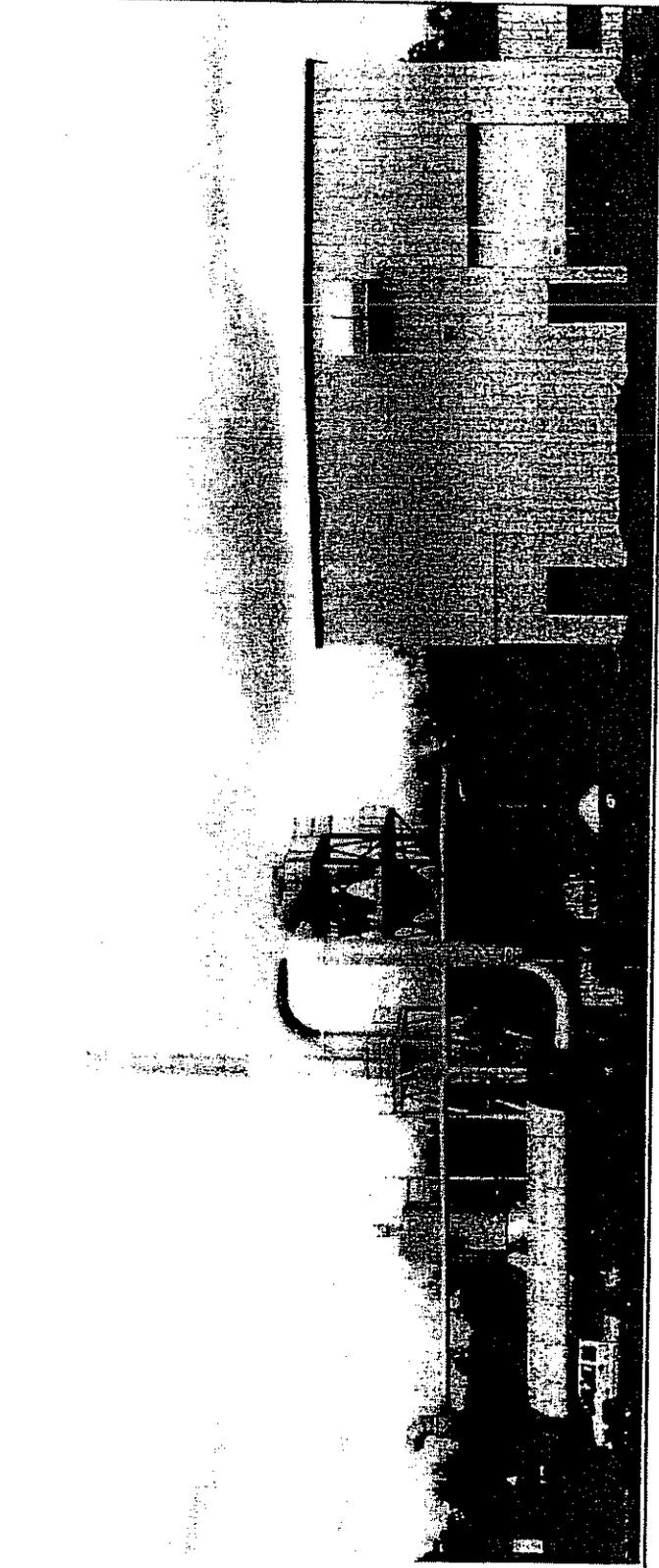
Wood Pellet Manufacturing by Kirtland Products, LLC

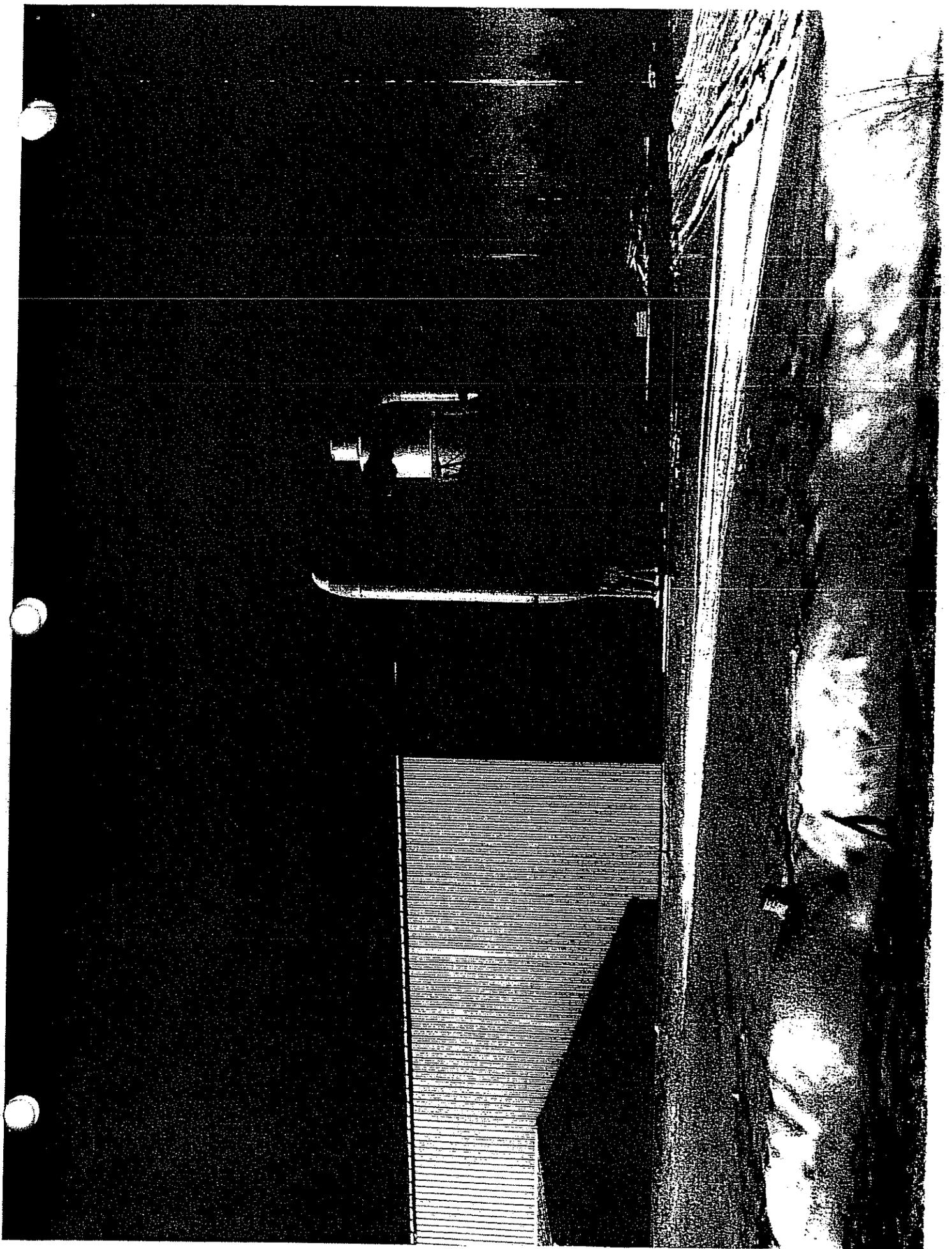
DESIGNED BY: [illegible]
 DRAWN BY: [illegible]
 CHECKED BY: [illegible]
 DATE: [illegible]

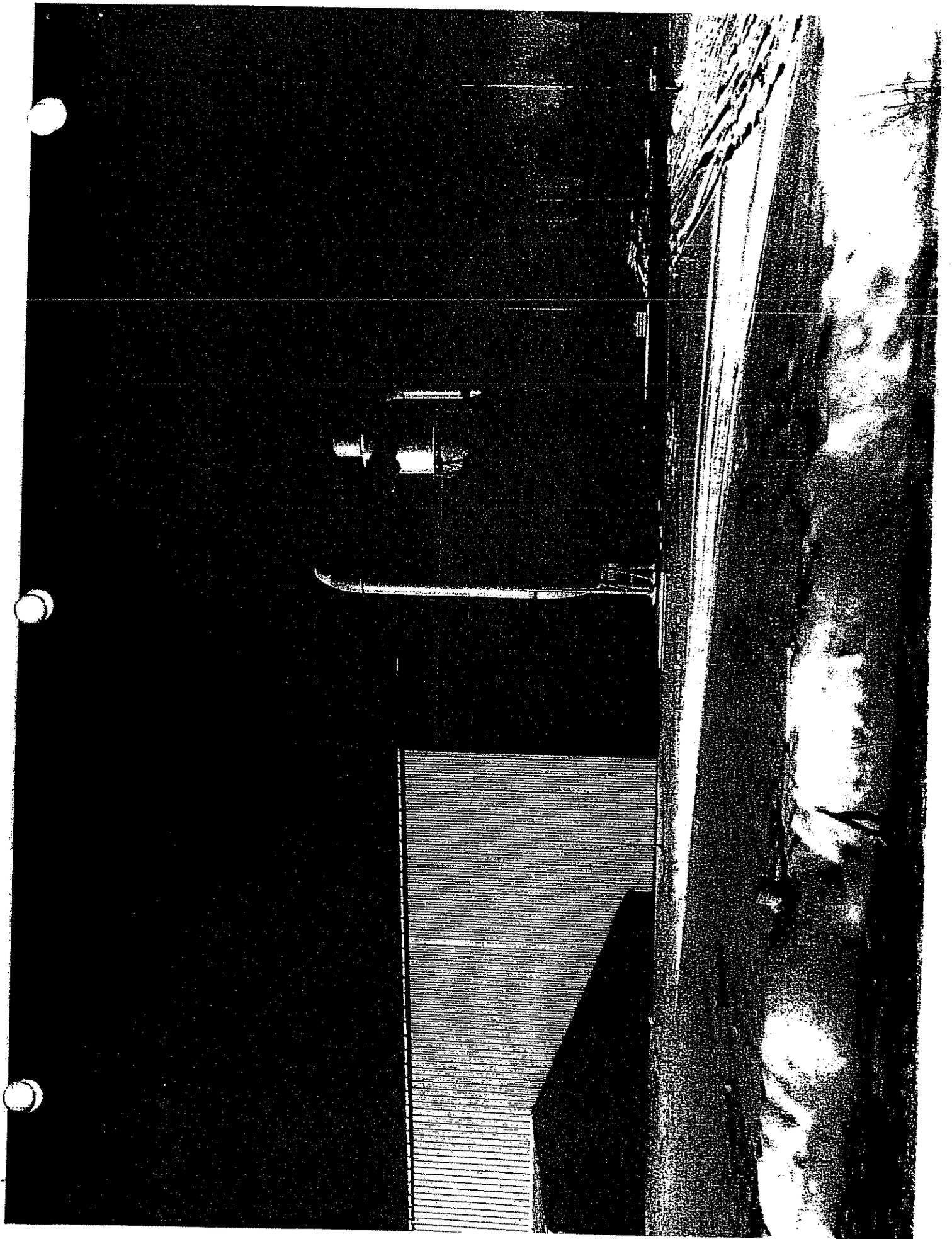
Site Plan – Current Plan



Pelleting Plant







COOPER LIGHTING - LUMARK®



DESCRIPTION

The Lumark Warrior offers a variety of lamp and mounting options in high pressure sodium and metal halide, and can be installed, lamped and serviced with the most basic tools. U.L. listed and labeled for wet locations. CSA certified.

The Warrior is the ideal floodlight for many area outdoor lighting situations, including parking lots, construction and storage sites, rail yards, light industrial locations, marinas and service areas.

Catalog #	MPWR-65T-400-MT	Type	
Project	Kirtland Products LLC	Date	
Comments			
Prepared by	Sean Davis, Wilmot Electric		11/10/2009

SPECIFICATION FEATURES

A ... Retaining Screws
Corrosion-resistant captive retaining screws.

B ... Housing
Weather-resistant, die-cast aluminum housing with integral door hinges. Is finished in dark bronze polyester powder coat.

C ... Housing Door
Watertight die-cast aluminum housing door is finished in dark bronze polyester powder coat. Cast ridge for water tight seal against gasketing.

D ... Reflector
Specular aluminum reflector delivers sharp beam cutoff.

E ... Gasket
Full circumference, high-temperature foam-in-place silicone gasketing seals out external contaminants.

F ... Lens
Clear tempered-glass lens is heat- and impact-resistant.

G ... Socket
Mogul-base porcelain socket, except 100W Metal Halide and below has medium-base.

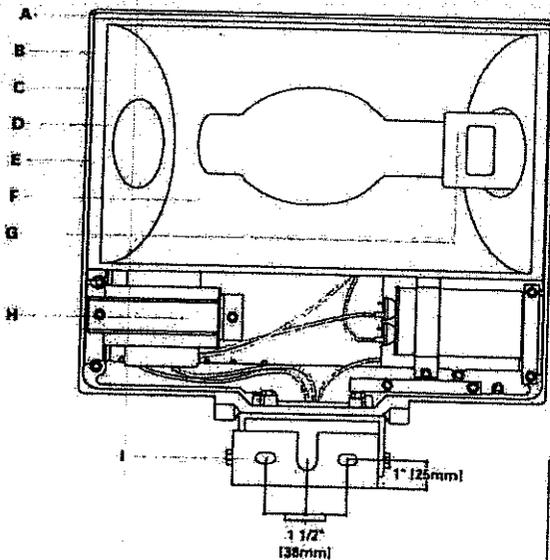
H ... Ballast
High power factor ballast with class H insulation. Minimum starting temperature is -40°C (-40°F) for HPS and -30°C (-20°F) for MH and MP.

I ... Mounting
Variable mountings of either 3/16" galvanized steel trunnion (shown below) or integral die-cast aluminum slipfitter (shown in photo to right). Slipfitter fits 2 3/8" - 3" O.D. tenon. Heavy-duty steel yoke provides flexibility in mounting and aiming from a variety of surfaces.

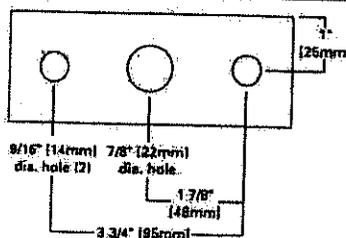


**WR
WARRIOR**

100-400W
High Pressure Sodium
Pulse Start Metal Halide
Metal Halide
**SLIPFITTER-MOUNTED OR
TRUNNION-MOUNTED OR
YOKE-MOUNTED
FLOODLIGHT**

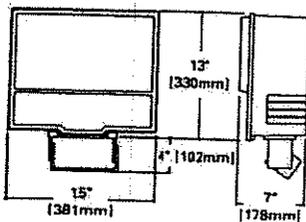


TRUNNION YOKE MOUNT DRILL PATTERN

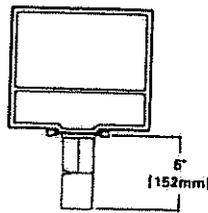


DIMENSIONS

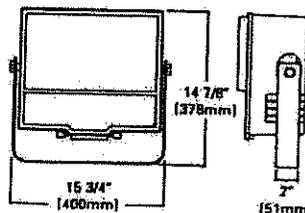
TRUNNION MOUNT



SLIPFITTER MOUNT



YOKE MOUNT



TECHNICAL DATA

U.L. Wet Location Listed
CSA Certified
Class I Div 2 Rated (Groups A, B, C, D)
(HAZ option)
25°C Maximum Ambient Temperature
External Supply Wiring 90°C Minimum
Internal Supply Wiring 150°C Minimum
EISA Compliant (E)

ENERGY DATA

High Reactance Ballast Input Watts
100W HPS NPF (130 Watts)
100W MP NPF (128 Watts)
150W HPS HPF (180 Watts)
150W MP HPF (185 Watts)
CWA Ballast Input Watts
250W HPS HPF (300 Watts)
CWA Ballast Input Watts
200W MP HPF (227 Watts) (E)
260W MP HPF (283 Watts) (E)
320W MP HPF (365 Watts) (E)
350W MP HPF (400 Watts) (E)
400W HPS HPF (465 Watts)
400W MP HPF (452 Watts) (E)

EPA

Effective Projected Area: 1.3 ± 45°

SHIPPING DATA

Approximate Net Weight:
35 lbs. (16 kgs.)



Approved: December 21, 2009

Meeting of November 16, 2009

RECORD OF THE PROCEEDINGS OF THE BOYNE CITY PLANNING COMMISSION MEETING HELD AT BOYNE CITY HALL, 319 NORTH LAKE STREET, ON MONDAY, NOVEMBER 16, 2009 AT 5:00P.M.

Call to Order

Vice Chair MacKenzie called the meeting to order at 5:09 p.m.

Roll Call

Present: Gretchen Crum, Jerry Douglas, Norm Gardner, Jane MacKenzie and Joe St. Dennis

Absent: Dan Adkison, George Ellwanger, Chris Frasz and Tom Neidhamer

Meeting Attendance

City Officials/Staff: City Planner Scott McPherson, City Manager Michael Cain, and Recording Secretary Pat Haver

Public Present: 4

Excuse Absences

**MOTION

2009-11-16-2

Crum moved, St. Dennis seconded, PASSED UNANIMOUSLY a motion to excuse the absences of Adkison, Ellwanger, Frasz and Neidhamer.

Consent Agenda

**MOTION

2009-10-19-3A

Douglas moved, St. Dennis seconded, PASSED UNANIMOUSLY a motion to approve the consent agenda.

- a. Approval of the October 19, 2009 Planning Commission minutes as presented.

Comments on Non-Agenda Items

None

Reports of Officers, Boards and Standing Committees

None

Unfinished Business

Planning Director McPherson gave his staff report. The conditional use and a preliminary site plan were approved November 2008. The conditions of the site plan approval were the separate lighting and landscaping plans were to come before the board and obtain proper and necessary permits. Kirtland is here before the board for final site plan review, they will show you a change in the layout of the building, traffic flows, and a portion of the outside equipment has been placed inside.

Final Site Plan Review
Kirtland Products, LLC

Mike Lange from Kirtland Products, LLC began his presentation

- Revised site plan was presented, truck tipper is now on the east side of

the building and the chip pad will use the existing parking lot on the south side of the building. The loudest pieces of equipment will now be inside.

- They have reconfigured the building the wood pellets will be manufactured to house not only Kirtland Products, but Arete will remain.
- The type of cyclone to be used will depend on the drying and air transmission systems, but will be housed outside snuggled close to the building, the bag house, used to further clean air will also be housed outside
- FAA has approved a 48 foot emissions stack but they need approval for revised placement location. DEQ permit may require them to go back to FAA if the emissions stack needs to be taller.
- November of 2008 8 tons of production per hour was proposed, they will turn a profit at 4 tons per hour, but are looking at manufacturing up to 6 tons, so less traffic in and out of the facility.
- **Storm water** – Per Soil Erosion no changes are required.
- **Employee parking** will remain as it is in the SW corner of the building, with a few spaces out front for visitors.
- Board concerns with the number of trucks that will be entering and exiting the plant along with the employee drive around the building. The new layout for the truck route was displayed. The inbound trucks will pull in, and back up to the truck tipper, that will eventually pile the wood chips on the south end of the building where the new configuration for conveyors and processing will take place. At this point the operation of 24 hours is still being planned, however only 5 days a week instead of 7 and the daily production will be lowered, so there will be fewer trucks in and out each day.
- **Lighting** – (3) 30 foot poles have been planned to shine on the chip pile only. The middle pole will have two fixtures; the outside poles will have one. There are not any plans to light the truck tipper area; however, the existing lights on the building will assist in that area. As the property lot line is 95 feet away from the poles, there will not be any lighting spilling onto the adjacent property, and fixtures will have minimal tilt.
- **Landscaping** - Proposal of the first 60 feet of property lines will include trees of white pine and deciduous trees to look more natural. Will meet minimum size of trees to be planted. South side berm will have trees planted. At the southwest corner of the property is approximately 90 feet that will need to have a berm installed that trees will be planted on. Daily maintenance will take care of the trees, and they will adhere to the replacement requirement.
- **Signage** – Modify existing sign, and move closer to the building. Nothing will be placed on the building.
- **Increase in jobs** – 20 jobs inside the plant, another 30 to 40 out in the woods and trucking.
- **Product** – Will be sold out of the building; will try to sell as much locally as possible.
- **Sound abatement** – The noisiest equipment will be moved inside. The equipment and employees will be separated by a brick stud wall; noise level will be 68 db 3 feet from the equipment.

- **Additional concerns/questions:** Employee parking is currently paved, however a small gravel portion may need to be added; there are spaces for 40 vehicles plus spots up front for visitors; with the trucks discharging up front, and employees having to drive around back, an easement is being sought from the business next to CARQUEST, so the existing drive way from those businesses can be extended, and employees can drive straight to the parking lot; an occasional slight smokey smell may be emitted; and water "vapor" discharge will be more visible in the winter time, the NE end of the runway will see the vapor but will not obscure pilot visibility; hours of operation will be 24/5 may go to 6 or 7 days to put more people to work if product demands it; only neighbor comment was from Father Duane who was concerned about additional beeper noises.

With no additional comments or presentation, board discussion followed:

McPherson – At preliminary review, a number of items were sent back for further development, and the submitted plans appear to meet criteria established, review the findings and make determinations. Vice Chair MacKenzie went through 19.40 Development Plan Approval Criteria (Attachment A)

2009-11-16-6A

With no further discussion, motion by Crum, seconded by Douglas to approve the final site plan for Kirtland Products according to the findings of fact with the conditions noted: 1) final landscaping plan to be approved by staff, 2) landscaping bond is required and 3) obtain updated permits and approval from FAA & DEQ.

****MOTION**

Roll Call:

Ayes: Crum, Douglas, Gardner, MacKenzie, and St. Dennis

Nays: None

Absent: Adkison, Ellwanger, Frasz and Neidhamer

Motion Carried

Staff Report

- Division St input session will be Tuesday, November 24 at 6:00 pm at city hall,
- Air Industrial Drive reconstruction input session will be Tuesday, November 24 at 3:30 pm at Great Lakes Energy conference room,
- North East St input session will be Thursday, December 3rd at 6:00 pm at city hall
- Avalanche Master Plan final input session will be Tuesday, December 1 at 6:00 pm at city hall

Staff has been working on updating census address lists making corrections, additions and deletions.

Joint Boards and Commission meeting has been planned for January, a date and time will be provided. A city wide goal setting session will be January 19, 2010, suggestions will go before the city commission to finalize the goals.

Devlon property – No activity has been going on at the site.

Good of the Order

Any discussion on the old globes at Peninsula Beach?

Cain – Plans for possible replacement of the whole fixture with pedestrian bollard lights, throughout the parks and marina in the city. Shutdown of the light fixtures at the beaches is planned for the winter.

Old City Park should be lit for the first time tonight. Some lights will be turned off at a pre determined time at night. 75 watt fixtures used on the lights in the park, instead of the 100 watts that are used throughout town. The same poles are used in the park as downtown.

Next Meeting

The next regular meeting of the Boyne City Planning Commission is scheduled for December 21, 2009.

**Adjournment
MOTION

2009-11-16-10

Crum moved, St. Dennis seconded, PASSED UNANIMOUSLY a motion to adjourn the meeting at 6:32 p.m.

Pat Haver

Pat Haver, Recording Secretary

**KIRTLAND WOOD PELLET MANUFACTURING
DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT**

Section 19.40 Development Plan Approval Criteria.

In order that buildings, open space and landscaping will be in harmony with other structures and improvements in the area, and to ensure that no undesirable health, safety, noise and traffic conditions will result from the development, the Planning Commission shall determine whether or not the development plan meets the following criteria, unless the Planning Commission determines that one or more of such criteria are inapplicable:

ORDINANCE REQUIREMENT	STATUS	FINDINGS
<p><u>A. General.</u> All elements of the development plan shall be designed to take into account the site's topography, the size and type of plot, the character of adjoining property, and the traffic operations of adjacent streets. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance. The development plan shall conform with all requirements of this Ordinance, including those of the applicable zoning district(s).</p>	<p align="center">Meets</p>	<p>Site is mostly cleared and flat with an existing industrial building. Some mature trees are located on the west side of the property. Site is at the end of Altair drive</p>
<p><u>B. Building Design.</u> The building design shall relate to the surrounding environment in regard to texture, scale, mass, proportion, and color. High standards of construction and quality materials will be incorporated into the new development. In addition to following design guidelines adopted in specific district or sub-area plans, the building design shall meet the architectural and building material requirements of this Ordinance.</p>	<p align="center">Meets</p>	<p>Existing building will be used.</p>
<p><u>C. Preservation of Significant Natural Features.</u> Judicious effort shall be used to preserve the integrity of the land, existing topography, and natural, historical, and architectural features as defined in this Ordinance, in particular wetlands designated /regulated by the Michigan Department of Environmental Quality, and, to a lesser extent, wetlands which are not regulated by the Department.</p>	<p align="center">N/A No Issues</p>	<p>No significant natural features are located on the site.</p>
<p><u>D. Streets.</u> All streets shall be developed in accordance with the City of Boyne City Subdivision Control Ordinance and City Municipal Standards, unless developed as a private road in accordance with the requirements of the City.</p>	<p align="center">N/A</p>	<p>No new streets are proposed</p>

**KIRTLAND WOOD PELLET MANUFACTURING
DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT**

<p><u>E. Access, Driveways and Circulation.</u> Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site shall be provided. Drives, streets, parking and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points. All driveways shall meet the design and construction standards of the City. Access to the site shall be designed to minimize conflicts with traffic on adjacent streets, particularly left turns into and from the site. For uses having frontage and/or access on a major traffic route, as defined in the City of Boyne City Comprehensive Plan, the number, design, and location of access driveways and other provisions for vehicular circulation shall comply with the access management provisions of this Ordinance.</p>	<p align="center">If proposed access / entrance easement is granted, drive will be paved from existing drive to the employee parking lot</p>	<p align="center">Existing driveway will be used.</p>
<p><u>F. Emergency Vehicle Access.</u> All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the Fire Department, Ambulance Department and Police Department.</p>	<p align="center">Meets</p>	<p align="center">Emergency vehicles have necessary access to the building and proposed equipment. A fire hydrant is located on the parcel.</p>
<p><u>G. Sidewalks, Pedestrian and Bicycle Circulation.</u> The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and sidewalks/pedestrian or bicycle pathways in the area. There shall be provided a pedestrian circulation system which is separated from the vehicular circulation system. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals and other such facilities may be required in the vicinity of primary and secondary schools, playgrounds, local shopping areas, fast food/service restaurants and other uses which generate a considerable amount of pedestrian or bicycle traffic.</p>	<p align="center">N/A</p>	<p align="center">No pedestrian access is provided.</p>
<p><u>H. Barrier-Free Access.</u> The site has been designed to provide barrier-free parking and pedestrian circulation.</p>	<p align="center">N/A</p>	<p align="center">Existing parking area has barrier free access</p>

**KIRTLAND WOOD PELLET MANUFACTURING
DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT**

<p><u>L. Parking.</u> The number and dimensions of off-street parking [spaces] shall be sufficient to meet the minimum required by this Ordinance. However, where warranted by overlapping or shared parking arrangements, the Planning Commission may reduce the required number of parking spaces, as provided in this Ordinance.</p>	<p>Meets</p>	<p>Site meets ordinance minimum for required parking.</p>
<p><u>J. Loading.</u> All loading and unloading areas and outside storage areas, including refuse storage stations, shall be screened in accordance with this Ordinance.</p>	<p>Meets</p>	<p>Loading area will be on the east side of building. Screening on south property line is required.</p>
<p><u>K. Landscaping, Screening, and Open Space.</u> The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Landscaping, landscape buffers, greenbelts, fencing, walls and other protective barriers shall be provided and designed in accordance with the landscaping provisions of this Ordinance. Recreation and open space areas shall be provided in all multiple-family residential and educational developments.</p>	<p>Meets with condition(s): Must provide landscape plan for south side and berm on the southwest corner; landscape bond required, amount to be determined.</p>	<p>Screening on south property line is needed. Final landscape plan to be approved by staff</p>
<p><u>L. Soil Erosion Control.</u> The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material. The final determination as to adequacy of, or need for, lateral support shall be made by the Planning Director or City Engineer, and have a valid Chatevoix County Soil Erosion permit.</p>	<p>Meets</p>	<p>No soil erosion permit must be obtained</p>

Attachment A

**KIRTLAND WOOD PELLET MANUFACTURING
DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT**

<p>M. Stormwater Management. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater which complements the natural drainage patterns and wetlands, prevent erosion and the formation of dust. Sharing of stormwater facilities with adjacent properties shall be encouraged. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water. All such measures shall comply with the Charlevoix County Stormwater Ordinance.</p>	<p align="center">Meets</p>	<p>Existing storm water retention areas will be resized to accommodate increase in impervious surfaces. Engineered grading a drainage plan will be required.</p>
<p>O. Lighting. Exterior lighting shall be arranged so that it is directed preferably downward onto the subject site and deflected away from adjacent properties. Lighting shall not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.</p>	<p align="center">Meets</p>	<p>Site lighting must be directed inward photometric plan must be submitted.</p>
<p>P. Noise. The site has been designed, buildings so arranged, and activities/equipment programmed to minimize the emission of noise, particularly for sites adjacent to residential districts.</p>	<p>Meets with condition(s): (1) berms with trees required on the west side and south side of the property</p>	<p>Equipment will be located inside the building</p>
<p>Q. Mechanical Equipment. Mechanical equipment, both roof and ground mounted, shall be screened in accordance with the requirements of this Ordinance.</p>	<p>Meets with condition(s) Screening of south and west property line is required</p>	<p>Screening of south property line is required</p>
<p>R. Signs. The standards of the City of Boyne City's Sign Ordinance are met.</p>	<p>Meets with condition(s): Must adhere to the current sign ordinance when drawings are submitted</p>	<p>No new signs are included with this proposal</p>

**KIRTLAND WOOD PELLET MANUFACTURING
DEVELOPMENT SITE PLAN REVIEW STANDARDS
FINDINGS OF FACT**

<p><u>S. Hazardous Materials or Waste.</u> For businesses utilizing, storing or handling hazardous material such as automobile service and automobile repair stations, dry cleaning plants, metal plating industries, and other industrial uses, documentation of compliance with state and federal requirements shall be provided.</p>	<p align="center">N/A</p>	<p align="center">No hazardous material will be stored on site</p>
<p><u>T. Other Agency Reviews.</u> The applicant has provided documentation of compliance with other appropriate agency review standards, including, but not limited to, the Michigan Department of Natural Resources, Michigan Department of Environmental Quality, Michigan Department of Transportation, Charlevoix County Drain Commissioner, Northwest Michigan Community Health Agency, Charlevoix County Building Department, and other federal and state agencies, as applicable.</p>	<p align="center">Meets with condition(s): Must obtain all necessary permits</p>	<p align="center">Plan must meet requirements and obtain any necessary permits/approvals from FAA, MDEQ, EPA</p>
<p><u>U. Approval Process.</u> The development plan shall be reviewed by the Planning Commission. If disapproval is recommended, the Planning Commission shall cite reasons for such disapproval. If the Planning Commission finds a development plan not in conformity with this section, it may, at its discretion, return the development plan to the applicant with a written statement of the modifications necessary to obtain approval. Upon resubmission of the modified development plan, the Planning Commission shall review the plan. The Commission may approve, disapprove or approve subject to compliance with such modifications and conditions as may be deemed necessary to carry out the purpose of this Ordinance and other ordinances and resolutions of the City. If disapproved, the Planning Commission shall cite reasons for such disapproval.</p>	<p align="center">Motion by Crum, seconded by Douglas to approve the final site plan for Kirtland Products according to the findings of fact with the conditions noted: 1) final landscaping plan to be approved by staff, 2) landscaping bond is required and 3) obtain updated permits and approval from FAA & DEQ</p>	

Exhibit 3



City of Boyne City
Founded 1856

319 North Lake Street

Boyne City, Michigan 49712
www.boynecity.com

Phone 231-582-6597
Fax 231-582-6506

AGENDA

BOYNE CITY PLANNING COMMISSION **Monday, November 15, 2010, 5:00 p.m.** Boyne City Hall

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 October 18, 2010 Boyne City Planning Commission meeting.
4. Hearing Citizens Present *(Non-Agenda Items)*
5. Reports of Officers, Boards, Standing Committees
6. Unfinished Business
7. New Business
 - A. Request from Mike Lang for site plan amendment for Kirtland products.
 - B. Sara Lucas Northwest Michigan Council of Governments presentation on community housing needs.
 - C. Presentation from The Brook Retirement Community on proposed assisted living facility.
 - D. Consideration of application from Lori Meeder for appointment to Planning Commission.
 - E. Review and Recommendation for lot reconfiguration of parcel 051-377-004-00, owned by Tom Neidhamer
 - F. Adopt 2011 meeting calendar
8. Staff Report
9. Good of the Order
10. Adjournment - Next Meeting, December 20, 2010

Hometown Feel, Small Town Appeal

An Equal Opportunity Provider and Employer

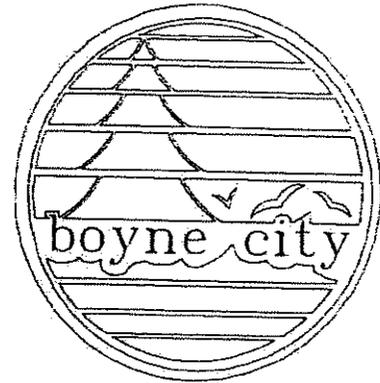
CITY OF BOYNE CITY

To: Chair Tom Neidhamer and fellow Planning Commissioners

From: Scott McPherson, Planning Director

Date: November 15, 2010

Subject: Kirtland Wood Pellet Manufacturing



BACKGROUND

The proposed site plan moves the truck tipper and receiving hopper to the Southwest corner of the building. No equipment will be located on the East side (front) of the building. Employees parking area will be relocated will from the west side of the building to the existing lot at the Southeast corner of the building with approximately 23 spots available for employee parking. All truck traffic will now move around the North end of the building which will alleviate potential conflicts of incoming trucks and customer vehicles. Proposed landscaping and lighting will remain basically the same as previously approved.

While most of the basic components of the plan are the same, pellet storage is being moved to silo storage outside, along the west wall of the building. The proposed height of the silos are exempt from BCZO height requirements as provided by section 21.04; but the silos do require FAA approval due to the proximity to the airport. If the height of the silos is denied by the FAA the silos will be set onto a subsurface foundation to accommodate the FAA's recommendations. A chain link fence will be added around the chip yard to protect citizens from entering the chip handling area. This fence will have gates to permit entry of emergency vehicles.

DISCUSSION

The City of Boyne City Zoning ordinance provisions for requesting and approving amendments to an approved site 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:

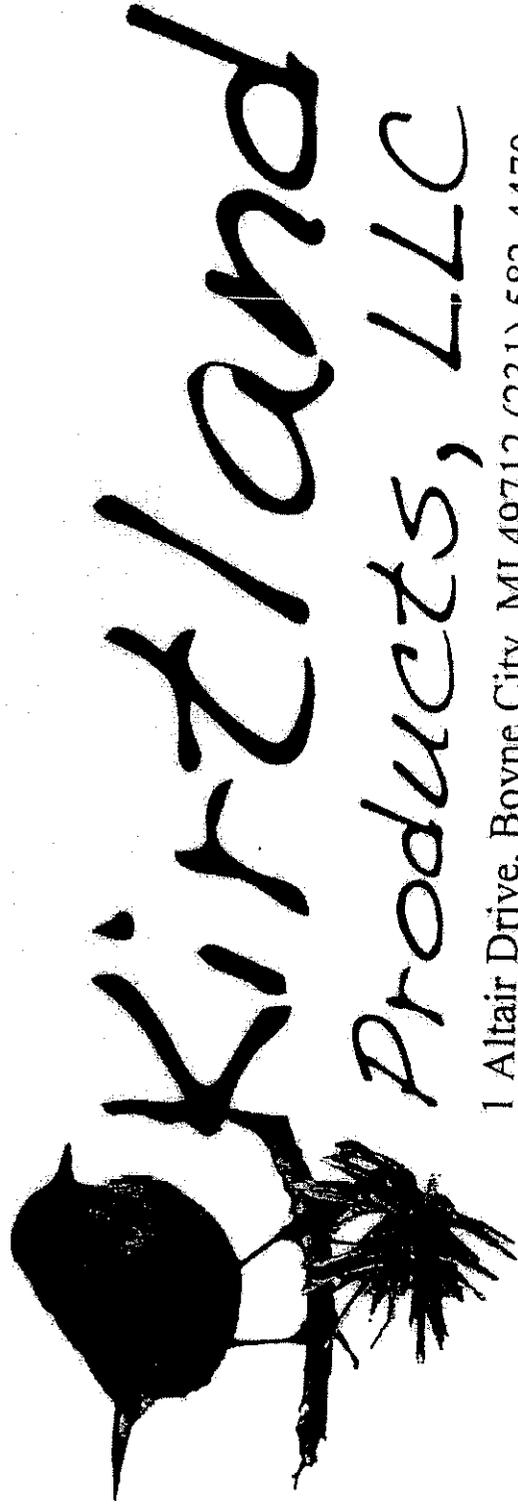
1. For residential buildings, the size of structures may be reduced, or increased by up to five percent (5%), provided that the overall density of units does not increase.
 2. Square footage of nonresidential buildings may be decreased or increased by up to five percent (5%) or one-thousand (1,000) square 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, the requested amendment may be approved through the mutual agreement of the landowner and the Planning Commission.

RECOMMENDATION

Staff recommends approval of the proposed site plan amendment as presented.



1 Altair Drive, Boyne City, MI 49712 (231) 582-4470

Site Plan Revision

Introduction

One year ago, the members of Kirtland Products, LLC; Leon Tupper, Tom Monley, and Mike Lange; reviewed revisions to the proposed wood pellet manufacturing facility. The proposed changes were approved. Since November 2009, Kirtland Products has purchased equipment and has made traffic flow improvements which resulted in process layout / equipment location changes.

Site Plan – As Presented on November 16, 2009

The previously proposed site plan removed most of the circle drive in front of the building. Incoming trucks would turn North at the front of the building. Then, they would back over the scale and onto the truck tipper in a Southward direction. This process had trucks backing up in front of retail parking spaces. In addition, the truck tipper purchased is much larger than the originally designed equipment.

The previous design also had the pellet storage inside the building in twelve, nine foot diameter storage bins along the West wall of the plant. This design not only utilized valuable interior manufacturing space, but it also did not afford Kirtland enough storage space to package on demand.

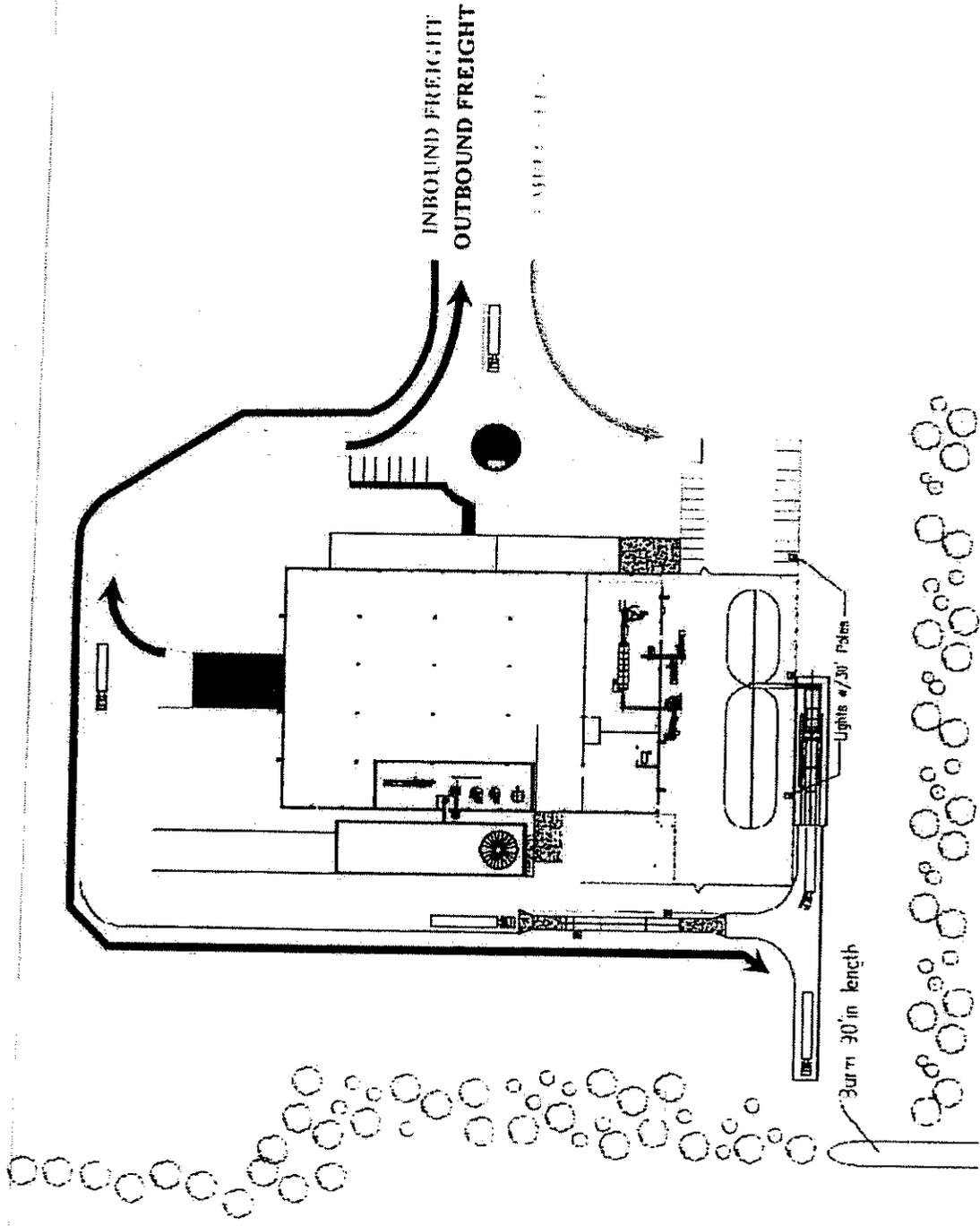
The November 2009 plan also required employees to enter from the East side of the building, drive around the North end, circling the building to the Southwest corner for parking. Also, because the truck tipper and scales were located over the existing Southeast drive, fire/rescue vehicles would also have to take the Northward trip around the plant.

Proposed Site Plan

The proposed site plan moves the truck tipper and receiving hopper to the Southwest corner of the building. No equipment will be located on the East side (front) of the building. Employees will enter from the East (Altair Drive), then park in the existing lot at the Southeast corner of the building. All truck traffic will move around the North end of the building, as it does now. This alleviates truck congestion in the front of the building.

Pellet storage is being moved to larger silo storage outside, along the West wall of the building. FAA Aeronautical Study Number 2010-6467-OE, has been assigned to this proposal. Should a favorable finding not be received, the silos will be set onto a subsurface foundation to accommodate the FAA's recommendations. A chain link fence will be added around the chip yard to protect citizens from entering the chip handling area. This fence will have gates to permit entry of emergency vehicles.

Proposed Site Plan



Construction

Construction is expected to begin in late November, or early December 2010, and conclude in May 2011.

Contact Us:

Leon Tupper
ltupper@aretenorth.com
24400 Northwestern Hwy
Suite 204
Southfield, MI 48075
Phone: (248) 352-7205
Fax: (248) 356-0525

Tom Monley
tmonley@aretenorth.com
Arete Industries
1 Altair Drive
Boyne City, MI 49712
Phone: (231) 437-0275
Fax: (231) 582-4472

Mike Lange
milange@glakes.com
Lange & Associates
1110 Boyne Summit
Boyne City, MI 49712
Phone: (231) 675-0350
Fax: (231) 582-4472

Approved: December 20, 2010

Meeting of November 15, 2010

RECORD OF THE PROCEEDINGS OF THE **BOYNE CITY PLANNING COMMISSION** MEETING HELD AT BOYNE CITY HALL, 319 NORTH LAKE STREET, ON MONDAY, NOVEMBER 15, 2010 AT 5:00 P.M.

Call to Order

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

Roll Call

Present: Chris Frasz, Norm Gardner, Jane MacKenzie, John McCahan, Tom Neidhamer, and Joe St. Dennis

Absent: Dan Adkison, Gretchen Crum and George Ellwanger

Excused Absences
****MOTION**

2010-11-15-2

Gardner moved, St. Dennis seconded, PASSED UNANIMOUSLY a motion to excuse the absences of Adkison, Crum and Ellwanger.

Meeting Attendance

City Officials/Staff: City Planning Director Scott McPherson, Main Street Manager Hugh Conklin, City Commissioners Mike Cummings and Laura Sansom, and Recording Secretary Pat Haver

Public Present: Twelve

Consent Agenda
****MOTION**

2010-11-15-3A

St Dennis moved, MacKenzie seconded, PASSED UNANIMOUSLY a motion to approve the consent agenda.

- a. Approval of the October 18, 2010 Planning Commission minutes as presented.

Comments on Non-Agenda Items

None

Reports of Officers, Boards and Standing Committees

None

Unfinished Business

None

New Business

Request from Mike Lange or site plan amendment

Planning Director McPherson briefly reviewed his report that was included in the agenda packet. Mike Lange representing Kirtland Products presented the board with the requested amendments to the site plan. In the amended plans they have moved the truck tipper and scales from the east side of the building to the southwest corner, the employee parking will remain in the

for Kirtland Products

front of the building instead of on the west side taking away the necessity for driving all the way around the building, the 12 storage silos that were proposed to be inside, will be moved outside to the west mid-building, combined and will be 50 ft tall (a portion of which will be under floor grade); 30 ft in diameter which will allow them to manufacture right into the silo, there will be a larger chip storage area outside on the south side that will have a fence placed around it for safety. They have submitted three different requests to the FAA for the silo heights and are awaiting a response. They are beginning with one silo, and could go up to as many as four.

McPherson - Is the turning area for the trucks to be paved?

Lange - Yes

Frasz - The original 12 silos inside, how tall?

Lange - 18 feet, very small in diameter, and took up too much space inside.

McCahan - FAA approve the first silo?

Lange - Yes at a reduction to 26 feet. We would have to go subsurface, and at 15 feet below ground we run into moisture, so we have submitted (3) different proposals in height.

St. Dennis - I like the scale and tipper removed from the front of the building.

Lange - The cone for the gravity feed on the silos takes up a lot of room, approximately 19 feet in height itself.

Frasz - Do we have any height restrictions?

McPherson - For this type of structure; silos and elevators we don't, however, the FAA has jurisdiction.

Frasz - If the FAA came back and approved with blinking lights, would we have concerns with that?

McPherson - We could make comment on color and that sort of thing.

Lange - Our submission was for no lighting, the stack on the south side of the building is 48 feet and was approved by the FAA with no lighting.

With no further board discussion, **St Dennis moved, Gardner seconded** a motion to approve the amended site plan for Kirtland Products that was submitted dated November 15, 2010.

****MOTION**

2010-11-15-7A

Roll Call:

Ayes: Frasz, Gardner, MacKenzie, McCahan, Neidhamer and St. Dennis

Nays: None

Absent: Adkison, Crum and Ellwanger

Motion Carried

**Northwest Michigan
Council of Governments
presentation on
community housing
needs**

Director McPherson gave a brief introduction for Sarah Lucas, a regional planner for NWMCOG who was here tonight to provide the board with a slide presentation program of affordable **community housing choices**. There is a great need for all kinds of affordable housing choices in the Boyne City area:

- Affordable housing shortage has been identified for the workforce and others

Exhibit 4

2011-09



CITY OF BOYNE CITY
319 N. Lake Street
Boyne City, MI 49712
www.boynecity.com

ZONING PERMIT APPLICATION

PERMIT NUMBER

- Proposed address: 1 Altair Drive, Boyne City, MI 49712
- Property ID Number (Tax Code Number) 15-051-
- Property owner: Tupper Enterprises, LLC Phone 248-340-9016
- Address 34400 Northwest Hwy, Suite 204
- City Southfield State MI Zip 48075
- Contractor: Kirtland Products, LLC Phone 231-582-7505
- Address 1 Altair Drive
- City Boyne City State MI Zip 49712
- Proposed use Wood Pellet Fuel Manufacturing
- Area of Lot (Square feet/Acres) 10 Acres Construction Costs 373,290.00
- Zoning District Planned Industrial

Has a variance been granted for the proposed work? yes no if so, what is the #?

Applicant: The information provided is accurate to the best of my knowledge. I certify that all property and corners have been clearly staked and flagged and that all construction will conform with the Boyne City Zoning Ordinance and with the description contained in the application and site plan. All materials included with this application hereby become part of this application. Furthermore, I grant permission to the Zoning Administrator and other City Officials to enter the property and make such investigations and tests as they deem necessary. Applicant/landowner shall be responsible for movement of topsoil placement when not found in conformance with property zoning and/or required setbacks from the road and property boundaries.

Signature of Applicant: [Signature] Date: 3/21/11
 Signature of Property Owner: [Signature] Date: 3/21/11

This is to certify the required permit fee was received on 3/21/11

Receipt Number: 17442

Approved: Yes No

[Signature]
Signature of Zoning Administrator

As per site plan Approved 19/17/08 as amended

PLAN SKETCH

(Or attach a copy of your survey with the proposed structure)

Please Draw a Sketch Below Indicating:

- 1) Proposed Structure
- 2) Distance from Front Property Line
- 3) Distance from Rear Property Line
- 4) Distance from Side Property Line (left & right)
- 5) Locations of all Other Structures on Property
- 6) Driveway
- 7) Any rivers, creeks, streams, swamps or waterways

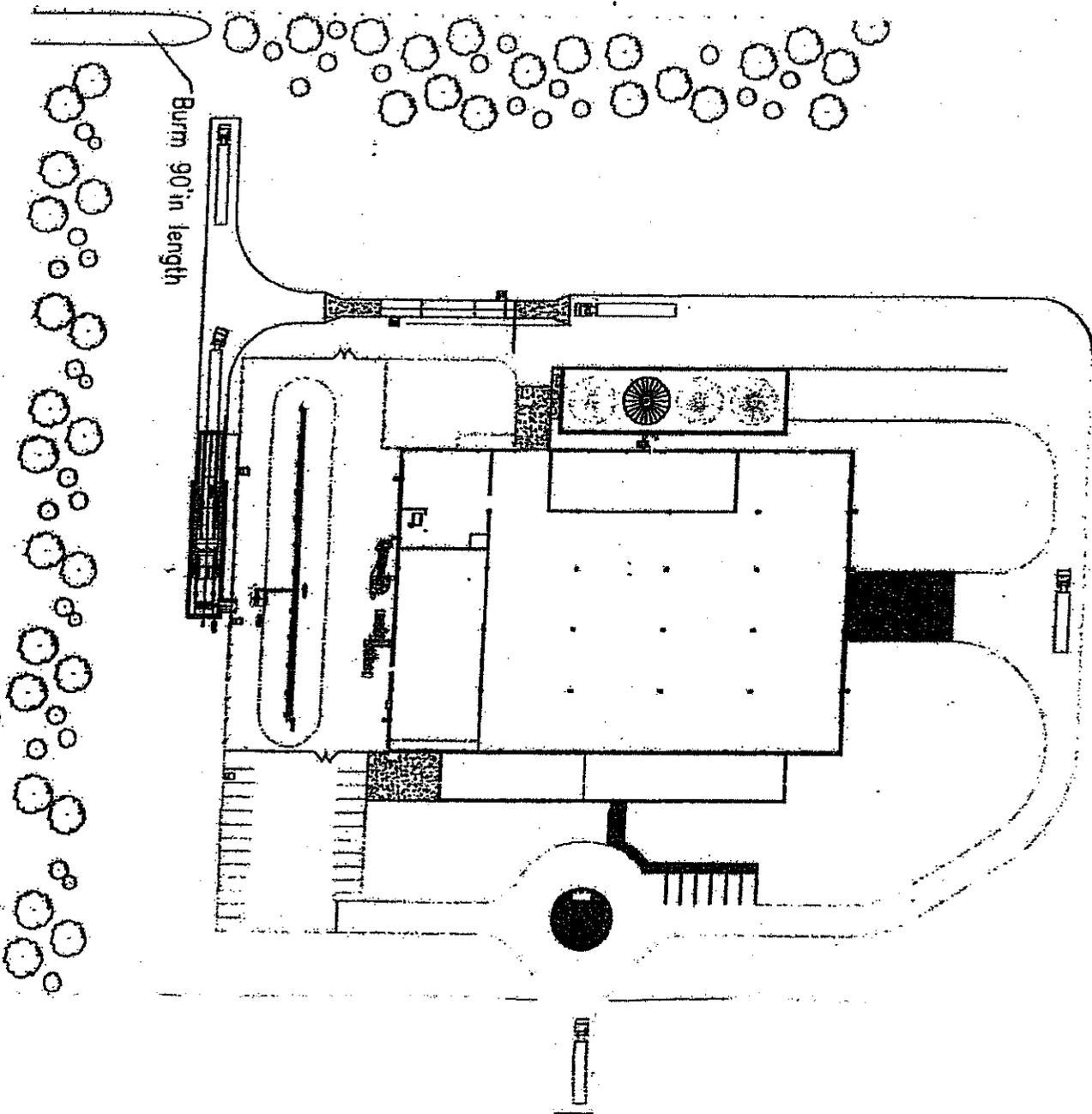


Exhibit 5

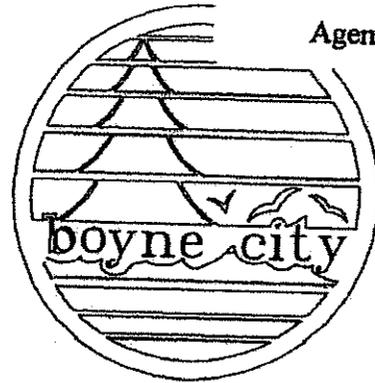
CITY OF BOYNE CITY

To: Michael Cain, City Manager *Mc*

From: Scott McPherson, Planning Director *SM*

Date: February 14, 2012

Subject: Kirtland Products Status

**Background**

Since the start of production in the fall 2011 there have been many complaints in regards to the Kirtland wood pellet facility. While the noise produced by the plant has been the primary concern, there also have been concerns about odor and dust. At the January 10th City Commission meeting representatives from Kirtland Products informed the Commission of their plans to install mufflers that would help mitigate the plant noise and to make adjustments to the augers to eliminate the squeaking noises.

Discussion

Kirtland has implemented several measures to eliminate the squeaking noise from the augers and it appears to have been resolved. The installation of the mufflers did appear to reduce some of the noise, however noise being produced by the plant can still clearly be heard and is measurable at significant distances from the facility. Since the installation of the mufflers noise from the plant has been monitored by listening and with decibel meters. The noise fluctuated at several of the monitoring locations and appeared to vary significantly depending on wind and weather conditions. In some surrounding residential areas plant noise at times was clearly audible while at other times it was barely audible or undetectable. Using decibel meters the sound was measured on the db(A) scale and the db(C) scale. The (A) scale best represents the range of human hearing while the (C) scale is better at measuring low frequency noise. Decibel readings in the (A) scale ranged from undetectable to 54 db in surrounding residential areas and ranged from undetectable to 69 on the (C) scale. A map showing the reading locations and the decibel readings for the (A) and (C) scale has been attached for your reference.

In 2008 Kirtland Products made an application to the Planning Commission for a conditional use permit for a wood pellet manufacturing facility. As opposed to a use by right, conditional uses have unique characteristics that are considered prior to approval of a permit and in this case noise was a primary concern. In Kirtland's application and presentations to the Planning Commission, it was stated that the noise produced by the plant would be mitigated. Kirtland provided estimates that noise from the loudest piece of equipment at the plant would be no more than, 24db at the lot line and that any piece of equipment that exceeded 40db would be placed inside the building. During consideration of the conditional use permit Kirtland representatives specifically stated to the Planning Commission that the loudest piece of equipment would be the back up beeper on the loader. Minutes of the November 2008 and November 2009 Planning Commission meetings and a graph submitted by Kirtland products showing estimated noise of the loudest piece of equipment have been attached for your reference. When considering the conditional use permit the Planning Commission relied on the information provided in Kirtland's application and based its approval of the permit on those representations. After starting

production it was apparent the noise produced by the plant exceeded the expected levels and Kirtland representatives acknowledged that they had underestimated the amount of noise that would be produced by the facility.

As stated previously there have not been as many odor complaints as noise complaints, but it has been noted as an issue. A quantitative assessment of odor is difficult as people have a widely varying sensitivity to smell. Some people have indicated that the smell is offensive, while others have indicated that they can notice an odor but do not find it unpleasant. Similar to the assessment of the noise, weather conditions appear to affect the location and intensity of the odor. In Kirtland's application to the Planning Commission it was noted that the facility may produce "an occasional smoky smell". In my assessment I would say there is a detectable odor when the plant is in operation and would characterize the smell as that of fresh cut wood or sawdust. Much more detailed analysis and testing would be required to determine if the odor is in violation of the ordinance performance standards.

On the afternoon of February 2nd I received notice that there was particulate coming from the plant and proceeded to investigate the complaint. Unable to detect anything falling from the sky I looked for places particulate could collect and be observed. Approximately 1,000 ft east of Kirtland Products property line I observed a dark green 24" x 24" utility box that had a light covering of dust. As the plant was scheduled to run until 7 AM the next morning I cleaned the top of the box to return next day to make an observation. At 8:30 AM the next morning I noticed thin covering of dust on the top of the box. I collected the material which is shown in the attached a picture. The material does appear to be wood particles and does appear to have come from Kirtland but more specific testing would be needed to determine the exact source of the material.

City staff has been in contact with Kurt Childs from the MDEQ regarding emissions and testing procedures and have informed him about the observations that have been made. Mr. Childs indicated that a site visit was made following the complaint about particulate but on that particular day did not notice any material coming from the plant. He indicated that he will continue to monitor the facility. A memo from Assistant Planner Shannon McMaster summarizing his discussions with Mr. Child's regarding emissions and testing procedures has also been attached.

Options

Kirtland products is bound by the requirements of their conditional use permit and the representations that they made to obtain the permit. A conditional use permit can be reviewed by the Planning Commission and if it is determined that an applicant is not in compliance with the permit the Planning Commission, after a public hearing, can make a determination to terminate the permit.

In addition to the requirements of the conditional use permit, all uses in the City must also meet the performance criteria as listed in section 21.78. The standards are as follows:

Section 21.78 Performance Standards.

Any use permitted by this Ordinance is subject to compliance with the performance standards set forth in this Section. No use hereafter established shall exceed the limits set forth in this Section, except as provided in this Ordinance.

New Business

Charlevoix County Planning presentation of the draft County Future Land Use Plan

Dennis Jason and Mike Buttigieg, members of the Charlevoix County Planning Commission were on hand to ask this board to review and make any recommendation to the proposed draft Charlevoix County Future Land Use Plan. The County Board would like to finalize their plan in January/February of 2009. They are asking all governmental agencies to review and make comment. This plan will be a working tool for the board to use county wide. The draft plan can be viewed on the county website: www.charlevoixcounty.org. The city planning board will review and have agreed to place this on the December agenda for discussion.

Conditional Use and Development Plan Review for Kirtland Products, LLC

Planning Director McPherson gave his staff report. Arete Industries Inc. has submitted an application for Development Plan Review and Conditional Use for Kirtland Products LLC to manufacture wood fuel pellets. The proposed use would be located at 1 Altair drive at the Arete Industries building owned by Tupper Enterprises LLC. The property is zoned Planned Industrial District (PID). The property is a square 10 acres and the existing building on the property is 48,000 square feet. The parcel is mostly flat and cleared with some trees along the western edge of the property. Adjacent to the north of the property is the airport that is zoned Community Service. To the west of the parcel is zoned Regional Commercial/Industrial and the property is adjacent to parcels owned by Boyne Area Gymnastics, GCC Enterprises and St. Matthew's Church.

The proposed use would manufacture wood fuel pellets from wood chips that would be delivered to the site. The chips would be stockpiled, dried and milled outside and then transported inside to be pressed into pellets and packaged for shipment. Because of the outside activities on site the use is considered a conditional use. The proposal was presented to the EDC/LDFA on November 10, 2008; however the parcel is not within the boundaries of Phase I or II of the Air Industrial Park and is not subject to deed restrictions.

The proposed use meets ordinance requirements in regards to setbacks, lot coverage, height, and parking and loading. The primary concerns that staff has with the proposed use is that of noise and visual impact. The process will have several pieces of equipment outside that will produce noise. Of the outside equipment the milling machine produces the most noise and to abate this noise of the machine the applicant has proposed to enclose the equipment in a decoupled building. The applicant has provided estimates that the noise from the enclosed equipment would be approximately 24 decibels at the property line. The visual impact of the use will be from the outside equipment and storage of materials and the lighting that will be used. It is proposed that the plant will operate 24 hours a day and it will be necessary to illuminate the site. A specific site lighting plan has not been developed. Prior to the issuance of a zoning permit a site lighting plan needs to be approved. In addition to illumination, some landscaping should also be required. Screening of the north property line should be required with staggered rows of evergreen trees. To help the buffering and screening a berm should be installed if possible.

The proposed use will also require approvals from several other agencies. Air quality permits will be required as well as approval from the FAA for the height of the stack. A soil erosion permit and storm water plan will be required to be reviewed by the County Drain Commissioner.

The manufacture of wood pellets is not specifically listed in the PID district but uses with very similar characteristics are listed. Section 14.30 (O) states: Other industrial uses not specifically stated or implied elsewhere which, in the determination of the Planning Commission, are similar to the principal permitted uses provided herein, and in harmony with the character of the District and the purpose and intent of this Article and the Comprehensive Plan of the City. In section 14.30 Conditional Uses the following uses are listed:

G. Millwork lumber and power saw and planing mills.

K. Outside storage of materials

If the Planning Commission determines the use is similar and in harmony with permitted use in the district, the planning commission needs to review the conditional use standards of approval criteria listed in section 2.70 and the development plan approval criteria as listed in section 19.40.

Tom Monley, Leon Tupper, and Mark Lange from Kirtland Products were on hand to answer any questions, and after a brief overview of the site, and the hopes to create 60 to 75 jobs, Mr. Monley turned the floor over to Mark Lange for the presentation. During the slide presentation (the exact format of the proposal that was provided in the agenda packets), Mr. Lange made a few additional comments:

- A couple of corrections to the staff report. The square footage of the current building is 66,900 square feet, and not the 48,000 square feet indicated, and the proposed abatement berms would be on the south side of the building, and not on the north side.
- No additional size increase for the sign, they anticipate the same as the current operations sign,
- There has not been an engineered lighting plan. The directional signs will be for operations only,
- There has not been a grading plan engineered yet,
- The circle of chips must be on asphalt
- Retention ponds may need to be redesigned,
- Proposing a berm on the west side (closest to St. Matthew's Church), and the south side, unsure as to the height
- They will not allow wet wood to ferment. It will be turned over for stock materials every couple of days, they plan on working 5 days and upwards to 7 days, so hoping turn over will be quick.
- Proposing relative construction outside to begin April 2009, inside possibly earlier. The goal is to have production begin mid summer 2009, and have products to customers and retail before the 2009 heating season.
- We have options into the FAA for placement of the smoke stacks. Preferred location is next to the building somewhere at 35 ft in height, another possible location is closer to the south property line at 58 ft.

Public Comment opened at 6:03 p.m.

Mike Buttigieg - do you have a night sky initiative? A storm water retention plan, possibly you could do a rain guard pond.

McPherson - The current lighting standards are what will be followed. The city follows the county storm water ordinance, and as far as the rain guard pond, I don't have any information on them, but the Tip Of the Mitt maybe able to help

John McCahan - The sound graph provided, is that for inside the buildings?

Mark Lange - We will be erecting a decoupling enclosure around the equipment, or may move the louder pieces into the building. You can be assured that we will abate the noise as much as possible.

McCahan - What time will the trucks arrive during the day?

Lange - The wood operations will happen during the day light hours. A couple of the later trucks could arrive well after dark, maybe in the summer up until midnight. We are using stock from a 75 mile radius.

City Manager Cain - The airport board has a couple of concerns that I would like to share: (1) stack heights and (2) the vapor production, will it obscure any of the runway? I would like to share a couple of additional concerns:

- I am unable to envision size of the chip pile, I see width and length, not height,
- What is the time frame that the chips will remain in the pile,
- What is the noisiest piece of equipment,
- I understand the preference in the stack placement is closer to the building, if the south side location is needed, will the tube that is planned close to the property line, be buried so that emergency equipment can access from the South?

Lange - The vapor will be larger and taller in the winter due to the air structure, comparable in size to Lexamar, it will be double the size. The pile size will be approximately 200 ft in diameter; we are unable to determine the height at this time. However, the product will be turned over quickly. The front end loader will be the noisiest piece of equipment, the back up indicator bell.

Denny Jason - If you have to clean the stack down to asphalt, it can't be too high, as you indicate a quick turn over

With no further public comments, closed at 6:14 p.m.

Board Discussion/Deliberation

Crum - Because this is a public hearing, the notices were sent out, have you received any comments?

McPherson - The 300 ft notice was sent out, and I have not received any comments.

St. Dennis - We don't have a landscape plan with berm placement, these will help determine noise levels or a lighting plan, how are we going to decide?

Crum - Before we get to the decision on the development plan, we need to go through the Conditional Use Plan to see if they even meet the criteria of the zoning district.

Neidhamer – Let us go through the Conditional Use Plan findings of fact
Frasz – The development plan findings of facts “O & P” specifically address the berms, landscaping and lighting.

At this point in the meeting, the Conditional Use Plan findings of fact were examined, and based on the findings under 2.70, the plan is compatible with other uses in the district. (See results attached to the minutes)

Vice Chair Neidhamer facilitated the discussion on the Development Plan Review. (See results attached to the minutes)

MOTION

2008-11-17-7B – Development Review Plan

With no further discussion, Motion by MacKenzie, seconded by Crum for preliminary approval of the Development Plan for Kirtland Products, LLC as presented (11/17/08) with the conditions noted. The final plan to come back to the Planning Commission for approval.

Roll Call:

Ayes: Crum, Douglas, Frasz, MacKenzie, Neidhamer, and St. Dennis

Nays: None

Absent: Adkison, Ellwanger, and Knurick

Motion Carried

2008-11-17-7B – Conditional Use

Motion by Crum, seconded by St. Dennis based on the findings of fact for the conditional use, the plan is similar to the principal permitted uses for the district, the plan meets all criteria, so to recommend as a conditional use.

MOTION

Roll Call:

Ayes: Crum, Douglas, Frasz, MacKenzie, Neidhamer, and St. Dennis

Nays: None

Absent: Adkison, Ellwanger, and Knurick

Motion Carried

Adopt 2009 Meeting Calendar

The 2009 meeting calendar was supplied in the agenda packet. The schedule for the planning commission is the 3rd Monday of each month.

MOTION

2008-11-17-7E

MacKenzie moved, Frasz seconded, **PASSED UNANIMOUSLY** a motion to approve the 2009 Meeting Calendar.

Referral of proposed amendment to article 21.17 back to the Planning Commission by the City Commission

At the last City Commission meeting the proposed amendment language was referred back to the Planning Commission in order to give the Planning Commission the opportunity to review the comments submitted from Alaina Zanke-Jodway on August 26, 2008. The comments have been attached to the agenda for your review. Planning Director McPherson believes the language is sound, and legal council has no concerns with the new language proposed.

- A. Noise, dust, soot, dirt, fly ash, products of wind erosion, smoke, and vibration emitted shall comply with the City's nuisance ordinance.
- B. Odor. The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any property line, when diluted in the ratio of one (1) volume of odorous air to four (4) or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines, is prohibited.
- C. Drifting and Air-Borne Matter. The drifting or air-borne transmission beyond the lot line of dust, particles or debris from any open stockpile is unlawful and shall be summarily caused to be abated.

The City Commission has the following options:

1. Take no action.
1. Determine Kirtland is in compliance and take no action.
3. Refer issue back to staff for further review and recommendations.
2. Determine Kirtland is not in compliance and give additional time to implement solutions.
3. Determine that Kirtland is in violation of the zoning ordinance performance standards and issue a civil infraction.
4. Refer the issue back to the Planning Commission to hold a public hearing in accordance with section 2.70(G)(4) to review the conditional use permit to determine if Kirtland Products is in compliance.
5. Other actions not identified that the Commission deems appropriate.

Recommendation

Obtain input from the meeting and determine which of the above options should be pursued.

Decibel Readings
January 24 - February 8

Decibel Readings

A Scale

j 50-59

jk 60-69

C Scale

1 50-59

\$ 60-69

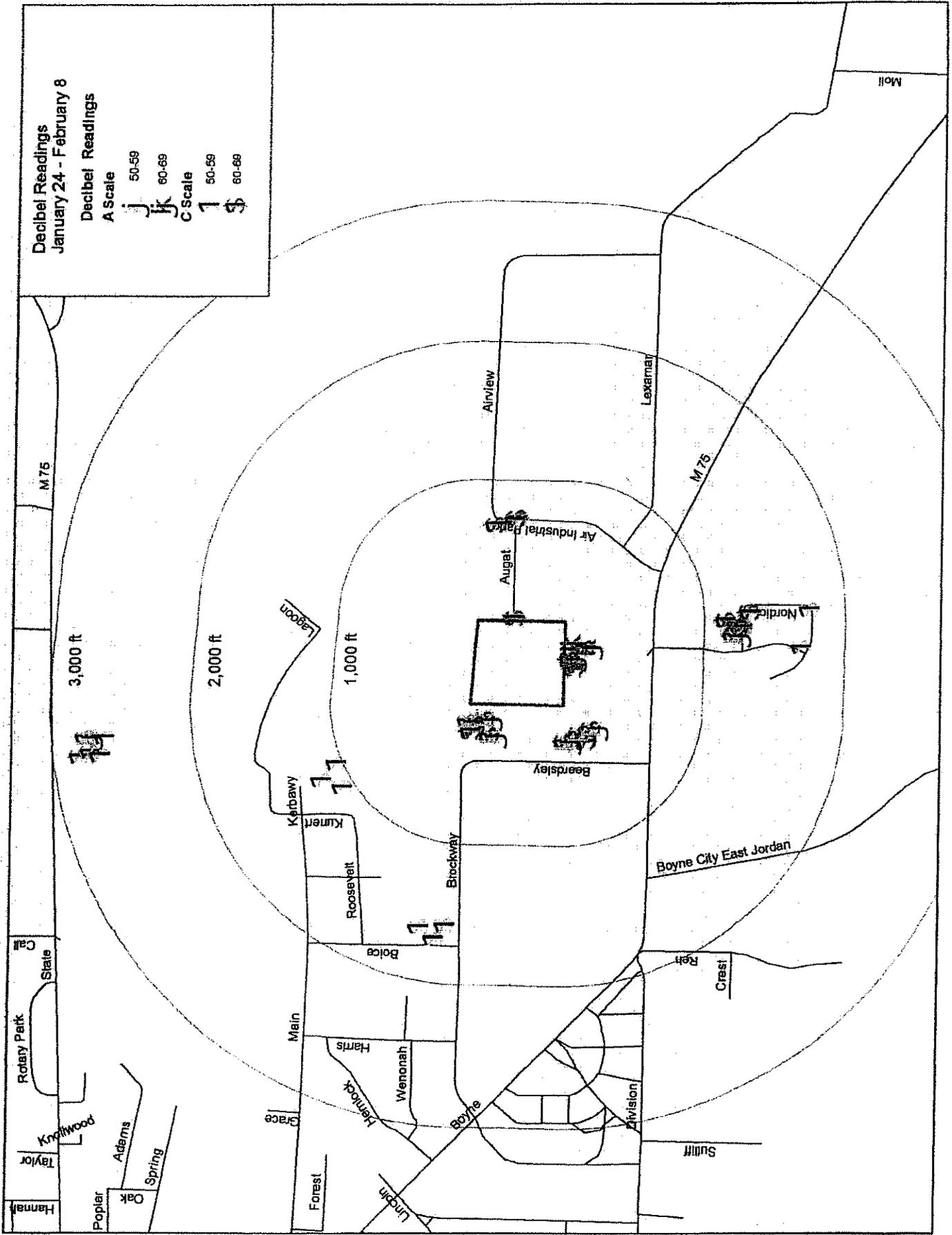


Exhibit 6

City Noise Ordinances

Traverse City, Michigan

http://www.nonoise.org/lawlib/cities/mi/traverse_mi.htm

Heavy Equipment. Except for work on essential services, no person shall use any pile driver, shovel, hammer, derrick, hoist, tractor, roller or other construction apparatus between 10:00 p.m. and 7:00 a.m. of the following day, within 600 feet of a residential area, multi-family area, or noise sensitive zone.

Maximum Permissible Sound Levels by Receiving Land Use. No person on private property shall create a continuous sound which exceeds the limits set forth for the receiving land category in the following table when measured at or within the property boundary of the receiving land which source of sound shall be deemed prima-facie to be a noise disturbance. "Continuous sound" means any sound having a duration of one second or more. For any source of sound which emits a pure tone, the maximum sound level limits set forth in the following table shall be reduced by five dBA.

MAXIMUM SOUND LEVELS TABLE

<u>Receiving Land Category</u>	<u>Time</u>	<u>A-weighted Sound Level Limit (dBA)</u>
Residential area and Multi-Family area	10:00 p.m. to 7:00 a.m.	60
	7:00 a.m. to 10:00 p.m.	65
Commercial area	10:00 p.m. to 7:00 a.m.	65
	7:00 a.m. to 10:00 p.m.	70
Industrial area	10:00 p.m. to 7:00 a.m.	70
	7:00 a.m. to 10:00 p.m.	75
Noise sensitive areas	10:00 p.m. to 7:00 a.m.	Established by
Noise sensitive areas	7:00 a.m. to 10:00 p.m.	Resolution

The Noise Control Officer shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to subsection (b) hereof, to continuous sound levels or to impulsive sound levels which endanger or injures a person's health or safety. Following the issuance of such an order, the Noise Control Officer may remove or modify the source of the noise.

Alpena, Michigan

<http://www.alpena.mi.us/forms%20and%20permits/Parks%20Use%20Policy%20072711.pdf>

Receiving Land Use Category	Time	A-Weighted Sound Level Limit, dBA
Residentially zoned property	10:00 p.m. to 7:00 a.m.	60
	7:00 a.m. to 10:00 p.m.	70
Office zoned property	10:00 p.m. to 7:00 a.m.	62
	7:00 a.m. to 10:00 p.m.	72
Business and parking zoned property	10:00 p.m. to 7:00 a.m.	64
	7:00 a.m. to 10:00 p.m.	74
Industrially zoned property	10:00 p.m. to 7:00 a.m.	66
	7:00 a.m. to 10:00 p.m.	76

Specific noise prohibitions.

(1) Unless exempted under the provisions of this section, no person shall cause to be made, directly or indirectly, any loud noise which disturbs, injures or endangers the health, comfort, safety or welfare of others within the city.

(2) The following specific acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:

h. Blowers, fans, pumps. The use of any blower, fan or pump or engine or motor in connection therewith, including by way of example and not by way of limitation, air conditioning systems, compression devices and pool filter systems, if such use creates loud, penetrating or continuous noises that disturb the comfort or repose of persons residing in the vicinity.

(3) If any person who is not exempted under the provisions of this section shall cause to be made any of the noises prohibited under this subsection (d), and if such noises shall be proved to be in violation of the sound levels prescribed under this section, such proof shall be sufficient to prove a violation under this section.

Ludington, Michigan

http://www.ludington.mi.us/Ludington/ZONING_ORD_081010.pdf

Noise: There shall be no noise emanating from the operation which will impair the use or value of adjoining conforming property. Maximum sound level in decibels permissible at common property lines as follows:

Residential uses: night 55 day 65

Commercial uses night 65 day 75

Industrial uses night 70 day 85

Big Rapids, Michigan

<http://www.ci.big-rapids.mi.us/pdfs/code/Full Code Of Ordinances.pdf>

Section 90.15 and 90.17

(E) *Table of Maximum Permitted Sound Levels, dB(A).*

(re: 0.0002 Microbar)

<i>Zoning of Lot Where Use Located</i>	<i>Zoning of Adjacent Lot</i>		
	<i>R-1, R-2, R-3, RC</i>	<i>C-1, C-2, C-3</i>	<i>I</i>
	<i>(A)* (B)*</i>	<i>(A)* (B)*</i>	<i>(A)* (B)**</i>
<i>I</i>	<i>65 55</i>	<i>70 60</i>	<i>75 70</i>
<i>C-1, C-2, C-3</i>	<i>65 55</i>	<i>70 60</i>	<i>70 60</i>

* 7:00 a.m. to 10:00 p.m.

** 10:00 p.m. to 7:00 a.m.

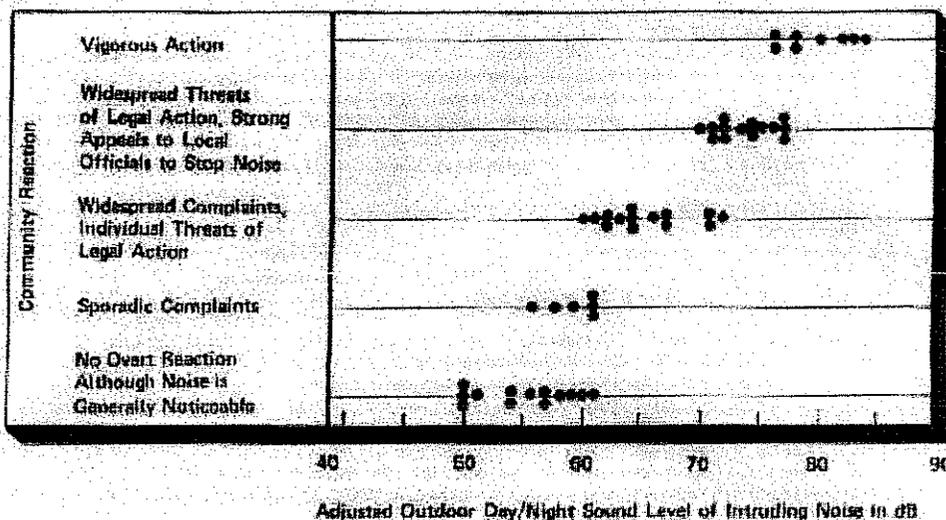


FIGURE 11. COMBINED DATA FROM COMMUNITY CASE STUDIES ADJUSTED FOR CONDITIONS OF EXPOSURE

On the basis of its interpretation of available scientific information, EPA has identified a range of yearly Day-Night Sound Levels sufficient to protect public health and welfare from the effects of environmental noise. It is very important that these noise levels, summarized in Table VIII, not be misconstrued. Since the protective levels were derived without concern for technical or economic feasibility, and contain a margin of safety to insure their protective value, they must not be viewed as standards, criteria, regulations, or goals. Rather, they should be viewed as levels below which there is no reason to suspect that the general population will be at risk from any of the identified effects of noise.

Table VIII

Yearly Ldn Values That Protect Public Health and Welfare with a Margin of Safety

EFFECT	LEVEL	AREA
Hearing	Leq(24) < 70 dB	All areas (at the ear)
Outdoor activity interference and annoyance	Ldn < 55 dB	Outdoors in residential areas and farms and other outdoor areas where people spend widely varying amounts of time and other places in which quiet is a basis for use.
Outdoor activity interference and annoyance	Leq(24) < 55 dB	Outdoor areas where people spend limited amounts of time, such as school yards, playgrounds, etc.
Indoor activity interference and annoyance	Ldn < 45 dB	Indoor residential areas
Indoor activity interference and annoyance	Leq(24) < 45 dB	Other indoor areas with human activities such as schools, etc.