OTSEGO COUNTY
PLANNING COMMISSION

AGENDA
June 21, 2010
6:00 PM

MEETING WILL BE IN THE MULTI-PURPOSE ROOM OF THE ALPINE CENTER BUILDING

1. CALL TO ORDER

2. PLEDGE OF ALLEGENCE

3. ROLL CALL

4. CONSENT AGENDA

   a. None

5. APPROVAL OF MINUTES: From the 5-17-2010 meeting

6. OTHER:

7. PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA
   (Please identify yourself for the record. All comments will be limited to two minutes)

8. UNFINISHED APPLICANT BUSINESS:

9. PUBLIC HEARINGS:

   1. A request to construct a Redi-Mix plant with one main silo and two auxiliary silos, remodel existing 1200sf residence into office; construct parking and sidewalks to serve customers. Proposed operating hours will be 7:00am to 5:00pm. The proposed site is located at 8715 Parmater Road.

   2. A request to continue sand and gravel mining operation located at 3065 East Dixon Lake Road, Gaylord Mi.

   3. A request to continue sand and gravel mining operation located at 3006 Martindale Road, Gaylord MI.

   We will treat each case individually; hold the public hearing then the case, then the next public hearing and case. There will be a lot of information for each case and we want to ensure the cases don't run together and are treated as individual applications.

10. UNFINISHED COMMISSION BUSINESS:

11. NEW BUSINESS:

    1. SPR10-001 LC Redi-mix, request to construct cement plant located at 8715 Parmater Road.

    2. V100003 Top-O' Michigan Reclaimers, request to continue sand and gravel mining operation at 3065 East Dixon Lake Road, Gaylord Mi.

    3. V100004 Reith-Riley Construction, request to continue sand and gravel mining operation at 3006 Martindale Road, Gaylord Mi

    4. Election of new Planning Commission Secretary

12. REPORTS AND COMMISSION MEMBER'S COMMENTS:

13. ADJOURNMENT:

Otsego county Planning Commission

Minutes from 5-17-2010

1) 6:00 Call to Order

2) Pledge of Allegiance

3) Roll Call
Present: Mr. Stults, Mr. Mang, Mr. Borton, Ms. Nowak, Mr. Klee, Mr. Ernst, Mrs. Jarecki, Ms. Backenstose

Absent: Mr. Arndt, Mr. Hilgendorf, Mr. Colosimo

Staff Present: Mr. Ferrigan, Mr. West

Public Present: Elliot Blumberg

4) Consent Agenda
None

5) Approval of Minutes from April 19, 2010.

Motion made by Mr. Borton to approve the minutes as corrected. Support by Mr. Klee. Motion approved unanimously.

6) Other
None

7) Public participation for items not on the addenda.
None

8) Unfinished applicant business.
None

9) Public Hearings
None

10) Unfinished Commission business.
a) Review of the reclamation plan submitted by Northern Processing.

Mr.Stults "Tonight we were given the plan and Mr. Ferrigan do you have an introduction or comments?"

Mr. Ferrigan "Yes, we had our meeting a couple of months ago, and the Planning Commission directed me to send a letter to Northern Processing requiring them to submit be May 1st a restoration plan. May 1st Mr. Matelski walked in, handed me his restoration plan, I stamped it received, initialed it, gave him a copy of it and that's where we're at.

DRAFT

He was contacted that this was on the agenda tonight. I talked to him earlier today. He said his attorney is out of town and that he wasn't coming to the meeting. So he said I don't think that I have to be there. I did what they told me to do, I submitted a plan."

Mr. Stults "Any Commission comments at this point?" No answer.

Mr. Stults "The Zoning Ordinance Section regarding restoration plans and mining and gravel operations is 18.25. Any comments on the plan by anyone?"

Mr. Mang "I guess I'm um, this wasn't what I expected at all, um 18.25 says the site plan illustrating the arrangement of uses. I think more to illustrate our arraignment as a spatial kind of concept; uh some kind of a map is needed. Seems to me, uh showing, illustrating uh these various things and uh how they're going to, where they're going to be accomplished. I don't see that here at this time."

Mr. Ferrigan "We have a site plan on file from him. I think this is something, at least in his mind that's different from the site plan."

Mr. Mang "Ok, yes from the site plan not the restoration."

Ms. Nowak "Did he not have a time when he was to be complete and off of that property? That I remember correctly or am I wrong?"

Mr. Ferrigan "Well, this is how I understand it. I understand that he was granted a five year extension by the Planning Commission and that started on a certain date and it expired five years later, that has come and gone a year plus ago now. When I spoke to the Counties attorney Hider Kazim, I asked him about this reclamation plan and when is the end of that? I'm kind of a logical thinking guy it seems to me that if you issue a special use permit that when it runs out everything should be done. According to him and according to me and I think if you read it, you'll see it yourself that our Ordinance really doesn't say that. There's a flaw, I don't know, it's something we need to address, I don't know that right now is the time to address it, we're in the middle of this whole thing, but I think it needs to be addressed. There has to be an end to it."

Mr.Ernst "Right."

Ms. Nowak "Why?? he's under the impression that he had a year after his mining."

Mr. Ferrigan "Well that was part of the lease agreement now and that you know and that's not something that we're involved in but there was some language in there that said um it gave him an, I don't remember exactly what it was that, Mr. Blumbergs here I'm sure he knows it, but it was something like an additional year to reclamate and then the possibility of asking for a second year. Now, I'm assuming he hasn't asked for a second year or he hasn't been granted a second year but that's something that's going on outside of, of this."

Mr. Stults "Mr. Blumberg, would you please be in on this? Give us your, your opinion.

Mr. Blumberg "It's interesting because there is a sand and gravel lease between my client Colleen Jozwiak and Tom and Marsha Matelski, no question about that. The sand and gravel lease by its own terms has expired. Then, um Northern Processing an entirely different entity a limited liability company, owned by Mr. and Mrs. Matelski comes before the planning Commission and obtains a special use permit. And yet the special use permit allows them to perform these gravel operations that they have no legal right to be on my clients property other than the sand and gravel lease. Again, which is between Matelski and Jozwiak not Northern Processing. The terms of the lease did contain language that would allow um Matelski to stay a year after the production phase was done. There's no language in the lease that even talks about reclamation. The language in the lease talks about restoration of the site with language saying it's never going to look like it was at the beginning. I mean this lease was drafted back in 1990 I think it's really poorly drafted, but and this is what we have to work with. But it's the special use permit that creates the obligation to put together this reclamation of the property. And I think Mr. Ferrigan's correct the ordinance, well it's pretty clear what needs to be done and doesn't create a time frame by which it has to be done. So I think it is reasonable to assume that if the special use permit has expired, and the lease is expired, the times up. I don't know what else we can do at this point. So I think, I'm not sure if that answers your question but that's..."

Mr. Stults "Well no, I think that does give us the facts as they are in your clients eyes. Where we're at today knowing that reclamation hasn't begun, what type of time frame would be reasonable to them, um..."

Mr. Blumberg "To be candid with ya, we have serious concerns whether Mr. Matelski would ever do the reclamation as you would require and as we would expect. So, we, there is pending before Judge Allen a motion to have them removed from the premises. If that is granted then we would go out to a third party and get the reclamation done by a professional person and ask Mr. Matelski to have to pay for that, knowing that he was supposed to have done it and frankly just hasn't done it. So, I think that..."

Mr. Borton "Randy are we just being asked to determine if his restoration plan meets with what we've got here in the ordinance?"

Mr. Stults "Well it meets with the ordinance and the, the intent of the ordinance. "

Mr. Borton "Ok, even the timing of it? Even looking for an answer from us on that, ok."

Mr. Stults "Yes."

Mr. Blumberg "Excuse me, I think that's, that's a very dangerous thing and valid point, that implicit in the special use permit is that the obligations of the applicant are going to be completed within the time frame of the special use permit. I think that that just makes

sense. So I guess the next question, if I can ramble a little bit, what happens if it doesn't happen? What authority does the Planning Commission have at that point?"

Mr. Ferrigan "Well, I asked that same question too because you know we went through that irrevocable line of credit it was I don't know it was 6,8,9 months ago maybe a year ago that he didn't have that and we made him get us a current one. Something that says you still have the money, Otsego County is still named. I asked Hider about that, I said so now their lease is up, the special use permits up, we got this money at what point can we take it and do something with it? And he said that we can never do that unless the County takes them to court and gets courts permission to do it. So it didn't make much sense to me that we make them put this money as an irrevocable line of credit and then we can't ever do anything with it. That doesn't make any sense to me what so ever, why do we even make them do it if we have to take them to court to be able to do any thing with it so there's another thing that we should address in here when we get to that point."

Mr. Stults Yes and that would be addressing for any

Mr. Ferrigan: Exactly. Special Use Permit.

Mr.Stults Well were we required the

Mr. Ferrigan The financial guarantee

Mr. Stults Yes.

Mr. Ferrigan So it seems kind of strange to me that we have these little requirements but yet there's no end and then you can't do anything with the money you make them put on file to reclamate the property. So that's a pretty glaring problem.

Ms. Nowak "That's not just one person's opinion though is it? Where somebody else read it but they have a different opinion. I mean I just…"

Mr.Stults "Well I…." SEVERAL PEOPLE TALKING AT ONCE. "And that's an important fact."

If I were to be your attorney, I would say that implicit, certainly a fair reading of that interpretation one who could reasonably take from it is that what ever observations that are created have to be performed within the length of the permit."

SEVERAL PEOPLE TALKING AT ONCE

Mr.Borton "nothing to the contrary."

Mr. Stults "Right."

DRAFT

Mr. Blumberg "If I could just add one other thing, I happen to be privy to the Mason-Dixon restoration plan and I thought that was far more detailed than what Mr. Matelski has submitted. I don't know if the Commission has seen that, you are familiar with that Joe?"

Mr. Ferrigan "Yes, I've seen it."

Mr.Stults "Well I think it's safe to say that um, any reclamation plan that comes before this Commission as this point for approval is going to be done at the time of the site plan approval and probably will be much more detailed than what has been accepted in the past. But that's looking forward, that's not what we're facing here. I mean I think we've learned a lot from this experience and it's unfortunate that it falls on your clients' shoulders."

Mr. Blumberg "Well and again just to be candid, she is somewhat to blame herself because this lease clearly expired a long time ago, and so, um, she's allowed this to get to the point where it is. But that doesn't resolve the problem, I mean um, and frankly I don't know, I mean I understand what Mr. Delaney points going to be, you know there's nothing in the Ordinance that says that we have to have it done by a specified period and I don't know, certainly the County doesn't want to get involved a law suit but, Judge Allen is going to be asked to deal with this issue and Delaney is going to argue that that's within the purview of the Planning Commission that's not even before the court."

Mr. Ernst "Has the operator been given notice that under 18.25.9 under evidence continuing use?"

Mr. Ferrigan "Oh, he's still there. He's still selling gravel."

Mr. Ernst "He's still selling gravel and he doesn't have a…"

Mr. Ferrigan "He's still on the property. He's not mining anymore."

Mr. Blumberg "Well and I'm not so sure that's true by the way. There was some crushing done about a week ago."

Mr. Ernst "So he's continuing to operate without a permit?"

Mr. Ferrigan "He's selling processed material as far as I know."

Mr. Ernst "So that's a, but that's a, that's a gravel pit? I mean there's nothing else under our Ordinance, I mean it's still continuing operation as a gravel pit, it's not ag operation it's not…"

Mr. Stults "It's not undermining that zoning district without a special use permit…"

DRAFT

Mr. Ernst "There's no underlying use by right that you know for commercial sale of aggregates or processed products so he's either in violation because he doesn't have, because he's got an expired special use permit or if he claims he's doing something else, ya, he's in violation because he doesn't have a permit in that zone."

Mr. Borton "Can we say at this point our interpretation is this thing is done, it's expired it's over with? What he's submitting we accepted but needs to be done like yesterday. I think that's what they're looking from us right that what he's doing is going to be ok but we think it's got to be already done. Or do we give him more time you know that the court is looking for us to make that determination on what's reasonable?"

Mr. Ernst "Well we can't just, we don't have the authority just to make stuff up…"

Mr.Borton "That's what I'm asking."

Mr. Ernst "So what's in our Ordinance?"

Mr. Borton "Our Ordinance says that we interpret this."

Mr. Ernst "Once he, under 18.25.9 when activities of mining have ceased for more than one year that essentially you could say that it's been abandoned and you can proceed under that but, he hasn't abandoned it. He's continuing to operate without a permit."

Mr. Borton "Right."

Mr. Ernst "And you know, he's given us a 25 page with topo's and bells and whistles and dancing elves reclamation plan, it doesn't mean diddly if he's out there still operating mining."

Mr. Borton "Right. And out of our realm if he's continuing to operate without a permit."

Mr. Ernst "Oh he's, I think that we need to perhaps we need to make a statement that we find that he is, you know it's obvious that he is operating without a permit and the Ordinance needs to be enforced. He needs to be shut down and he needs to commence with restoration, and final his restoration."

Mr. Klee "You know if he's operating without a permit, if I operate without a permit, Joe put a tag on stop order, you know, stop work order. Can't we do the same with them?"

Mr. Ferrigan "If that's the way you want me to handle it, that's exactly what I'll do."

Mr. Ernst "What's the background on this from the County end, Joe, as far as, I mean if he's operating without a permit that's pretty much black and white?"

Mr. Ferrigan "Right."

DRAFT

Mr. Ernst "Is there something that we need to be aware of is there…?"

Mr. Ferrigan "He's been operating without a permit for a year and a half, from us."

Mr. Ernst "But we went through this…" TO MANY BACKGROUND NOISES

Mr.Ferrigan "2009 is that , I mean we all know that he's been operating with the special use permit expired January 19th 2009."

Mr.Klee "If I did, what would you do to me?"

Mr. Ferrigan "We'd place a stop work order on you because you are required to have a permit."

Mr. Ernst "Well it's not a stop work order that's a building permit."

Mr.Stults "It'd be a cease and desist."

Mr. Ernst "He'd operating without, it's just like if I went out and started up a gravel pit at my place. Or went next door to you and started up a gravel pit and I didn't have a permit, what would you do then?"

Mr.Ferrigan "Put a stop work order on you."

Mr. Ernst "Is that what it, it's a stop work order that the…"

Mr.Ferrigan "It talks about that in here."

Mr. Ernst "All right. Is it done yet? But that's the process right?"

Mr. Stults "But that's you know, that just the first thing that has to happen.

Mr. Mang "There's an a and a b here, and John is definitely talking about the a."

Mr.Ferrigan "I don't think the A happens unless we talk to the County Administrator and talk to the County attorney and say here's what it says, because A subA gets permission to go do that and as soon as A happens then the court happens after that cause we'll be in a law suit,

Mr. Mang "If we stop them from operating…"

Mr. Ernst "For pointing out that he's been operating without a permit…"

Mr.Ferrigan "I'm just telling you that that's the…"SEVERAL PEOPLE TALKING AT ONCE "…I am not afraid to out there myself and staple up a stop work order, I'll do it tonight."

DRAFT

Mr. Ernst "So we're not going to enforce the ordinance if someone threatens to sue us? What the hell why not?"

Mr. Klee "I'm done with permits, might as well save some money?"

Mr. Ernst "yes ain't even gotta sue, all you got to do is threaten to sue."

Mr. Klee "yes. Ha-ha"

SEVERAL PEOPLE TALKING AT ONCE

Mr. Ferrigan "Now you guys all saw what happened to me when I tried to enforce dumpster enclosures on people…"

Mr. Ernst "Understood."

Mr. Ferrigan "Ok, now I don't have to say anything more about it. You know what's gonna happen. I'm not afraid to go do it I'll walk right out to the end of the limb and staple it there myself. You know me."

Mr. Ernst "Well, understood. But I think that, that for several reasons, one is that if there are legal proceedings then we're on record as having taken a position and restated the…"
SEVERAL PEOPLE TALKING AT ONCE

Mr.Stults "And if we want to go that route and I'm not opposed to it, we need to do a finding of facts so that we've documented those items that build our case so that we can have it laid out. Because it needs to be factual based and Joe he can't sue us until he goes to the Zoning Board of Appeals that would appeal our decision here. Because he's got to go through all the remedies first."

Mr. Blumberg "But what would his cause of action be? By his own acknowledgement the special use permit expired. I mean so I don't see that he's got a basis to sue anybody. But he's suing my client you know for some breach of lease but I don't see that you guys have any exposure at all, all you are doing is enforcing the zoning ordinance and special use permit."

Mr. Stults "We just need to be sure we dot our I's and cross our T's so that we do everything we can to provide the proper case to the defendant or thrown out of court if it's brought if that's the lack of cause of action."

Mr. Mang "A finding of fact I mean Joe probably has…" CANNOT HEAR, SPEAKING TOO LOW "…he certainly exists, I've talked to him off and on."

Mr. Ferrigan "I know that the special use permit expired January 19th 2009."

Mr. Mang "And we know for a fact that he is operating after that date."

Mr. Ferrigan "He's operating today."

Mr. Mang "You do?"

Mr. Ferrigan "You bet. Sells gravel."

Mr. Mang "So what else do you need really?"

Mr. Ferrigan "Says right here under 22.3.2.3 revocation. The Zoning administrator shall have the power to revoke or cancel any zoning permit in the case of failure or neglect to comply with any provisions of this ordinance or in the case of any false statement of misrepresentation made in the application. The owner or his agent shall be notified of any such revocation in writing. The Zoning administrator may issue a stop work order if necessary or desirable to prevent further ordinance violation. Upon such revocation all further construction activities and usage shall cease upon the site accept as aloud by the Zoning administrator for the purpose of correcting the violation. Cancellation of a permit issued for special land use, planned unit development, or variance shall not occur before a hearing by the body which granted the permit. The Zoning administrator may issue a stop work order to halt construction activities and usage pending a decision on the cancellation of said permit. So…"

Mr. Mang "We haven't even gone to the point of deciding if a permit should be cancelled. The permit is already cancelled by virtue of the fact that it is expired."

Mr. Ferrigan "Expired. And he's still operating."

Mr. Mang "I means that's like if my driver's license expired and I'm still operating my motor vehicle, you know."

Mr. Ferrigan "Right."

Ms.Nowak "Does she live right near that place?"

SEVERAL PEOPLE TALKING AT ONCE & BACKGROUND NOISE

Mr. Blumberg "Yes. Oh, and you guys don't need to know all the gory details, but he paid a personal protection order against her because she was taking pictures of her incredible pit. So…"

Ms. Nowak "What I meant like to say like if she lived close, he wouldn't have to know she was taking pictures…"SEVERAL PEOPLE TALKING

Mr. Stults "Well I think though it's our responsibility as the enforcement body, the zoning administrator to develop that part of the case. Not the property owner in this situation. I mean she certainly can they're out there doing it to Joe. Go take some pictures."

DRAFT

Mr. Blumberg "It's really no question; he believes he's entitled, so they're not going to deny that he's out there."

Ms. Nowak "But I just know what he…"CANNOT HEAR SPEAKING TOO LOW

Mr. Ferrigan "I don't have those dates, or the address, it's the corner of Pyke School and Winters Road. I don't know that there's actually a physical address for it. I don't cause…"

Mr. Ernst "Northwest corner of the southwest blah, blah, blah, or just call it Jozwiak property, Colleen Jozwiak."

Mr. Stults "Do you want the parcel code number?"

Mr. Ernst "Yes."

Mr. Stults "You ready for it?"

Mr.Ferrigan "Ready."

Mr. Stults "042-033-300-005-01"

Mr. Ernst "Do you have the permit number?"

Mr. Stults "I have the 2001 case number."

Mr. Ernst "Ok."

Mr. Stults "Case number SUP 2001-9-4-CH."

Mr. Ferrigan "I got SUP 2001-9-4-CH."

Mr. Stults "Located at Winters, Pyke School, Old roads, Corwith Township, town 32n and range 3w section 33."

Mr. Ferrigan "The parcel id number will give us everything we need."

Mr. Stults "Ok."

Mr. Ernst "Mr. Chairman I have a motion

Mr. Stults "Alright, then, just hold off a second John. On January 19th 2004 the case number was PC-2003-09-CH-SUP. And that should be the most current one in 2004 correct?"

Mr. Ferrigan yes

DRAFT

Mr. Stults "The parcel number here is 042-033-300-005-03."

Mr. Ernst "Perhaps that's defined as a new parcel, the original one was split up."

Mr. Stults "Well, well it was split or something that, because that's a sequencing number."

Mr. Ernst "The 01 is a parent parcel."

Mr. Stults "Yes. Go ahead John. If you're still ready to?"

Mr. Ernst "Alright, motion by Ernst. As Tom Matelski operating as Northern Processing obtained a special use permit for mining sand and gravel and parcel 042-033-300-005-03 under permit numbers SUP 2001-9-4-CH and PC-2003-09-CH-SUP and as this permit and all extensions have expired as of January 2009 and as commercial operations have continued through May 2010 and as this operation is in violation of the Otsego County Zoning Ordinance is moved that all enforcement actions, excuse me, it is moved that appropriate enforcement actions should commence as soon a practical."

Mr. Stults "Any questions on the motion that was made?"

Mr. Mang "The as soon as practical I think that leaves things really up in the air. Practical in whose eyes? I guess I would like to see something specific there, perhaps a date."

Mr. Ernst "I intentionally left that because I think that the, that decision will be made by this gentleman and the individual that he reports to."

Mr. Stults "Can we say than is determined by the Zoning administrator?"

Mr. Ernst "That's fine."

Mr. Stults "I'm just making a suggestion."

Mr. Ernst "As soon as found practical by the Zoning administrator."

Mr. Stults "Would that meet your concerns Mike?"

Mr. Mang "That's closer."

Mr. Ernst "Reasonable?"

Mr. Ferrigan "Sure."

Mr. Stults "Well that fits who determines it and I'm more comfortable with that type of definition and I appreciate your point Mike."

DRAFT

Mr.Mang "Yes, yes."

Mr. Stults "Any other…"

Mr. Ernst "Can we reread that?"

Mr. Stults "Well, just wait a second. Any other comments? Is there a second for it?"

Mr. Borton "I'll second it."

Mr. Stults "Ok, any commission discussion?" none "Any public comment?" none "Does that appear to be going in the right direction in your mind?"

Mr. Blumberg "Sure, and you know I guess the Zoning administrator can make a determination as to when to take what ever steps need to be taken, so I'm, makes sense I guess."

Mr. Stults "No further discussion?"

Mr. Mang "Can we just have this read over?"

Mr. Stults "Yes, I was going to have it reread before we vote. So please reread it."

Mr. Ernst "Again I think this is about our Ordinance, not about a simple dispute."

A motion by John Ernst:
Following review of Northern Processing LLC, Pit Restoration Plan the Otsego County Planning Commission finds the following additional information is required to be included in the plan before it can be accepted.
1. Turf restoration shall be per the recommendations of the Otsego Conservation District as stated in condition #3 of the November 2, 2001 permit approval. Please attach recommendations from Otsego Conservation District specific to this site restoration.
2. Date, name and signature of Mr. Matelski or an authorized member of Northern Processing LLC is required.
3. Reference to a "Timber Management Plan" does not appear to apply to this gravel pit and must be clarified.
4. Given that the permit is expired a date for completion of reclamation is required.
Support by: Mr. Mang
Voice vote was unanimous, motion carries

Mr. Stults "That still leaves the reclamation plan that was submitted for a determination of whether it is acceptable or not."

DRAFT

Mr. Ernst "Where are the, in our Ordinance where are the specifics regarding the reclamation plans?"

Mr. Ferrigan "That's the problem."

Mr. Stults "18.25.7 I believe John."

Mr. Ernst "And then is there anything in section, in when this was enacted, or when the permit was first granted, um, which would have been the 2002?"

Mr. Stults "I think it goes back long before that."
Mrs. Jarecki "I understand that somebody I talked to in the area that was familiar with it said that that gravel pit has been in existence for a long time. And he actually took, ya, he actually took it over from somebody else so that there's a long…"

Mr. Blumberg "It goes back till 91'.

Mr. Ernst "The question I have is under what ordinance was the permit granted?"

Mr. Stults "Well it would have been regranted under the 2004, the January 2004 was when the last permit was granted."

Mr. Ernst "Well that was when he got an extension. Of his, of, when was his, when was the basic permit issued? Not his extension, because it's when his permit was issued…"

Mr. Ferrigan "2001 was the first special use permit."

Mr. Stults "2001."

Mr. Ernst "Ok, anybody got a date?"

Mr. Blumberg "It was in January."

Mr. Stults "Ok, November 2nd 2001."

Mr. Ernst "Well I've got an ordinance here as of October 9th 2001."

Mr. Stults "Well I have the minutes of the Planning Commission held Friday November 2nd 2001 at 5:00pm. What a bunch of dedicated people to meeting at 5:00pm on a Friday. Um, in that motion by Carl Lord that Mr. Thomas Matelski, Northern Processing LLC. Be permitted to mine 4.99 acres more or less which is part of a 57 acre parcel more or less located on Winters and Pyke School Road, Corwith Township, parcel code 042-033-300-005-01 and zoned FR forest recreation pursuant to the provisions of article 18, section 18.25 of the Otsego County Zoning Ordinance. Approval of Mr. Mankowski's request shall be subject to the following conditions… All written documents and exhibits

DRAFT

shall be included and considered an intrical part of the motion. And article 18.25 and other referenced articles of the Otsego County Ordinance are complied with during the length of this permit. And rehabilitation and restoration shall follow the guidelines found in section 18.25.7 of the Otsego County Zoning Ordinance and the recommendations of the Otsego County Soil Conservation District. Permits shall be issued for a two year period. That the four corners of the site shall be staked to delineate the exact area to be mined. Mining operations on site shall be restricted to 8:00am to 5:00pm Monday through Friday and from 9:00am until noon on Saturdays no activities on Sunday. Crushing operations shall be restricted 8:00am till 5:00pm Monday through Friday. No stock piles or processing of off site resources is authorized accept sand, clay, peat gravel, and or any stones needed to create a County road mix. Transportation of resources to and from the site be restricted to 8:00am to 5:00pm Monday through Friday and from 9:00am until noon on Saturday with no activities on Sunday. The intent is to avoid school bus traffic in the AM and rush hour traffic along the haul route. Northern Processing LLC and local brokers will honor speed limits as absolute along the haul route in effect to promote public safety. That no mining operation of any type take place after this permit has expired without the express written consent of the Zoning administrator that the Otsego County Road Commission must grant approval for a planned entrance off Pyke School Road. If it materializes and per the Otsego County Zoning Ordinance, Northern Processing LLC shall file with the appropriate County officer a security deposit or irrevocable line of credit in the amount of $5000.00. Seconded it then ayes and nays and it did pass."

Ms. Nowak "I don't understand how he why or how he feels that he can still be there if everything legally has expired? I'm puzzled, what is he thinking?"

Mr. Stults "Well I don't think we are in a position to figure out what he's thinking. That's not our place."

Mr. Blumberg "Well I can tell you what he says. He claims that the written lease expired but that there was some verbal agreement that would allow him to stay there, which is contrary the law in regards to leases that have to be in writing if they're for more than a year. So, that's what he claims. A lease allows him to stay there."

Ms. Nowak "Ok."

Mr. Stults "Just on a, to complete that the motion was seconded, by Mark Stephens, ayes were acting Chairman James Maddox, Mark Stephens, Carl Lord, John Markovich, George McCutchens. Nays were Chuck Klee and Don Tober and the excused were Chairman Skip Derecks, John Ernst, Lee Olsen and Rick Nedow."

Ms. Nowak "What I'm thinking is if he thinks he can stay due to something, a verbal agreement with the land owner through a lease that is really not us anymore."

Mr. Ernst "It has nothing to do with us."

Ms, Nowak "No."

Mr. Ernst "He could have gotten permission from Mother Theresa in writing and it has no bearing on us."

Ms. Nowak "Exactly. We're really not in the picture…" SEVERAL PEOPLE TALKING AT ONCE

Mr. Blumberg "His right to be there he believes is through the lease. But his right to conduct that business is through the special use permit."

Mr. Ernst "Well and that's what we just addresses."
SEVERAL PEOPLE TALKING AT ONCE

Mr. Stults "Yes, we need to address the restoration plan."

Mr. Ernst "As soon as someone can show me what standards we have in our ordinance for a restoration plan I'd be happy to ?? it."

Mr. Stults " The conditions were approved on it. Item 3 pit rehabilitation or restoration shall follow the guidelines found in section 18.25.7 of the Otsego County Ordinance. And the recommendation of the Otsego County Soil Conservation District. And the standard is uh, one foot slope for every three feet."

Mr. Ernst "That's the standard for the rehabilitation? Where's the standard for the plan?"

Mr.Ferrigan "There's no standard."

Mr. Stults "There's no standard."

Mr. Ferrigan "That's the problem."

Mr. Ernst "So in the case of we have a for a site plan I mean once upon a time we had a type A and a type B site plan that said here's what the, here's specifically what's gotta be in there. Right now or I believe and I don't know if that was still in effect at the time that because the one I've got is from and was adopted October of 2001 and I don't remember when the type A and type B site plan requirements were eliminated."

Mr. Ferrigan "They weren't."

Mr. Ernst "What's that?

Mr. Ferrigan "They weren't."

Mr. Ernst "They weren't eliminated or they weren't in effect?"

DRAFT

Mr. Ferrigan "They were eliminated as far as I can tell in my reformatting of this thing, we ran into that what is this type A thing? So we did a bunch of research and there's, there's no record of any motion by the Planning Commission removing that language from the Zoning Ordinance. What happened as far as I can tell is when at some point during my predecessors regime or maybe it was prior to him, then legal council Elsemhimer, there was some action taken that rescinded the Zoning Ordinance then it was adopted again and that's when it disappeared . So it never really got looked over by the Planning Commission to say we don't want these 2 types, it just happened during that… Ya, because during my reformatting and reading it I'm like well it says type A, that implies to me that there's some other type of site plan. There's no other type outlined in here. You are correct there were very clear guidelines and uses that required a type A or a type B."
Mr. Ernst "This was a type A?"

Mr. Ferrigan "Oh, I'm sure it was."

Mr. Ernst "But the, so what we got is just for a site plan and we've got requirements for a site plan review article 20 if we're talking about what's the document supposed to look like I mean, this, the issue of what it's supposed to, what's supposed to ah, what are the requirements for reclamation? Ok we've got to have a one on three, alright; do we say it's a one on three? Do we have to have a drawing says it's a one on three? The only thing that gives us a description of that document is section 20 on site plan review. And that tells us how a document has to be formatted but I don't know of any other one do you?"

Mr. Stults "The reclamation plan though, in 18.25.7 doesn't say we need a site plan of the reclamation."

Mr. Ferrigan "Right."

Mr. Ernst "It doesn't say we need a reclamation plan. It says we need a plan for reclamation. We need to plan for success. You know I mean there's a difference in that than a…"

Mr. Stults "Is this an acceptable plan then for reclamation?"

Mr. Ferrigan "This is an exact copy of a plan that was approved by the Planning Commission for H&D. And he just took their logo off and put his name in right here. I mean it's been accepted in the past which is why he submitted it again which is why next month when you have Reith & Reilly and Phillip Mason your going to see that 2 more times."

Mr. Ernst "Is there anything wrong with what's been listed here? Is there something wrong with what they've described here as a process? Granted it's not shown pictorially."

Mr. Mang "I think that in view of the fact that we have such little guidance in our ordinance as to what the restoration plan should contain. It really contains basically the

one element that's in there and that has to do with the site. That's left. It also says that it must be done um, something with the…"

Mr. Ernst "Progressively."

Mr. Mang "Well progressively ya, which you know is moot now. But so it does say something here about this, indeed, it contains some additional information that isn't required by plan. For example, they say that they're going to put top soil 2 to 4 inches on this. They say that they are going to reclaim areas by seeding and planting red pine seedlings and stabilize with other acceptable forms of turf management so they added some additional stuff to this. They also say that it will be reclaimed in a manor that is harmonious with the surrounding terrain. So they've got some things here, um, in addition in the second paragraph they say that this will be accomplished by leaving it 50' minimum wide belt of natural existing vegetation. So they're saying that they're going to do this so ??? The second sentence in that paragraph is a bit confusing to me, it says according to our timber management agreement I don't think us, the Planning Commission has a timber management agreement with Northern Processing."

Mr. Ernst "H&D had a timber management program because they were in a, they were mining an area that has a commercial forest. So when they plagiarized this…"

Mr. Mang "Well I mean whatever the reason it's here it doesn't belong there. But they have indeed you know said some other things about there that they've been given the fact of the inability of the ordinance to speak to specifics and this actually is more specific than our ordinance is. Um, the two things I find a problem with this and I'm not sure that these have to be really spelled out in the ordinance is 1 it's not signed by anybody it's just there and I have a problem with that. Where does this come from? It's on some body's letterhead but there's no official signature um, on this document and it's not dated. It's not even the current date but, I would think it would be appropriate to affix a date by which this needs to happen. By leaving it open ended in terms of date I mean this isn't worth the paper it's printed on because, well we're going to do it next week, well we're going to do it next week, well next week never comes, So I guess that's my analysis of this document."

Mr. Ernst "Could we request clarification on a couple of things? One would be some clue about the form of acceptable form of turf, establishment. Please provide specific information on which one they intend to use. And the other would be, Please provide us with specific information on your timber management plan on your preexisting timber management plan if it impacts this restoration plan."

Mr. Mang "Well we know we don't have one from these people right? I mean why push the issue? I mean are we just trying to make them look silly? I wouldn't want to do that."

Mr. Ernst "Yes."

Mr. Mang "I mean it's irrelevant. I think maybe just strike it out."

SEVERAL PEOPLE TALKING AT ONCE

Mr. Ernst "It's not ours to strike out. They can."

Mr. Mang "Well yes"

Ms. Nowak "Isn't the rest of the property under some kind of a ???"

Mr. Blumberg "There is on the back part of the property there's a contract for raising apple trees, but that's outside the area of the gravel pit Francis."

Mr. Ernst "This was from a when, if in fact this is from the H&D pit application, they had a 120 acre parcel that was under a commercial.

Mr. Mang "commercial forested use."

Mr. Ernst "Is it? It's some, but they were under some legal requirements to deal with a timber only through selective cutting, and so when, when we started talking about screening, they said well you know we're under this constraints we will cut some trees but it will be under this established protocol. But that has nothing to do with Northern Processing. That was something that to do with just the site up at H&D."

Ms. Nowak "I thought that, excuse me, I thought that earlier we mentioned that we should have a restoration plan that at the time of the site plan, but, and completion date. But you can't have a completion date you don't know when a gravel pit is going to cease. So if you want to talk about standard."

Mr. Mang "But it ceased a year and a half ago."

Ms. Nowak "No I'm sorry I didn't mean this in particular, but I thought I heard the comment earlier that we need to require a restoration plan or reclamation plan when we, for the future."

Mr. Ernst "Right, the permits only for 5 years, so they can only mine gravel for 5 years. So the question would be, Is the, is the restoration supposed to be done within that 5 years period or should the ordinance be amended so that after the 5 year period ends they've got 180 days or a year to finish reclamation."

Ms. Nowak "To submit. Because all I want to point out is that we can't requires restoration plan at the beginning when you have a site plan as to what they're going to do because you don't know…"SEVERAL PEOPLE TALKING AT ONCE

Mr. Ernst "Yes you can."

DRAFT

Mr. Stults "I differ with that, because the ordinance says it shall be progressively restored."

Ms. Nowak "Yes."

Mr. Stults "Yes, so if they run out of gravel in an area during that permitted period they have to restore that right away. They can't wait till the 5 year period, so they need a plan on what they're going to do."

Ms. Nowak "All I was referring to was a completion date. They can't give you a completion date."

Mr. Stults "Well they've already…MS.NOWAK WAS TALKING OVER MR.STULTS…the completion, the completion date could be either the expiration of the mining permit 90 days after the expiration of the mining permit. I could be October 1st after the expiration of the mining permit, I mean there's…."

Ms. Nowak "Right, ok, ok…It has to come after the permits expired."

Mr. Stults "Not, it could be the date the permit expires, so that last..."

Ms. Nowak "Because they should be…"

Mr. Stults "90 days or 6 months however long it takes you don't mine you do your restoration."

Ms. Nowak "Right, I understand what your saying, all I meant was I know some of these things run 2 years and then they're done for what ever reason, the might go bankrupt or something, they're done, or they might run 8 years or 15 whatever because they keep renewing it. That's why I was looking at they really wouldn't know the end."

Mr. Stults "Well it may not be an exact date but it would be definable."

Ms. Nowak "Ya we could put that in there, when it actually expires every thing has to be done."

Mr. Ernst "Do we have anything in here that says what kind of a, how they're supposed to restore it or under some…?"

Mr. Stults "No, but we do have under the conditions um, let me find it here."

Mr. Mang "It's on permit itself."

Mr. Stults "One of the conditions that was imposed, was pit rehabilitation and restoration shall follow the guidelines found in 18.25.7 of the Otsego County Zoning Ordinance and the recommendations of the Otsego County Soil Conservation District. So you know we

DRAFT

can say we nee the recommendation from the Soil Conservation District. That we don't have."

TWO PEOPLE TALKING AT ONCE

Mr. Mang "…to work with those folks? Are we going to get that from them realistically?"

Mr. Stults "Sure. I think it's a revenue generating item for them. You want a recommendation from us we're gonna charge you for it. They need revenue just like every other governmental entity."

Mr. Ferrigan "I don't think they charge…"

Mr. Stults "No, but they certainly have that option."

Mr.Ferrigan "I think it would be reasonable to say that what Mr. Mang said, there needs to be a date, it needs to be signed, and maybe there needs to be some evidence on this that the Soil Conservation District looked at it, like they're signature or something that they actually reviewed it."

Mr. Stults "Or their recommendations."

Mr. Ferrigan "They had the recommendations, they being Northern Processing, have the guidelines from the Soil Conservation District."

Mr. Stults "Then that needs to be part of the plan because that was one of the conditions that was put on the Special Use Permit".

Mr. Mang "Randy, rather than asking them then what is the acceptable form you gonna use why don't we tell them you will use this acceptable form per what ever the Conservation District has said. And…"

Mr. Ferrigan "They won't design it, they will say as long as you meet this 3 to 1 sloping…the only recommendation they're gonna say is if he says I'm gonna use Kentucky Blue Grass, they're gonna say no we want you to use this."

Mr. Mang "So they're going to respond to a suggestion."

Mr. Ferrigan "Right."

Mr. Ernst "What does the section on the Soil Conservation, how's that stated? Subject to their review or…?"

Mr. Ferrigan " Recommendation."

DRAFT

Mr. Ernst "All guidelines of the, oh, all the recommendations should, ok so it shall be per the recommendations… Otsego County Soil Conservation District."

Mr. Mang "Actually the word County is not in their title John. It's just Otsego Soil…"

Mr. Ernst "Soil Conservation District."

Mr. Ferrigan "What's it say in the minutes though? See I think you should quote that and then actually refer to these minutes. As stated in item…"

Mr. Stults "As stated in the conditions…" SEVERAL PEOPLE TALKING AT ONCE

Mr. Ernst "In condition 3 of the November 2nd 2004 permit…approval…ok so, turf restoration, what was the other thing, date, and ah date name and signature."

Mr. Stults "Signature of an authorized member of the LLC."

Mr. Mang "Yes, I think you also need the date for completion. Not just the date when this plan was signed."

Mr. Stults "We're just gonna put the applicant, permit holder?"

Mr. Stults "Right, permit holder."

Mr. Mang "Yes, does he hold a permit anymore?"

Mr. Ernst "Good point."

Mr. Mang "Alright well then put down the LLC member, authorized member."

Mr. Ernst "Mr. Matelski or an authorized member of the LLC."

Mr. Stults "Or both because the permit was issued in both names wasn't it? At the motion there."

Mr. Ernst "Tom Matelski, Northern Processing LLC."

Mr. Stults "That would imply both names to me. Maybe it's…"

Mr. Ernst "Mr. Matelski or auth. I would say its one permit. It's one entity."

Mr. Ferrigan "While he's writing I'll rattle for a second, when I look at these things and we've inspected all of them. We'll be back again this inspecting em. There has to be some way like in this it says 4.99 acres give or take up 57 acres give or take, um, I have to come up with some way for myself or my inspector, to identify the area that they're permitted…"

DRAFT

Mr. Stults "Well if you read this condition…"

Mr. Ferrigan "…well I know that, it's but that's not taking place here."

Mr. Stults "Well when you go out to do your inspection and it's not there you hang your stop order then because they're not complying with the permit."

Mr. Ferrigan "It shouldn't be there at the time of the inspection. The area should be marked before the permits granted. So we know here's the marks. Now I talked to the guy who, are you done, I'll stop if your done, I talked to the guy who drew the site plan for Reith Reilly, and I asked him about longitude, latitude location on the site plan to identify the acreage so you could go out there with a GPS and say ok I'm right here they're inside that mark. He said well you know those are, you could do it that way if you wanted to but those aren't really accurate there could be 25 feet off. And I'm thinking well heck 25 feet's a lot closer that this whole, and granted I came into this 2 years ago, but its way more than 4.99 acres, far more than that. Now I have no idea to know where he started from or where he was supposed to end. I mean it's a huge hole. It's been there 16 years so it should be pretty big but you can see evidence of reclamation some reclamation in the areas were he'd mined before but it's a big hole."

Mr. Mang "Is there a, isn't there a site map which is required with the application? And can't that site map in delineate where his 5 acres are?"

Mr. Ferrigan "And that's what I'm saying, we need to just, in the future when we're talking about this stuff we need to be so clear on how it gets marked out."

Mr. Mang "And where we've been asked in the past is, it's been a map that it said 5 acres but we don't know where on the map that is."

Mr. Ferrigan "Correct. Now if we go out on ground it's not marked."

Mr. Mang "So not only on a map but also you want it staked?"

Mr. Ferrigan "Yes, something."

Mr. Mang "As in this is where we're gonna put the building in this is the stake out the building."

Mr. Ferrigan "Exactly."

Mr. Ernst "Someone needs to educate or get this process across to our members of the Board of Commissioners because what they hear as I'm ready to go I'm gonna put 5 guys to work Tuesday, and I'm being told that I can't start for 2 months because these idiots want me to put a plan, I know how to build a gravel pit I've been doing gravel for 20

years, my dad did it, my granddad did it, and my great granddaddy did it, I don't need no lines on paper to tell anybody and…"

Mr. Mang "And besides its good for the economy…"

Mr. Ernst "Ya, and I got 5 guys that are on the, their unemployment ran out last month and their kids are starving and whatever. And this guy gets a call, or I get the call, from a Commissioner that says listen you guys need to be, you guys need to use common sense and if… TWO PEOPLE TALKING AT ONCE…"

Mr. Borton "I don't think you'll find them 2 words in here."

Mr. Ernst "I know, but if our applicants all used common sense we wouldn't need that book."

Mr. Ferrigan "Your right."

Mr. Ernst "And that's the problem, that's what comes back. That's why the A and B site plan requirements is here, because they were causing political problems."

Mr. Mang "Oh, so it wasn't a…"

Mr. Ernst "That's my, that's my, I think there was a…"

Mr. Stults "And John when you refer to the Board of Commissioners, your paint brush is narrow enough to exclude Erma from that general stroke."

SEVERAL PEOPLE TALKING & LAUGHING AT THE SAME TIME

Mr. Ernst "Erma need to be reminded just like everybody else because, just like we do. It's not, it doesn't just go to them it goes to the people on this board. Because you get some guy coming in here and he's a really nice guy when he's an applicant, they all are, I've had very few, received very few people in the last whatever 16 years where they came in as an applicant and were a flamer."

Mr. Ferrigan "Here's my concern though. Let's say I am not the Zoning Administrator anymore, what's the next guy gonna do? We need to make this understandable so when your gone, and your gone, and your gone that the next persons follow the same thing. We're figuring it out right here but we're doing it at some ones expense. The next guy shouldn't have to go through what we're going through."

Mr. Stults "I think we all agree we've got issues with this section of the ordinance but let's deal with the reclamation plan and either accept it with conditions or reject it because of factual conditions."

DRAFT

Mr. Mang "I think we just, I think we accept it with a couple of these conditions we've..."TALKING TO LOW TO HEAR

Mr. Ernst "Actually, we'll assume under spell check..."

Mr. Blumberg "Actually one last thing and I promise I won't say anything beyond this."

Mr. Stults "Go right ahead."

Mr. Blumberg "If I were a member of the Commission I would be offended that an applicant cared so little, or thought so little of this process that they merely copied somebody else's reclamation plan and didn't even make the effort of making changes so it didn't appear that they had simply plagiarized somebody else's. I mean to me that that's just a real slap in the face. That's how I would take it. But take that for what it's worth. I just, that, that really shows a lack of effort."

Mr. Mang "Yes it does."

Mr.Ernst "I don't see a problem with coping a good idea, that's what science is based on."
Mr. Stults "Well I don't have a problem with coping a good idea, but I do see a problem is when you don't read it you have things in there that don't..."SEVERAL PEOPLE TALKING AT ONCE "...and that's were I want the opinion that we should reject the plan because it doesn't meet the things we've identified."

Mr. Ernst "And with that in mind Mr. Chairman, I have a motion for visit."

Mr. Stults "Go ahead sir."

Mr. Ernst "Motion by Ernst, following review of Northern Processing LLC pit restoration plan, the Planning Commission finds that the following additional information is required to be included in the plan before it can be accepted. 1 Turf restoration shall be per recommendations of the Otsego Soil Conservation District as stated in condition 3 of the November 2 2001 permit approval. 2 Date, name, and signature of Matelski, of Mr. Matelski or an authorized member of Northern Processing LLC is required."

Mr. Mang "I have a couple of things uh, they don't have the word soil in their name either anymore. It's just Otsego Conservation District. Um, I would also add that a, that the second sentence in the second paragraph be removed because it's not the pertinent. We do not have a timber management agreement with that. And um, I would also..."

Mr. Stults "I, can I interrupt on that Mike?"

Mr. Mang "Sure."

Mr. Stults "I think we should question that sentence but I don't think we should say it should be removed because there may be a timber management a, Northern Processing may have a timber management agreement that we don't know about."

Mr. Mang "With whom?"

Mr. Stults "Who knows? It could be with the property owner but that's…"TWO PEOPLE TALKING AT ONCE

Mr. Mang "…this our and this is getting into a lot of spec…"

Mr. Stults "It's from them so the our is Northern Processing."

Mr. Mang "Oh."
Mr. Ernst "Now can I put…" MULTIPLE PEOPLE TALKING AT ONCE "… No I had wanted to put in a ?? comment about the, you know , please give us details like your timber management plan and see what happened but, it was determined that that was inappropriate and unprofessional but, I thought it would just be fun."

SEVERAL PEOPLE TALKING AT ONCE

Mr. Mang "So what did you want to do…" LOUD COUGH

Mr. Stults "Well I have a problem saying remove it. We can ask about it and ask for detail on it, or ask for a copy of it but, to say remove it I don't think that's our fault. They may end up saying well we don't have one let's take it out and I could live with that"

Mr. Mang "Ok, that ok, so we'll just ask em…"

Mr. Klee "So John should ask about it."

Mr. Ernst "I'll be nice."

Mr. Mang "So your gonna ask about ??? and um…And then the other thing, I think we need a date for completion of this restoration on the ground. ???

Mr. Ferrigan "Does the ordinance give us the authority to ask?"

Mr. Mang "It's not in there. It's not in there. I'm digging for a time frame, it's not in there. Is that unreasonable though? To leave it open ended?"

Mr. Ferrigan "No, I don't think it's unreasonable. But I question whether we have the authority to tell them they have to do it. Because all they're required to do is what the ordinance tells them they have to do."

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Mr. Mang "Yes, but it seems to me that it's a" SEVERAL PEOPLE TALKING AT ONCE

Mr. Stults "...done in a reasonable time frame."

Mr. Ernst "What?"

Mr. Stults "It's within the intent of the ordinance."

Mr. Borton "Well I think it is, I mean why have them tell us what they're going to do anyhow if we're not giving them any time to finish the job? It's ridiculous."

Mr. Ferrigan "I agree. I agree there ought to be a start and there ought to be an end."

Mr. Stults "Right."
Mr. Borton "So as long as you don't put that last circuit breaker in the box you don't have to get a permit? Just say you haven't finished the job quite yet."

SEVERAL PEOPLE TALKING & LAUGHING AT ONCE

Mr. Mang "You know it's kind of like those signs that say free beer yesterday."

Mr. Ferrigan "That's right."

Mr. Mang "It goes on forever. And I haven't gotten a free beer yet."

SEVERAL PEOPLE TALKING & LAUGHING AT ONCE

Mr. Stults "When you're ready John."

Mr. Ernst "Ok. Start from the top or just..."

Mr. Stults "Start from the top."

Mr. Ernst "Ok, motion by Ernst. Second by whoever, following the review of Northern processing LLC pit restoration plan the Planning Commission find that the following additional information is required to be included in the plan, in the plan before it can be accepted. 1 Turf restoration shall be per recommendations of the Otsego Conservation District as stated in condition 3 of the November 2 2001 permit approval."

Mr. Ferrigan "Should we say please attach those recommendations? So then we have something from them?"

Mr. Mang "Yes. Absolutely."

DRAFT

Mr. Ernst "Attach recommendations, please attach recommendation from Otsego Conservation District specific to this site. Specific to this site restoration. Alright so turf restoration shall be per recommendations of Otsego Conservation District as stated in condition #3 of the November 2nd 2001 permit approval. Please attach recommendations from Otsego Conservation District specific to this site restoration. 2 Date, name, and signature of Mr. Matelski, or an authorized member of Northern Processing LLC is required. 3 Reference to a timber management plan does not appear to apply to this gravel pit and must be clarified. 4 Given that the permit is expired a date for completion of reclamation is required."

Mr. Mang "I think it's good. I'll second it."

Ms. Nowak "Would it be required or requested? Because required would mean we have to, we have to ???"

Mr. Ferrigan "We're done requesting. We should be done requesting, it should be required."

Mr. Stults "Yes."

Ms. Nowak "Oh, ok."

Mr. Stults "Um, Mr. Blumberg any comments on the motion?"

Mr. Blumberg "I think that's fine."

Mr. Stults "Ok thank you. Do we have second?"

Mr. Mang "I'll second."

A motion by John Ernst:
As Tom Matelski operating as Northern Processing obtained a Special Use Permit for Mining Sand & Gravel at parcel **042-033-300-005-03** under permit numbers **SUP2001-9-4-CH and PC-2003-09-CH-SUP**
And as this permit and all extensions have expired as of January 2009
And as the commercial operations have continued through May of 2010
And as this operation is in violation of the Otsego County Zoning Ordinance
It moved that appropriate enforcement actions should commence as soon as found practical by the Zoning Administrator.
Support by: Ken Borton
Voice vote was unanimous, motion carries

Mr. Stults "Ok, any discussion on the motion? Does anyone want it reread or are we ready to… ok all in favor of the motion say aye. All apposed say no.

DRAFT

Motion passes unanimously.

Mr. Stults "Ok, thank you for your diligence in working through this complicated issue. Thank you Mr. Blumberg. We try not to make things this hard."

11) New Business
Review the following Zoning ordinance sections.

1) Note "G" Article 14
Mr. Stults suggested making a plan as to how the Commission wants to address these and what direction to take in moving forward with them to do the review.

Mr. Ferrigan suggested reading over the letter of clarification from John Burt.

Mr. Stults read the letter from John Burt. (Attached)

There were several discussions among Commission members as to why Note "G" Section should be kept in the ordinance.

Memo to Otsego County Board of Commissioners
Re: Note G from section 14

Note "G" refers to the Planning Commissions ability to grant approval for a structure's height to be increased by 50% over what is normally allowed. The language being discussed refers to "light, air. And or scenic view of adjoining property is not impaired"

- "Light & Air" is language taken directly from the Zoning Enabling Act. See sec. 203 (i) of MCL. 125.3101
- Granting discretionary approval for a 50% increase in height where it would encroach on scenic views of adjoining properties seems to be a good way to get Otsego County sued.

We therefore believe that the current language is appropriate.

There were multiple discussions among Commission members.

Mr. Stults asked the Commission if they wanted the time restriction of 2 hours to be enforced or if they wanted to continue.
The consensus was to keep going.

1) 18.382.1 review changing message time limitation & the size of message signs

There were multiple discussions among the Commission members.

The Commission members wrote a memo to the County Board of Commissioners on their request to review this section of the ordinance.

Memo to Otsego County Board of Commissioners
Re: 18.38.2.1 changing message signs
The timing and size of changing message signs were specific items that were discussed by the Planning Commission following significant research and soliciting comments from each of the Townships.
The sixty second timing and the size was based on this input and was felt by the Planning Commission to be a reasonable compromise of the various timings and sizes recommended. While there is no unanimous agreement on these or any other set of parameters.
Before recommending changes we should point out that of the recommendation from the Townships that sixty seconds was the most frequent rate of change suggested.

2) 18.38.2.5 & 18.38.2.6 Vehicle and banner signs

Mr. Ferrigan suggested that the sign ordinance needs to be taken out of the Zoning ordinance and make it a completely separate ordinance.

There were multiple discussions among the Commission members.

Memo to Otsego County Board of Commissioners
Re: 18.38.2.1, 18.38.2.5, 18.38.2.6
Per your letter to us, the Planning commission discussed the size of changing message signs at our May 17, 2010 meeting. We agree with the county Board of Commissioners that the size of all signs, not just changing message signs needs a thorough review. Furthermore, there are other aspects about signs that the Planning Commission feels are

important to review. To even look at the size of signs as a standalone issue would represent a piece meal approach to this important topic other pressing issues include the handling of temporary signs, banner and vehicle signs, as the Board of Commissioners has also requested us to review.
The Planning Commission is looking forward to recommendation from the Gaylord Area Cooperative Planning Committee which is currently undertaking a review of our sign language.
(The Cooperative Planning Committee has been working towards making the sign ordinance more harmonious along the borders of the City and the surrounding Townships.)

We feel that one major item to consider is moving the sign language out of the Zoning Ordinance and establish it as a stand- alone ordinance. This is very common in other communities and would make for more efficient and useful administration of signs within Otsego County. We look forward to your support in this effort.

There were multiple discussions among the Commission members.

Mr. Ferrigan gave an update on what's expected to be on the next month's agenda for Planning Commission & Zoning Board of Appeals.

3) 18.29.2 pets and other animals (the removal of the 10 acre exemption)

There were multiple discussions among the Commission members.

The Commission members requested that Joe Ferrigan write a memo to the County Board of Commissioners on their request to review this section of the ordinance.

Memo to Otsego County Board of Commissioners
Re: 18.29.2 pets and other animals
Based upon recommendation from the Otsego County Zoning Board of Appeals from their September 30, 2008 meeting and guidance from the Otsego County Zoning Administrator the language "or any property encompassing ten (10) acres or more" was removed.
We discussed this change at the Planning Commission meeting held 5-17-2010 with the Zoning Administrator and according to Joe Ferrigan the removal of this language has totally eliminated the problem we were having with complaints based upon people bringing farm animals into residential areas. Mr. Ferrigan has stated that Land Use Services has an application process in place that an applicant can very easily complete and they are given all of the required information for the keeping of farm animals. Mr. Ferrigan also indicated that Land Use Services has not refused any person the right to

DRAFT

have farm animals when the applicant is in compliance with the requirements of the Otsego County Zoning Ordinance.
Therefore we feel this was a good amendment to the Otsego County Zoning Ordinance and corrected an issue we were having with enforcement.

12) Reports and Commission Member comments.

Mr. Stults asked if there are any comments.

Mr. Ernst announced that he is resigning from the Planning Commission and he has already told the Township and he will be notifying the County Board soon. He would like to still be involved at times by possibly sitting on a committee and there are a couple of thing he would like to see through that he's been working on for a long time.

He will be missed.

Mr. Stults sent Joe Ferrigan an email to try to monitor the zoning act regarding fireworks.

Meeting adjourned 8:03pm.

DRAFT

Exhibit list
Case #SPR10-001
June 21, 2010

1. Application

2. Receipt for payment

3. Site Plan

4. Letter from Zoning Administrator

5. Public Hearing Notice

6. Map and list of properties notified

General Finding of fact
Case # SPR10-001
LC Redi-Mix Elmira Township
8715 Parmater Rd.

1. The Planning Commission finds that the Application has been filed and the required fee have been paid as required by Article 16 of the Otsego county Zoning Ordinance. Ex. #1 & #2
2. The Planning Commission finds that the Applicant's name, address and telephone are contained on the application as required in Article 16 of the Otsego County Zoning Ordinance. Ex. #1
3. The planning Commission finds that the legal description, address and taxes identification of the proposed site are included as required by Article 16 of the Otsego County Zoning Ordinance. Ex. #3
4. The planning Commission finds that a signed statement that the applicant is the owner of the proposed site, or is acting as the owners representative. As required by Article 16 of the Otsego County Zoning Ordinance. Ex. #1
5. The Planning Commission finds that a site plan meeting all of the requirements of Section 20.2 has been submitted as required by Article 16 of the Otsego County Zoning Ordinance. Ex. #3
6. The Planning Commission finds that a written detailed description of the proposed Special Land Use has been included as required by Article 16 of the Otsego County Zoning Ordinance. Ex. #1
7. The Planning Commission finds that the Zoning Administrator has reviewed the application and information as required under section 16.4 of the Otsego County Zoning Ordinance. Ex. #4
8. The Planning Commission finds that the requirements of Article 24 have been met. Ex. #4
9. The Planning Commission finds that the Public Hearing Requirements of section 16.5 of the Otsego County Zoning ordinance have been met. Ex. #5
10. The Planning Commission finds that all persons within 300' of the subject property were notified of the Special Use Permit request as required by the Otsego County Zoning Ordinance. Ex. #6

Finding of fact
Planning commission case
SPR 10-001

1. The property subject to the application is located in a zoning district in which the proposed special land use is allowed.

   The parcel is located in a B-3 zoning district, According to section 12.2 of the Otsego County Zoning Ordinance 12.2.4 lists Concrete and asphalt manufacturing and distribution as a use subject to special conditions

2. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.

   The Planning Commission finds that the proposed Concrete plant will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.

3. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

   The Planning Commission finds that the proposed Concrete plant will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

4. The proposed special land used will be designed, constructed, operated, and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.

   The Planning Commission finds that the proposed special land used will be designed, constructed, operated, and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.

5. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

   The Planning Commission finds that the proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

6. The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

   The Planning Commission finds the proposed special land use will be adequately served by private streets, water and sewer facilities, and refuse collection and disposal services.

7. If the proposed special land use includes more than 15,000 square feet of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity no rate of discharge leaving the property based on 25-year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system.

   The Planning Commission finds that the proposed Concrete plant demonstrated through the site plan submitted, that a storm water management system will be employed that will preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible.

8. The proposed special land use complies with all specific standards required under this Ordinance applicable to it.

   The Planning Commission finds that the proposed special land use complies with all specific standards required under the Otsego County Zoning Ordinance.

In accordance with Section 16.8 of the Otsego County Zoning Ordinance, the Planning Commission places the following conditions on Special Use Permit request SPR10-001

1.

2.

3.

4.

5.

6.

A motion by _____ to approve special use permit SPR10-001 as presented along with the_____ conditions placed upon it by the Otsego County Planning Commission at the June 21, 2010 meeting.

Support by:_____

Exhibit #1

Application for Site Plan Review

OTSEGO COUNTY
Planning & Zoning
1068 Cross Street
Gaylord, MI 49735
989-731-7420 *Fax 989-731-7429

Applicant:

Name L C Redi-Mix Owner/Agent/Other Interest (circle one)
Address 328 S Morey Rd, McBain, MI 49657
Phone 231-943-4818 Fax

Property Owner: (if different from applicant)

Name Holcim Inc
Address 201 Jones Rd, Waltham, MA 02451-1605
Phone Fax

Property Location:

Township Holcim Inc T 31 N R 4 W Section 19 Zoning District Business & Light Manufacturing
Address 8715 Parmater Rd, Elmira, MI Parcel Code 060-019-200-005-00
8649 Parmater Rd, Elmira, MI 060-019-200-005-01

Description of Project and Proposed Use:

Erect concrete readi-mix batch plant with main silo and 2 auxiliary silos. Remodel existing 1200 sq ft residence into office. Construct accessible parking and sidewalks to serve customers. Normal business hours 7:00 am to 5:00 pm

Josh Hilelo 4-7-10
Signature of Applicant Date

** All information received by this department is subject to the Freedom of Information Act. Under this Act, persons are allowed to request copies of said information. This includes, but not limited to, all copyrighted drawings/blueprints.*

Office Use Only

File No: Soil Erosion Permit No. Fee

Date Application Received Application Received By

Conditions

OTSEGO COUNTY
LAND USE SERVICES DEPARTMENT
1068 CROSS STREET
GAYLORD MICHIGAN 49735
989-731-7420 * FAX 989-732-7429

The following items are required on all site plans before they can be submitted for review to the various approving entities.

1. The applicant's name, address, and phone number in full.
   Yes X No___ Na___ if "Na" explain___
2. Proof of property ownership, and whether there are any options on the property, or any liens against it.
   Yes X No___ No___ If "Na" explain___
3. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
   Yes X No___ Na___ If "Na" explain___
4. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).
   Yes X No___ Na___ If "Na" explain___
5. The address and or parcel number of the property.
   Yes X No___ Na___ If "Na" explain___
6. Name and address of the developer (if different from the applicant).
   Yes X No___ Na___ If "Na" explain___
7. Name and address of the engineer, architect and/or land surveyor.
   Yes X No___ Na___ If "Na" explain___
8. Project title.
   Yes X No___ Na___ If "Na" explain___
9. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the ordinance.
   Yes X No___ Na___ If "Na" explain___
10. A vicinity map drawn at a scale of 1"=2000' with north point indicated.
    Yes X No___ Na___ If "Na" explain___
11. The gross and net acreage of all parcels in the project.
    Yes X No___ Na___ If "Na" explain___
12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.
    Yes X No___ Na___ If "Na" explain___
13. Project completion schedule/development phases.
    Yes X No___ Na___ If "Na" explain___

OTSEGO COUNTY
LAND USE SERVICES DEPARTMENT
1068 CROSS STREET
GAYLORD MICHIGAN 49735
989-731-7420 * FAX 989-732-7429

14. The site plan shall consist of an accurate, reproducible drawing at a scale of 1"= 50 or fewer feet or less for sites of less than 3 acres and 1"= 100 or fewer feet or less if the site is larger than 3 acres. The site plan shall show the site and all land within fifty (50) feet of the site. If multiple sheets are used, each shall be labeled and the preparer identified. All site plans shall be sealed by a professional engineer, surveyor, architect or landscape architect and each site plan shall depict the following:

Yes X No___ Na___ if "Na" explain___

15. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines, monument locations, and shoreland and natural river district, if any.

Yes X No___ Na___ If "Na" explain___

16. Existing topographic elevations and proposed grades in sufficient detail to determine direction of drainage flows.

Yes X No___ Na___ If "Na" explain___

17. The type of existing soils at proposed storm water detention and retention basins and/or other areas of concern. Boring logs may be required if necessary to determine site suitability.

Yes X No___ Na___ if "Na" explain___

18. Location and type of significant existing vegetation.

Yes X No___ Na___ if "Na" explain___

19. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, flood plains and wetlands within fifty (50) feet of the parcel.

Yes___ No___ Na X if "Na" explain None in project area

20. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building and typical elevation views of proposed structures.

Yes X No___ Na___ if "Na" explain___

21. Proposed location of accessory structures, buildings and uses, including all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.

Yes X No___ Na___ if "Na" explain___

22. Location of existing public roads, rights-of-way and private easements of record and abutting streets. Notation of existing traffic counts and trip generation estimates may be required if deemed appropriate by the Zoning Administrator or Planning Commission.

Yes X No___ Na___ if "Na" explain___

OTSEGO COUNTY
LAND USE SERVICES DEPARTMENT
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23. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations shall be separately depicted with an elevation view.

Yes X No___ Na___ If "Na" explain_____

24. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), and fire lanes.

Yes X No___ Na___ if "Na" explain_____

25. Location, size, and characteristics of all loading and unloading areas.

Yes X No___ Na___ if "Na" explain_____

26. Location and design of all sidewalks, walkways, bicycle paths and areas for public use.

Yes X No___ Na___ if "Na" explain_____

27. Location of water supply lines and/or wells, including fire hydrants and shut off valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems if applicable.

Yes X No___ Na___ if "Na" explain_____

28. Location of all other utilities on the site including natural gas, electric, cable TV, telephone and steam.

Yes X No___ Na___ if "Na" explain_____

29. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.

Yes___ No___ Na X if "Na" explain None provided

30. Location, size and specifications of all signs and advertising features with elevation views from front and side.

Yes___ No___ Na X if "Na" explain None provided

31. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.

Yes X No___ Na___ if "Na" explain_____

32. Location and specifications for all fences, walls, and other screening features with elevation views from front and side.

Yes___ No___ Na X if "Na" explain None required

OTSEGO COUNTY
LAND USE SERVICES DEPARTMENT
1068 CROSS STREET
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33. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.

Yes___ No___ Na X if "Na" explain None required

34. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.

Yes X No___ Na___ if "Na" explain

35. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.

Yes___ No___ Na X if "Na" explain None provided

36 Identification of any significant site amenities or unique natural features.

Yes___ No___ Na X if "Na" explain None provided

37. Identification of any significant views onto or from the site to or from adjoining areas.

Yes___ No___ Na X if "Na" explain None required

38. North arrow, scale and date of original submittal and last revision.

Yes X No___ Na___ if "Na" explain

39. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the site plan.

Yes X No___ Na___ if "Na" explain

40. Paid appropriate fees to Otsego County.

Yes X No___ Na___ if "Na" explain

OTSEGO COUNTY
LAND USE SERVICES DEPARTMENT

1068 CROSS STREET
GAYLORD MICHIGAN 49735
989-731-7420 * FAX 989-732-7429

All site plans shall be sealed by a professional engineer, surveyor, architect or landscape architect. In the immediate area of the seal there shall also be the following statement, signed by the professional sealing the plans:

I do hereby certify that these plans have been prepared under my sustained review and, to the best of my professional knowledge, understanding and information, the design of this project is in compliance with the Otsego County Zoning Ordinance dated _____.

or

I do hereby certify that these plans have been prepared under my sustained review and, to the best of my professional knowledge, understanding and information, the design of this project is in compliance with the Otsego County Zoning Ordinance dated _____, except for the following items: (list known variations from the ordinance)

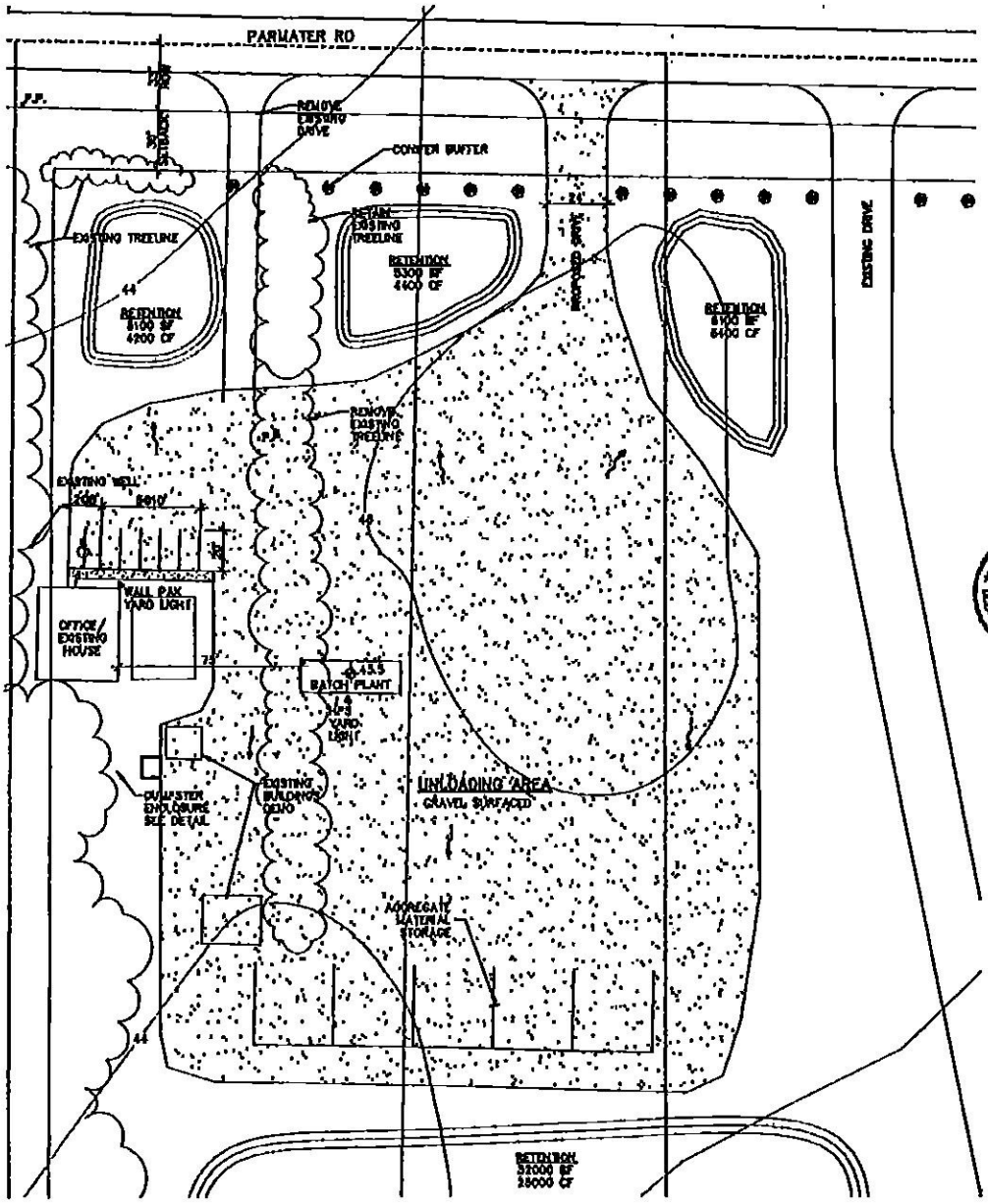
_____

File No:_____ Soil Erosion Permit No._____ Fee_____

Date Application Received:_____ Application Received By_____

Approved_____ Not Approved_____ By_____

Conditions:_____



1 SITE PLAN DETAIL
SCALE: 1"= 40'

Applicant/ Developer:	LC Redi-Mix 328 S Morey Rd Mollain, MI 49857	
Property Owner:	Helsim Inc 201 Jones Rd Waltham, MA 02451-1005	
Parcel ID:	060-019-200-005-00	
Parcel Address:	8715 Parmater Rd Elmira, MI 49730	
Parcel Area:	10 Acres M/L	
Parcel Zoning:	Business & Light Manufacturing	
	060-019-200-005-01 8649 Parmater Rd Elmira, MI 49730 28.9 Acres M/L Business & Light Manufacturing	
Parcel Description:	Part Sec 19 T31N R4W commencing at N ¼ corner thence N88°46'04"W 641 FT along line to POB, thence S00°12'54"W 660 FT, thence W 660 FT, thence N00°12'54"E 6600 FT, thence E 6600 FT to POB	
Project Description:	Construct concrete redi-mix batch plant with on-site aggregate material storage. Convert existing residential structure to office space.	
Project Schedule:	Project completion: June 2011	

Adjacent Properties	Parcel Code	Parcel Zoning	Structures
	060-019-200-018-00	Forest Recreation	no
	060-019-200-020-03	Forest Recreation	no
	061-100-000-144-00	Business Light Manufacturing	no
	060-019-200-025-00	Forest Recreation	no
	060-019-200-010-00	Forest Recreation	Residencial
	060-019-400-030-00	Forest Recreation	no
	060-019-300-005-02	Agricultural	no
	060-019-300-005-01	Agricultural	Residencial
	060-019-300-010-01	Forest Recreation	no

Soil type: Sand, SW, SP, SM, SC

Gravel Surfaced area: 110,000 sf

Proposed Storm Water Retention:

Proposed Concrete: 1000 sf (0.85)
Proposed Gravel: 110,000 sf (0.85)
24 Hr 25 Yr Rainfall: 3.99in
Required Volume, V (1000sf X 3.89/12 X 0.95) + (110000 sf X 3.89/12 X 0.85) = (308 sf + 33,900 sf) = 34,200 cf
Retention Volume Provided: (4200 + 4400 + 5400 + 25000) = 39,000 cf

I do hereby certify that these plans have been prepared under my sustained review and, to the best of my professional knowledge, understanding and information, the design of this project is in compliance with the Otsego County Zoning Ordinance dated 2003-2 updated Feb, 2007.

Project:
LC Redi-Mix Elmira Batch Plant
Paramater Rd
Elmira, MI

ISSUE/REVISE
REVIEW 05/23/2010
REVISED 3/30/2010
REVISED 04/08/2010
REVISED 04/19/2010

pressell engineering design
8995 W. Kelly Rd.
Lake City, MI 49651
231.839.3969

PROJECT NO.
1005

SHEET TITLE
SITE PLAN
SITE PLAN DETAIL
NOTES

C1.0
SHEET NUMBER

Exhibit #1

Application for Site Plan Review

OTSEGO COUNTY
Planning & Zoning
1068 Cross Street
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Phone 231-943-4818 Fax

Property Owner: (if different from applicant)

Name Holcim Inc
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Phone Fax

Property Location:

Township Holcim Inc T 31 NR 4 W Section 19 Zoning District Business & Light Manufacturing
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Josh Hilals 4-7-10
Signature of Applicant Date

** All information received by this department is subject to the Freedom of Information Act. Under this Act, persons are allowed to request copies of said information. This includes, but not limited to, all copyrighted drawings/blueprints.*

Office Use Only

File No: _____ Soil Erosion Permit No. _____ Fee _____

Date Application Received _____ Application Received By _____

Conditions _____

OTSEGO COUNTY
LAND USE SERVICES DEPARTMENT

1068 CROSS STREET
GAYLORD MICHIGAN 49735
989-731-7420 * FAX 989-732-7429

The following items are required on all site plans before they can be submitted for review to the various approving entities.

1. The applicant's name, address, and phone number in full.
   Yes X No___ Na___ if "Na" explain___
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12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.
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OTSEGO COUNTY
LAND USE SERVICES DEPARTMENT
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17. The type of existing soils at proposed storm water detention and retention basins and/or other areas of concern. Boring logs may be required if necessary to determine site suitability.

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19. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, flood plains and wetlands within fifty (50) feet of the parcel.

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OTSEGO COUNTY
LAND USE SERVICES DEPARTMENT
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25. Location, size, and characteristics of all loading and unloading areas.

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Yes___ No___ Na X if "Na" explain None required

OTSEGO COUNTY
LAND USE SERVICES DEPARTMENT
1068 CROSS STREET
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Yes X No___ Na___ if "Na" explain___

35. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.

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Yes___ No___ Na X if "Na" explain None provided

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Yes X No___ Na___ if "Na" explain___

40. Paid appropriate fees to Otsego County.

Yes X No___ Na___ if "Na" explain___

OTSEGO COUNTY
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or

I do hereby certify that these plans have been prepared under my sustained review and, to the best of my professional knowledge, understanding and information, the design of this project is in compliance with the Otsego County Zoning Ordinance dated _____, except for the following items: (list known variations from the ordinance)

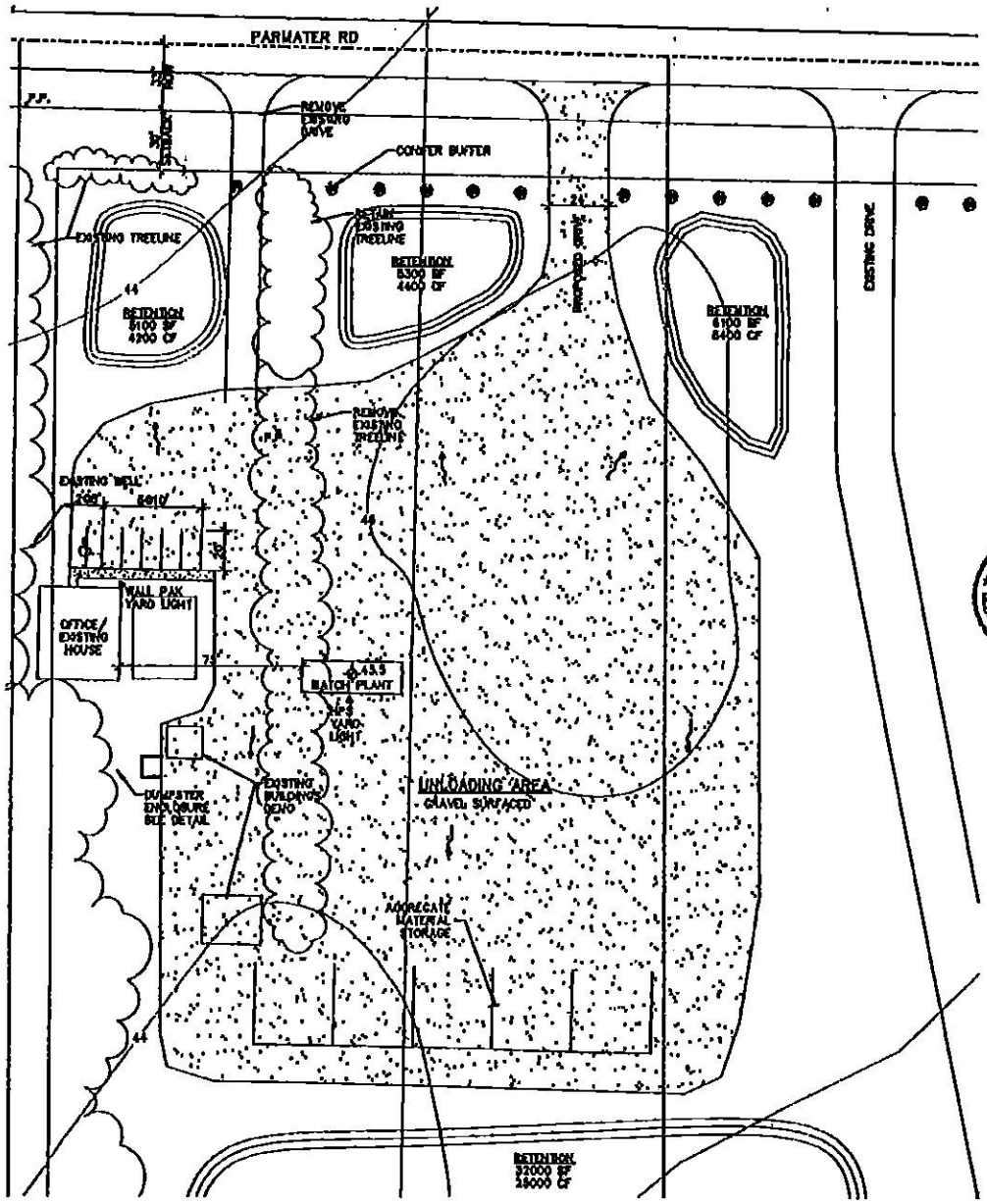
_____

File No:_____ Soil Erosion Permit No._____ Fee_____

Date Application Received:_____Application Received By_____

Approved_____ Not Approved_____By_____

Conditions:_____



1 SITE PLAN DETAIL
SCALED 1" = 40'

Applicant/ Developer	LC Redi-Mix 328 S Morey Rd Mollett, MI 49857
Property Owner	Holden Inc 201 Jones Rd Waltham, MA 02451-1505
Parcel ID:	060-019-200-005-00
Parcel Address:	6715 Parmater Rd Elmira, MI 49730
Parcel Area:	10 Acres M/L
Parcel Zoning:	Business & Light Manufacturing
	060-019-200-005-01 6649 Parmater Rd Elmira, MI 49730 28.9 Acres M/L Business & Light Manufacturing
Parcel Description:	Part Sec 19 T31N R4W commencing at N ¼ corner thence N88°46'04"W 641 FT along the to POB, thence S00°12'54"W 660 FT, thence W 660 FT, thence N00°12'54"E 660 FT, thence E 660 FT to POB
Project Description:	Construct concrete redi-mix batch plant with on-site aggregate material storage. Convert existing residential structure to office space.
Project Schedule:	Project completion: June 2011

Adjacent Properties	Parcel Code	Parcel Zoning	Structures
	060-019-200-018-00	Forest Recreation	no
	060-019-200-020-03	Forest Recreation	no
	061-100-000-144-00	Business Light Manufacturing	no
	060-019-200-025-00	Forest Recreation	no
	060-019-200-019-00	Forest Recreation	Residencial
	060-019-400-030-00	Forest Recreation	no
	060-019-300-008-02	Agricultural	no
	060-019-300-008-01	Agricultural	Residencial
	060-019-300-010-01	Forest Recreation	no

Soil type: Sand, SW, SP, SM, SC

Gravel Surfaced area: 110,000 sf

Proposed Storm Water Retention:

Proposed Concrete: 1000 sf (0.85)
Proposed Gravel: 110,000 sf (0.85)
24 Hr 25 Yr Rainfall: 3.89in
Required Volume, V (1000sf X 3.89/12 X 0.95) + (110000 sf X 3.89/12 X 0.85)
= (308 sf + 33,900 sf) = 34,200 cf
Retention Volume Provided: (4200 + 4400 + 8400 + 25000) = 39,000 cf

I do hereby certify that these plans have been prepared under my direction review and, to the best of my professional knowledge, understanding and information, the design of this project is in compliance with the Otsego County Zoning Ordinance dated 2003-2 updated Feb, 2007.

STATE OF MICHIGAN
MARCIA PRESSEL
ENGINEER
No. 42[illegible]

Project:
LC Redi-Mix Elmira Batch Plant
Parmater Rd
Elmira, MI

ISSUE/REVISE
REVISED 03/29/2010
REVISED 3/30/2010
REVISED 04/08/2010
REVISED 04/14/2010

pressell engineering design
6095 W. Kelly Rd.
Lake City, MI 49651
231.839.3060

PROJECT No.
1005

SHEET TITLE
SITE PLAN
SITE PLAN DETAIL
NOTES

C1.0
SHEET NUMBER

Exhibit #2

RECEIPT NUMBER
00063855

OTSEGO COUNTY BUILDING DEPARTMENT

1066 CROSS STREET
GAYLORD, MI 49735
(989) 731 7400 FAX (989) 731 7419
JOSEPH S FERRIGAN, BUILDING OFFICIAL

Paid By

HOLCIM, INC
201 JONES RD
WALTHAM, MA. 02451-1605

HOLCIM, INC
8715 PARMATER RD
060-019-200-005-00

HOLCIM, INC

04/08/2010

Type	Record	Code	Category	Description	Amount
Permit	PSPR10-001	S	PLAN REVIEW	Special Use Permit, Planning Commission	$700.00

Total	$700.00
Cash Check # 90288 Credit Type Transferred	$700.00
Tendered	$700.00
Change	$0.00
To Overpayment	$0.00

90288

LAKE CITY REDI-MIX INC.
P.O. BOX 333
LAKE CITY, MI 49651

FIFTH THIRD BANK
TRAVERSE CITY, MICHIGAN
74-140/724

DATE	AMOUNT
04-07-10	$700.00

PAY Seven Hundred 00/100.....

TO THE ORDER OF
Otsego County Land USe Services
1068 Cross Street
Gaylord MI. 49735

Phillip C. Gleason

SECURITY FEATURES INCLUDED DETAILS ON BACK.

⑈090288⑈ ⑆072403404⑆ 7510473155⑈

Exhibit #4

Otsego County
Land Use Services department

1068 Cross Street
Gaylord, Michigan 49735
989-731-7420 *Fax 989-731-7429

6-4-2010

To:
Otsego County Planning Commission

Please accept this letter as confirmation that in accordance with section 16.4 of the Otsego County Zoning Ordinance I have reviewed SPR10-001. I am now forwarding it to you for your review.

Also in accordance with Article 24 of the Otsego County Zoning Ordinance. I have forwarded the application to the Township in which the Porpoerty is located for their review and input.

Joe Ferrigan
Director Otsego County Land Use Services

Exhibit #4

Otsego County
Land Use Services department

1068 Cross Street
Gaylord, Michigan 49735
989-731-7420 *Fax 989-731-7429

4-16-2010

Elmira Township Supervisor

Pursuant to Article of the Otsego County Zoning Ordinance. I am forwarding this request for Site Plan review to you for your review. Please review the attached documents and submit your findings in writing to Otsego County Land Use Services.

I also ask if you require the Applicant to attend your meeting that you would please notify them of that requirement.

If you require any further clairification on this matter please do not hesitate to contact me.

Joe Ferrigan

Joe Ferrigan
Director Otsego County Land Use Services
Direct phone (989) 731-7423

Diane Franckowiak,
Supervisor
P.O. Box 117
Elmira, MI 49730
231-546-3241

Susan Shaedig, Clerk
7252 Alba Road
Gaylord, MI 49735
989-732-2920

Township of Elmira

Leonard Skop, Trustee • Theresa Plachta, Trustee

Diane Purgiel, Treasurer
1404 N. Townline Road
Gaylord, MI 49735
989-732-4560
989-732-9702 Fax

D & D Assessing
831 Knollwood Lane
Gaylord, MI 49735
989-732-1099

Joe Ferrigan
Otsego County Land Use Services
1068 Cross Street
Gaylord, Michigan 49735

REF: SPR 10-001

5-14-2010

At a regular meeting of the Elmira Township Board held on May 13, 2010 Josh Gilde of Lake City Redi-Mix presented a site plan to erect a concrete readi-mix batch plant with main silo and 2 auxiliary silos on their property located at 8715 Parmater Rd; Elmira, MI 49730. Remodel existing 1200 sq ft residence into office. Construct accessible parking and sidewalks to serve customers. Normal business hours will be from 7:00 a.m. to 5:00 p.m., April through October.

The Elmira Township Planning Commission recommended to the Elmira Township Board at their meeting held on April 27, 2010 that the request be approved with conditions.

Motion made by Diane Purgiel and seconded by Leonard Skop to recommend to the Otsego County Planning Commission that the L C Redi-Mix request, reference number SPR 10-001, be approved with the following conditions:

To mitigate concerns of wind blown dust, the applicant shall plant Red Pine or Jack Pine (trees) along the south side of the south retention pond to act as a wind screen. Trees shall be a minimum of 18-24 inches tall at a spacing of one (1) tree every 12 feet in two(2) alternating rows.

Regarding the dumpster enclosure, the applicant may provide dumpster screenings compliant with the Otsego County Zoning Ordinance at the time of construction.

Waste concrete shall not be stored on site in a volume greater than 150 cubic yards.

Sincerely,

Susan Schaedig

Susan Schaedig, Clerk

Exhibit #5

OTSEGO COUNTY
PLANNING COMMISSION

PUBLIC HEARING NOTICE
June 21, 2010

The Otsego County Planning Commission will hold a public hearing on Monday; June 21, 2010 at 6:00pm in the Multi-Purpose Room of the J. Richard Yuill, Alpine Center, 800 Livingston Blvd; Gaylord, Michigan.

The purpose of the public hearing will be to obtain citizen comment on the following:

A request to construct a Redi-mix plant with one main silo and two auxiliary silos, remodel existing 1200sf residence into office; construct parking and sidewalks to serve customers. Proposed operating hours will be 7:00am to 5:00pm. The proposed site is located at 8715 Parmater Road.

All citizens are welcome to attend the meeting or provide written comment. If written comments are provided the comments must be received at the Otsego County Land Use Services Office by noon the day of the meeting.

Any citizen who has questions regarding this application or who need assistance to attend this meeting should contact the Director of Land Use Services at (989) 731-7420

110-500-000

Exhibit list
Case #V100003
June 21, 2010

1. Application

2. Receipt for payment

3. Site Plan (big)

4. Letter from Zoning Administrator dated 6-4-10 & letter sent to Township dated 4-23-10 & Township response dated 5-5-10.

5. Public Hearing Notice

6. Inspection record from 10-14-2009 site inspection

7. List of properties notified

8. Property card from Otsego County Equalization

General Finding of fact
Case # V100003
Top-O' Michigan Reclaimers, Bagley Township
3065 Dixon Lake Rd.

1. The Planning Commission finds that the Application has been filed and the required fee have been paid as required by Article 16 of the Otsego county Zoning Ordinance. Ex. #1 & #2
2. The Planning Commission finds that the Applicant's name, address and telephone are contained on the application as required in Article 16 of the Otsego County Zoning Ordinance. Ex. #1
3. The planning Commission finds that the legal description, address and taxes identification of the proposed site are included as required by Article 16 of the Otsego County Zoning Ordinance. Ex. #8
4. The planning Commission finds that a signed statement that the applicant is the owner of the proposed site, or is acting as the owners representative. As required by Article 16 of the Otsego County Zoning Ordinance. Ex. #1
5. The Planning Commission finds that a site plan meeting all of the requirements of Section 20.2 has been submitted as required by Article 16 of the Otsego County Zoning Ordinance. Ex. #3
6. The Planning Commission finds that a written detailed description of the proposed Special Land Use has been included as required by Article 16 of the Otsego County Zoning Ordinance. Ex. #1
7. The Planning Commission finds that the Zoning Administrator has reviewed the application and information as required under section 16.4 of the Otsego County Zoning Ordinance. Ex. #4
8. The Planning Commission finds that the requirements of Article 24 have been met. Ex. #4
9. The Planning Commission finds that the Public Hearing Requirements of section 16.5 of the Otsego County Zoning ordinance have been met. Ex. #5
10. The Planning Commission finds that all persons within 300' of the subject property were notified of the Special Use Permit request as required by the Otsego County Zoning Ordinance. Ex. #7

Finding of fact
Planning commission case
V100003
Top-O' Michigan Reclaimers
(mason gravel pit)

1. The property subject to the application is located in a zoning district in which the proposed special land use is allowed.

   The parcel is located in the Agricultural Resource zoning district, According to section 9.2.17 of the Otsego County Zoning Ordinance Surface mining is a use subject to special conditions

2. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.

   The Planning Commission finds that the proposed Surface mining operation will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.

3. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

   The Planning Commission finds that the proposed Surface mining operation will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

4. The proposed special land used will be designed, constructed, operated, and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.

   The Planning Commission finds that the proposed special land used will be designed, constructed, operated, and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.

5. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

   The Planning Commission finds that the proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

6. The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

The Planning Commission finds the proposed special land use will be adequately served by private streets, water and sewer facilities, and refuse collection and disposal services.

7. If the proposed special land use includes more than 15,000 square feet of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity no rate of discharge leaving the property based on 25-year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system.

The Planning Commission finds that the proposed Surface mining operation has demonstrated through the site plan submitted, that a storm water management system will be employed that will preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible.

8. The proposed special land use complies with all specific standards required under this Ordinance applicable to it.

The Planning Commission finds that the proposed special land use complies with all specific standards required under the Otsego County Zoning Ordinance.

In accordance with Section 16.8 of the Otsego County Zoning Ordinance, the Planning Commission places the following conditions on Special Use Permit request V100003

1.

2.

3.

4.

5.

6.

A motion by _____ to approve special use permit V100003 as presented along with the_____ conditions placed upon it by the Otsego County Planning Commission at the June 21, 2010 meeting.

Support by:_____

Exhibit # 1

V100003

Application for Special Use Permit

OTSEGO COUNTY
Planning & Zoning
1068 Cross Street
Gaylord, MI 49735
989-731-7420 *Fax 989-731-7429

Applicant:

Name TOP-O'MICHIGAN RECLAMATION Owner/Agent/Other interest (circle one)
Address 620 E. MAIN ST. GAYLORD MI 49735
Phone (989) 350-0249 Fax
BS (989) 705-7983

Property Owner: (if different from applicant)

Name HENRY M. MASON
Address 3974 OLD 27 N. GAYLORD MI 49735
Phone SAME Fax

Property Location:

Township BAGLEY T30N R3W Section 24 Zoning District AR
Address 3065 Dixon Lk Dr Parcel Code 69-010-024-200-005-04

Description of Project and Proposed Use:
RENEWAL GRAVEL OPERATION
OLD PERMIT # BY-016-89-PC

Signature of Applicant **Date** 31 MAR 10

** All information received by this department is subject to the Freedom of Information Act. Under this Act, persons are allowed to request copies of said information. This includes, but not limited to, all copyrighted drawings/blueprints.*

Office Use Only

File No: Fee 700.00 pd ck # 3715

Date Application Received 3-31-10 Application Received By JF

Applicable Ordinance Section(s)

MASON DIXON PIT

Restoration Plan

The mining area currently exposed will remain as is until gravel is depleted in that area. The West and North West edges of the mine will be sloped to the pond at a 1:3 grade from the existing road to the water level. The topsoil that was stripped and piled near the exposed areas will be replaced on the reclaimed portion of the pit and acceptable form of seed turf establishment will be used. Selected white pine, red pine and other trees of spading size will be placed along the top side of the slope to aid in soil retention and for wildlife habitat.

The 100' buffer zone and 10' high soil berm remain to help shield Dixon Estates and public roads from noise and dust.

It was the intent of Henry Mason that this property be restored in such a way that it could be a natural wildlife habitat as well as future recreational and residential property. This was the original goal when this mine was issued a permit in 89, and with continued operation is a goal that is carried forth.

A visual of the existing pit, area to be reclaimed and area to be mined currently, is included.

DUST CONTROL PLAN

I. Site Roadways

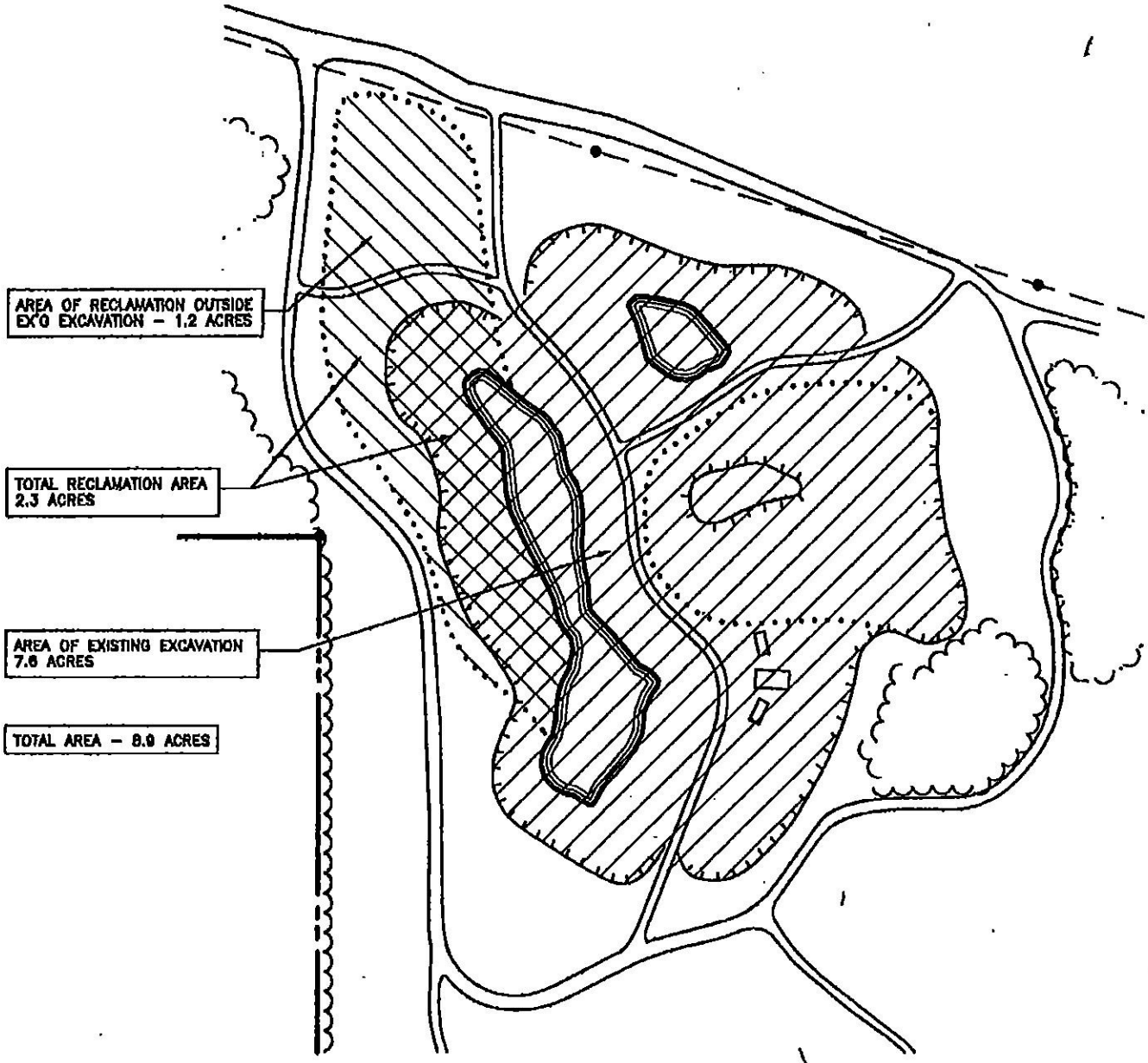
Dust on roadways shall be controlled by applications of water, calcium chloride or acceptable and approved compounds.

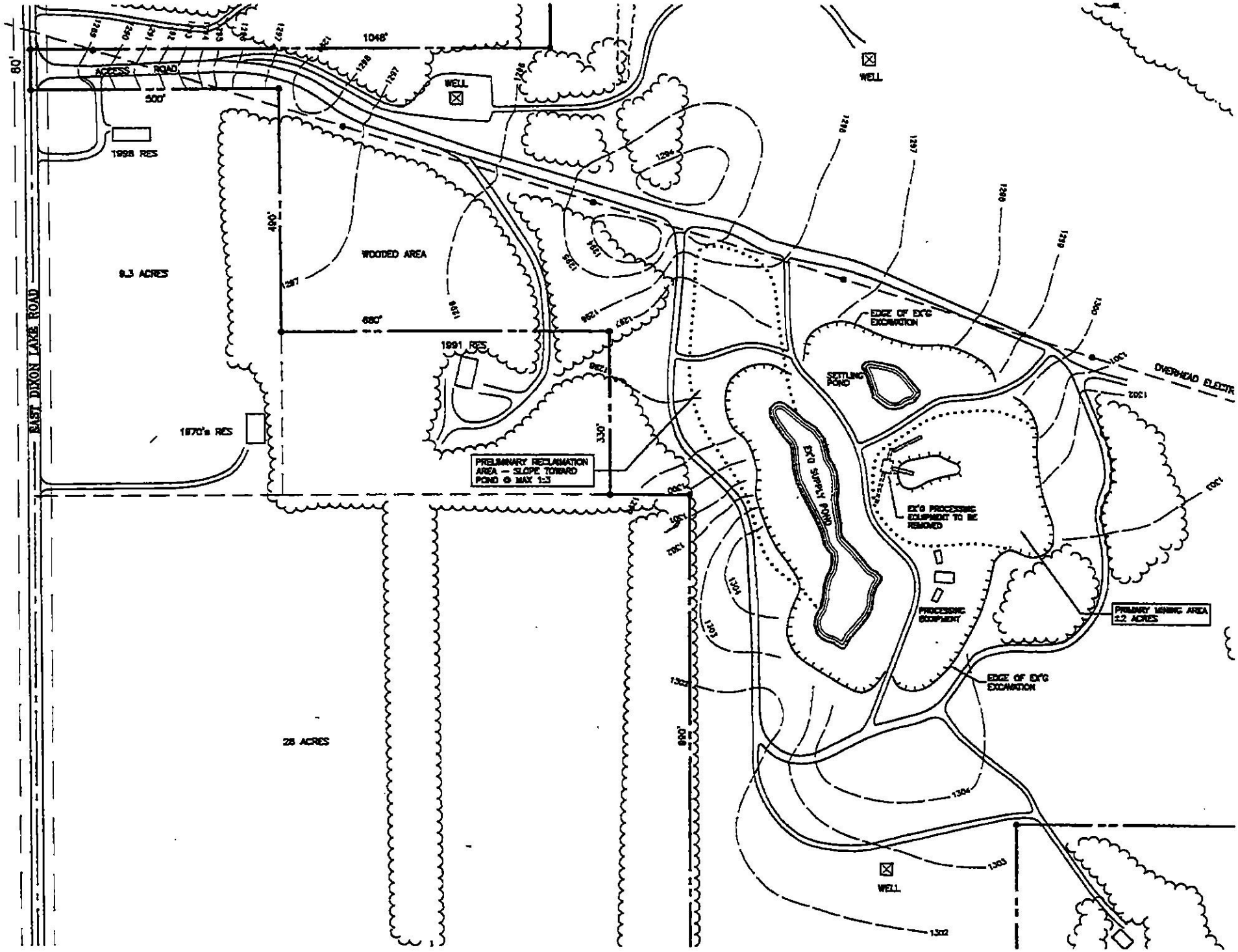
II. Plant

The drop distance at each transfer point shall be reduced to the minimum the equipment can achieve.

III. Stockpiles

Drop distance to stock piles shall be minimized to help control wind blown particles.


AREA OF RECLAMATION OUTSIDE EXO EXCAVATION – 1.2 ACRES
TOTAL RECLAMATION AREA 2.3 ACRES
AREA OF EXISTING EXCAVATION 7.6 ACRES
TOTAL AREA – 8.0 ACRES


EAST DIXON LAKE ROAD
80'
ACCESS ROAD
1046'
500'
WELL
WELL
1998 RES
9.3 ACRES
490'
WOODED AREA
680'
1991 RES
1870's RES
330'
PRELIMINARY RECLAMATION AREA – SLOPE TOWARD POND @ MAX 1:3
28 ACRES
990'
EDGE OF EX'G EXCAVATION
SETTLING POND
EX'G SUPPLY POND
EX'G PROCESSING EQUIPMENT TO BE REMOVED
PROCESSING EQUIPMENT
PRIMARY MINING AREA ±2 ACRES
EDGE OF EX'G EXCAVATION
OVERHEAD ELECTR
WELL

SECTION 18.25 MINING, GRAVEL, SAND, CLAY, TOP SOIL, and MARL

All excavations for the removal (or filling) of gravel, sand, clay, top soil, marl, and similar resources not otherwise regulated by State mining laws, may be permitted in B3, I, FR & AR Districts provided the activity is conducted in accordance with the Permits and Standards of Otsego Soil Conservation District's Erosion & Sediment Control Specifications and/or be in accordance with the provisions of Part 91 of PA 451 State of Michigan. A site plan illustrating the arrangement of uses, machinery, equipment and stock piled material shall require Planning Commission approval, prior to commencing any extraction or filling of materials included herein.

18.25.1 Name and address of owner(s) of land where removal will take place.

SHOWN ON THE APPLICATION

18.25.2 Name, address and telephone number of person, firm or corporation who will be conducting the actual removal operation.

SHOWN ON THE APPLICATION

18.25.3 Location, size and legal description of the total site area to be mined.

SHOWN ON THE SITE PLAN

18.25.4 A plan for extraction and reclamation for the total project which shall include; surface overburden and topsoil stripping and stockpiling plans and provisions for grading, re-vegetation, and stabilization that will minimize soil erosion, sedimentation and public safety problems.

INCLUDED WITH THE APPLICATION PACKET FOR REVIEW

18.25.5 Surface water drainage provisions and outlets.

NO OUTLETS ALL WATER IS CONTAINED ON THE SITE NATURAL DRAINAGE

18.25.6 The location and size of any structures.

NO PERMANENT STRUCTURES ON SITE, EQUIPMENT ONLY

18.25.7 Rehabilitation: All extraction areas shall be rehabilitated progressively as they are worked out. Rehabilitated sites shall be reasonably natural and inconspicuous and shall be reasonably lacking in hazard. All slopes and banks remaining above water level shall be graded to angles which do not exceed one (1) foot in elevation for each three (3) feet of horizontal surface and they shall be treated to prevent erosion or any other potential deterioration.

REHABILITATION PLAN SUBMITTED FOR REVIEW

18.25.8 Site Development Requirements

18.25.8.1 Setbacks in which no part of the mining operation may take place excepting ingress and egress shall be as follows:

Excavation below the existing grade of adjacent roads or property lines shall not take place within fifty (50) feet minimum from any adjacent property line or road right-of-way line.

SHOW ON THE SITE PLAN AS COMPLYING WITH THIS REQUIREMENT

No machinery shall be erected or maintained within one hundred (100) feet of any property or road right-of-way line.

100' BUFFER ZONE SHOWN ON THE SITE PLAN SUBMITTED

18.25.8.2 Screening shall be according to standards of Section 18.18.

ALL REQUIRED BERMS IN PLACE WHERE BERMS WERE NOT USED AS SCREENING NATURAL WOOD LINES ARE USED AS SCREENING

18.25.8.3 Interior access roads, parking lots, haul road loading and unloading areas shall be maintained so as to limit the nuisance caused by windblown dust.

OPERATOR USES A BRINING SYSTEM TO MAINTAIN DUST CONTROL ON ALL INTERIOR ROADWAYS

18.25.9 Evidence of Continuing Use: When activities on or the use of the mining area, or any portion thereof, have ceased for more than one (1) year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the mining area, the Zoning Administrator shall give the operator written notice of their intention to declare the mining area or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, he shall not declare abandonment.

THERE IS NO INTENT AT PRESENT TIME TO ABANDON THE MINING OPERATION. APPLYING FOR RENEWAL OF MINING SPECIAL USE PERMIT.

18.25.10 Financial Guarantees: The Planning Commission shall require that the applicant file with the County Treasurer a surety bond, executed by a reputable surety company admitted to do business in the State of Michigan in a minimum amount of one thousand ($1,000.00) dollars per acre of excavated area; or an irrevocable letter of credit from a commercial bank or cash bond in a minimum of five hundred ($500.00) dollars per acre of excavated area. Excavated area shall include all areas of excavation, stockpiling, and processing which are not rehabilitated pursuant to Section 18.25.7 of this Ordinance. Required financial guarantees shall be reduced at a rate equal to the ratio of rehabilitation work completed and as other required improvements are completed. The Planning Commission shall in establishing the amount of financial guarantee consider the scale of operations, the prevailing cost to

rehabilitate the property upon default of the operator, court costs and other reasonable expenses likely to be incurred by the county or township where the surface mine is located.

OPERATOR WILL PROVIDE WHEN THE PLANNING COMMISSION DETERMINES THE AMOUNT NEEDED .

18.25.11 Issuance of a Special Use Permit: Permits for surface mining shall be issued to the operator. If an operator disposes of his interest in an extraction area prior to final reclamation by sale, lease, assignment, termination of lease, or otherwise, the Planning Commission may release the operator from the duties imposed upon him by this Ordinance, as to the operation, but only if the successor, operator, or property owner assumes the obligations of the former operator with reference to the reclamation activities. At that time the Special Use Permit may be transferred.

PROPERTY IS OWNED BY THE FAMILY NO TRANSFER IS ANTICIPATED IN THE FUTURE

18.25.12 Permit Expiration: If approval for a Special Use Permit is granted by the Otsego County Planning Commission it shall be for a specific period of time not to exceed five (5) years. Those permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year by the Zoning Administrator to insure compliance with the permit and Ordinance.

REQUEST IS FOR A FIVE YEAR PERMIT EXTENSION, AND WE AGREE TO HAVE ANNUAL INSPECTIONS OF THE SITE. OTSEGO COUNTY LAND USE SHALL MAKE ARRANGEMENTS WITH THE OPERATOR FOR THE REQUIRED INSPECTION. ANY INSPECTOR MUST BE ACCOMPANIED BY OPERATOR DURING SITE VISIT.

18.25.13 Modification of the General Site Plan: The general site plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology or to correct an oversight. The Planning Commission may require the modification of the General Site plan when:

18.25.13.1 Modification of the plan is necessary so that it will conform to the existing laws.

18.25.13.2 It is found that the previously approved plan is clearly impractical to implement and maintain.

18.25.13.3 The approved plan is obviously not accomplishing the intent of the Ordinance.

18.25.14 Shall be subject to all provisions of Article 16 and Article 20.

IF THE OPERATOR DETERMINES THAT THE GRAVEL IS LOCATED IN A DIFFERENT LOCATION THAN INDICATED ON THE SITE PLAN SUBMITTED. THE OPERATOR WILL SUBMIT AN AMMENDED SITE PLAN TO SHOW THE CHANGE.

Exhibit #2

OTSEGO COUNTY BUILDING DEPARTMENT

1066 CROSS STREET
GAYLORD , MI 49735
(989) 731 7400 FAX (989) 731 7419
JOSEPH S FERRIGAN, BUILDING OFFICIAL

RECEIPT NUMBER
00063825

Paid By
MASON, HENRY M ETUX
3974 OLD US-27 NORTH
GAYLORD, MI 49735-9337

MASON, HENRY M ETUX
3085 DIXON LAKE DRIVE
010-024-200-005-04

MASON, HENRY M ETUX

04/01/2010

Type	Record	Code	Category	Description	Amount
Permit	PZ10027	S	ADMIN ZONING	16. Planning Commission special use perm	$700.00

Total	$700.00
Cash	
Check # 3715	$700.00
Credit Type	
Transferred	
Tendered	$700.00
Change	$0.00
To Overpayment	$0.00

Exhibit #4

Otsego County
Land Use Services department

1068 Cross Street
Gaylord, Michigan 49735
989-731-7420 *Fax 989-731-7429

6-4-2010

To:
Otsego County Planning Commission

Please accept this letter as confirmation that in accordance with section 16.4 of the Otsego county Zoning Ordinance I have reviewed V100003. I am noew forwarding it to you for your review.

Also in accordance with Article 24 of the Otsego County Zoning Ordinance , I have forwarded the application to the Township in which the Property is located for their review and input.

Joe Ferrigan
Director Otsego County Land Use Services
Direct phone (989) 731-7423

Exhibit #4

Otsego County
Land Use Services department

1068 Cross Street
Gaylord, Michigan 49735
989-731-7420 *Fax 989-731-7429

4-23-2010

Bagley Township Planning Commission
Chairman Richard Sumerix

Pursuant to Article of the Otsego County Zoning Ordinance. I am forwarding this request for Site Plan review to you for your review. Please review the attached documents and submit your findings in writing to Otsego County Land Use Services.

This is a renewal of an expired mining permit, I have also included the section of the ordinance that applies to mining operations.

I also ask if you require the Applicant to attend your meeting that you would please notify them of that requirement.

If you require any further clairification on this matter please do not hesitate to contact me.

Joe Ferrigan
Director Otsego County Land Use Services
Direct phone (989) 731-7423

Exibit #9

Bagley Plan Comm 5/5/10

Case # BY016 89-P/C

Motion by Jim Schwardt to Recommend approval to Top-of-Mich Reclaimers for an Renewal for Gravel operation located at 3065 Dixon Lake Dr.

2nd Ken Arndt Motion Passed 5-0

Exhibit # 5

OTSEGO COUNTY
PLANNING COMMISSION

PUBLIC HEARING NOTICE
June 21, 2010

The Otsego County Planning Commission will hold a public hearing on Monday; June 21, 2010 at 6:00pm in the Multi-Purpose Room of the J. Richard Yuill, Alpine Center, 800 Livingston Blvd; Gaylord, Michigan.

The purpose of the public hearing will be to obtain citizen comment on the following:

A request to continue sand and gravel mining operation located at 3065 East Dixon Lake Road, Gaylord MI.

All citizens are welcome to attend the meeting or provide written comment. If written comments are provided the comments must be received at the Otsego County Land Use Services Office by noon the day of the meeting.

Any citizen who has questions regarding this application or who need assistance to attend this meeting should contact the Director of Land Use Services at (989) 731-7420

Exhibit #6

Otsego County
Planning & Zoning

1068 CROSS STREET
GAYLORD, MI 49735
(989) 731 7400 *Fax (989) 731 7419

12-7-09

TO: Henry Mason

From: Joe Ferrigan: Director Otsego County Land Use Services

Re: Property # 010-024-200-005-04

Location: 3065 E. Dixon Lake Rd.

Inspection Report of special use permit

Date of inspection: 10-14-2009

SECTION 18.25 MINING, GRAVEL, SAND, CLAY, TOP SOIL, MARL

All excavations for the removal (or filling) of gravel, sand, clay, top soil, marl, and similar resources not otherwise regulated by State mining laws, may be permitted in B3, I, FR & AR Districts provided the activity is conducted in accordance with the Permits and Standards of Otsego Soil Conservation District's Erosion & Sediment Control Specifications and/or be in accordance with the provisions of Part 91 of PA 451 State of Michigan. A site plan illustrating the arrangement of uses, machinery, equipment and stock piled material shall require Planning Commission approval, prior to commencing any extraction or filling of materials included herein.
1. Permit expired .

8.25.4 A plan for extraction and reclamation for the total project which shall include; surface overburden and topsoil stripping and stockpiling plans and provisions for grading, re-vegetation, and stabilization that will minimize soil erosion, sedimentation and public safety problems.
2. Submit Plan

18.25.7 Rehabilitation: All extraction areas shall be rehabilitated progressively as they are worked out. Rehabilitated sites shall be reasonably natural and inconspicuous and shall be reasonably lacking in hazard. All slopes and banks remaining above water level shall be graded to angles which do not exceed one (1) foot in elevation for each three (3) feet of horizontal surface and they shall be treated to prevent erosion or any other potential deterioration.
3 .No signs of rehabilitation during inspection.

18.25.8 Site Development Requirements

18.25.8.1 Setbacks in which no part of the mining operation may take place, excepting ingress and egress shall be as follows:
Excavation below the existing grade of adjacent roads or property lines shall not take place within fifty (50) feet minimum from any adjacent property line or road right-of-way line.

No machinery shall be erected or maintained within one-hundred (100) feet of any property or road right-of-way line.
4. The site is not in compliance with this section of the ordinance.

18.25.8.2 Screening shall be according to standards of Section 18.18.
5. The site is not in compliance with this section of the ordinance

18.25.8.3 Interior access roads, parking lots, haul road loading and unloading areas shall be maintained so as to limit the nuisance caused by wind blown dust.
6. The site is not in compliance with this section of the ordinance.

18.25.9 Evidence of Continuing Use: When activities on or the use of the mining area, or any portion thereof, have ceased for more than one (1) year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the mining area, the Zoning Administrator shall give the operator written notice of their intention to declare the mining area or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, he shall not declare abandonment.
7. Permit is expired .

18.25.10 Financial Guarantees: The Planning Commission shall require that the applicant file with the County Treasurer a surety bond, executed by a reputable surety company admitted to do business in the State of Michigan in a minimum amount of one-thousand ($1,000.00) dollars per acre of excavated area; or an irrevocable letter of credit from a commercial bank or cash bond in a minimum of five-hundred ($500.00) dollars per acre of excavated area. Excavated area shall include all areas of excavation, stockpiling, and processing which are not rehabilitated pursuant to Section 18.25.7 of this Ordinance. Required financial guarantees shall be reduced at a rate equal to the ratio of rehabilitation work completed and as other required improvements are completed. The Planning Commission shall in establishing the amount of financial guarantee consider the scale of operations, the prevailing cost to rehabilitate the property upon default of the operator, court costs and other reasonable expenses likely to be incurred by the county or township where the surface mine is located.
8. No permit or bond on file.

18.25.11 Issuance of a Special Use Permit: Permits for surface mining shall be issued to the operator. If an operator disposes of his interest in an extraction area prior to final reclamation by sale, lease, assignment, termination of lease, or otherwise, the Planning Commission may release the operator from the duties imposed upon him by this Ordinance, as to the operation, but only if

the successor, operator, or property owner assumes the obligations of the former operator with reference to the reclamation activities. At that time the Special Use Permit may be transferred.
9. Not in compliance.

18.25.12 Permit Expiration: If approval for a Special Use Permit is granted by the Otsego County Planning Commission it shall be for a specific period of time not to exceed five (5) years. Those permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year by the Zoning Administrator to insure compliance with the permit and Ordinance.
10. Not in compliance. Permit expired.

18.25.13 Modification of the General Site Plan: The general site plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology or to correct an oversight. The Planning Commission may require the modification of the General Site plan when:
11. No site plan.

18.25.13.1 Modification of the plan is necessary so that it will conform with the existing laws.
12. Site plan must be submitted.

18.25.13.2 It is found that the previously approved plan is clearly impractical to implement and maintain.
13. Update plan.

18.25.13.3 The approved plan is obviously not accomplishing the intent of the Ordinance.
14. Not in compliance.

18.25.14 Shall be subject to all provisions of Article 16 and Article 20.
15. Sections of both article 16 and article 20 are not in compliance
Upon inspection of property unused machinery still on property. A plan to rehabilitate property is needed according to 18.25.7 of ordinance.
You are required to contact me at the Otsego County Land Use Services Department within 30 Days of receipt of this notice with a plan of action to remedy these violations
I would like to thank you in advance for your cooperation in bringing the property into compliance.

Sincerely

Joe Ferrigan
Director of Otsego County Land Use Services

Parcel Number: 69-010-024-200-005-04 Jurisdiction: BAGLEY TOWNSHIP County: OTSEGO Printed on 06/09/2010

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.
MASON, HENRY M ETUX	MASON SELF TRUSTEED LIVIN	0	02/03/2010	QC	Quit Claim Deed	1222/793	Buyer	0.0

Property Address

Class: 401 Residential V | Zoning:

School: Gaylord Community

P.R.E. 0%

09 Txs: 00867.34

2010 Est TCV 158,000(Value Overridden)

Building Permit(s)	Date	Number	Status

Owner's Name/Address

MASON SELF TRUSTEED LIVING TRUST
3974 OLD US-27 NORTH
GAYLORD MI 49735-9337

Improved | X | Vacant

Public Improvements

Dirt Road
Gravel Road
Paved Road
Storm Sewer
Sidewalk
Water
Sewer
Electric
Gas
Curb
Street Lights
Standard Utilities
Underground Utils.

Topography of Site

Level
Rolling
Low
High
Landscaped
Swamp
Wooded
Pond
Waterfront
Ravine
Wetland
Flood Plain

Land Value Estimates for Land Table .

Description	Frontage	Depth	* Factors * Front	Depth	Rate	%Adj.	Reason	Value
			73.200 Acres		0	100		0
			73.20 Total Acres		Total Est. Land Value =			0

Tax Description

E1/2 OF NW1/4. EXC: S 330' & NW1/4 OF NW1/4. EXC: 420' N/S & 1048' E/W IN NW COR. ALSO EXC: BEG 500' S OF NW1/4, TH E/W 500'& N&S 820'. ALSO EXC: E1/2 OF N1/2 OF S1/2 OF SE1/4 OF NW1/4. ALSO EXC: COMM @ SW COR OF NW1/4 OF NW1/4, TH E 500' FOR POB, TH ELY 660', TH NLY 330', TH WLY 660', TH SLY 330' TO POB. SEC 24, T30-R3W.

Comments/Influences

WELL BAGLEY 24 CPF 3081 EAST DIXON LAKE RD

Who	When	What

Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/ Other	Taxable Value
2010	79,000	0	79,000			23,146C
2009	82,800	0	82,800			23,216C
2008	82,800	0	82,800			22,238C
2007	71,500	0	71,500			21,739C

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Licensed To: County of Otsego

*** Information herein deemed reliable but not guaranteed***

Exhibit 8

v 1.0.3304.27663

Johnson Rd.
East Dam Lake Rd.

Exhibit list
Case #V100004
June 21, 2010

1. Application

2. Copy of check

3. Property card provided by Otsego County Equalization

4. Letter from Zoning Administrator dated 6-4-10 & letter sent to township dated 5-4-10

5. Public Hearing Notice

6. Inspection record from 10-15-2009 site inspection

7. List of properties notified

8. Signed statement of Application dated April 20, 2010 from Reith-Riley

9. Site plan (large copy)

10. Ordinance sections provided by Reith-Riley

General Finding of fact
Case # V100004
Reith-Riley Construction, Elmira Township
3006 Martindale Rd.

1. The Planning Commission finds that the Application has been filed and the required fee have been paid as required by Article 16 of the Otsego county Zoning Ordinance. Ex. #1 & #2
2. The Planning Commission finds that the Applicant's name, address and telephone are contained on the application as required in Article 16 of the Otsego County Zoning Ordinance. Ex. #1
3. The planning Commission finds that the legal description, address and taxes identification of the proposed site are included as required by Article 16 of the Otsego County Zoning Ordinance. Ex. #3
4. The planning Commission finds that a signed statement that the applicant is the owner of the proposed site, or is acting as the owners representative. As required by Article 16 of the Otsego County Zoning Ordinance. Ex. #1
5. The Planning Commission finds that a site plan meeting all of the requirements of Section 20.2 has been submitted as required by Article 16 of the Otsego County Zoning Ordinance. Ex. #3
6. The Planning Commission finds that a written detailed description of the proposed Special Land Use has been included as required by Article 16 of the Otsego County Zoning Ordinance. Ex. #1
7. The Planning Commission finds that the Zoning Administrator has reviewed the application and information as required under section 16.4 of the Otsego County Zoning Ordinance. Ex. #4
8. The Planning Commission finds that the requirements of Article 24 have been met. Ex. #4
9. The Planning Commission finds that the Public Hearing Requirements of section 16.5 of the Otsego County Zoning ordinance have been met. Ex. #5
10. The Planning Commission finds that all persons within 300' of the subject property were notified of the Special Use Permit request as required by the Otsego County Zoning Ordinance. Ex. #6

Finding of fact
Planning commission case
V100004
Reith-Riley Construction

1. The property subject to the application is located in a zoning district in which the proposed special land use is allowed.

   The parcel is located in the Forest Recreation zoning district, According to section 8.2.16 of the Otsego County Zoning Ordinance Surface mining is a use subject to special conditions

2. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.

   The Planning Commission finds that the proposed Surface mining operation will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.

3. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

   The Planning Commission finds that the proposed Surface mining operation will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

4. The proposed special land used will be designed, constructed, operated, and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.

   The Planning Commission finds that the proposed special land used will be designed, constructed, operated, and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.

5. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

   The Planning Commission finds that the proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

6. The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

   The Planning Commission finds the proposed special land use will be adequately served by private streets, water and sewer facilities, and refuse collection and disposal services.

7. If the proposed special land use includes more than 15,000 square feet of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity no rate of discharge leaving the property based on 25-year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system.

   The Planning Commission finds that the proposed Surface mining operation has demonstrated through the site plan submitted, that a storm water management system will be employed that will preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible.

8. The proposed special land use complies with all specific standards required under this Ordinance applicable to it.

   The Planning Commission finds that the proposed special land use complies with all specific standards required under the Otsego County Zoning Ordinance.

In accordance with Section 16.8 of the Otsego County Zoning Ordinance, the Planning Commission places the following conditions on Special Use Permit request V100004

1.

2.

3.

4.

5.

6.

A motion by _____ to approve special use permit V100004 as presented along with the_____ conditions placed upon it by the Otsego County Planning Commission at the June 21, 2010 meeting.

Support by:_____

Exhibit #1

Case# V100004

Application for Special Use Permit

OTSEGO COUNTY
Planning & Zoning
1068 Cross Street
Gaylord, MI 49735
989-731-7420 *Fax 989-731-7429

Applicant:

Name _____Rieth-Riley Const. Co., Inc. Owner/Agent/Other interest (circle one)
Address _06795 US-31 North, Charlevoix, MI 49720

Phone ____231-439-5757_____ Fax 231-347-8862_____

Property Owner: (if different from applicant)

Name _____
Address _____
Phone _____Fax_____

Property Location:

Township ____Elmira_____T_31__NR__4_W Section __1___ Zoning District __Forest/Recreational_____
Address_3006 Martindale Road, Gaylord, MI___ Parcel Code_060-001-100-005-03

Description of Project and Proposed Use:
Rieth-Riley Construction Co., Inc. would like to "renew" special use permit PC 90977-EA. The request is for the 40 acres currently covered under the current permit (PC 90977-EA), with an option to proceed into the adjacent 10-20 acres to North. The option to proceed to the North is dependent on the demands of the market over the 5 year life of the permit.

A detailed, engineered site plan must accompany all Special Use Requests

_____ 4/19/10
Signature of Applicant **Date**

** All information received by this department is subject to the Freedom of Information Act. Under this Act, persons are allowed to request copies of said information.This includes,but not limited to, all copyrighted drawings/blueprints.*

Office Use Only

File No: _____ Fee _____

Date Application Received _____ Application Received By _____

Applicable Ordinance Section(s) _____

_____

Exhibit #2

RIETH-RILEY CONSTRUCTION CO., INC.
P.O. BOX 477
GOSHEN, IN 46527-0477

(574)875-5183

Stub 1 of 1
Check Date: 03/26/10

NO. 00824940

INVOICE NO.	DATE	DESCRIPTION	GROSS AMOUNT	DEDUCTIONS	AMOUNT PAID
PERMIT-N T	03/23/10	PERMIT-N TOWNLINE 03/10	700.00		700.00
			---	---	---
			700.00		700.00

546265 OTSEGO COUNTY

THIS CHECK IS VOID WITHOUT A BLUE & RED BACKGROUND AND AN ARTIFICIAL WATERMARK ON THE BACK - HOLD AT AN ANGLE TO VIEW

RIETH-RILEY

RIETH-RILEY CONSTRUCTION CO., INC.
P.O. BOX 477
GOSHEN, IN 46527-0477

74-1921724

JP MORGAN CHASE BANK, N.A.
1 E. OHIO STREET
INDIANAPOLIS, IN 46277

NO. 00824940

	DATE	AMOUNT
546265	03/26/10	$$******700.00

PAY *SEVEN HUNDRED AND 00/100* **********

VOID AFTER 90 DAYS

TO THE ORDER OF

OTSEGO COUNTY
225 W MAIN STREET
GAYLORD MI 49735

BRIAN A INNIGER, VICE PRESIDENT FINANCE/ADMINISTRATION

⑈00824940⑈ ⑆072412927⑆641438619⑈

Parcel Number: 69-060-001-100-005-03 Jurisdiction: ELMIRA TOWNSHIP County: OTSEGO Printed on 06/09/2010

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.
HGI INC	RIETH - RILEY CONSTRUCTIO	0	03/30/2005	WD	Warranty Deed	1044/875	Buyer	100.0

Property Address
3006 MARTINDALE RD

Owner's Name/Address
RIETH - RILEY CONSTRUCTION CO INC
POB 477
GOSHEN IN 46527

Tax Description
SE 1/4 OF SE 1/4 EXC THE EAST 66 FT & THE SOUTH + WEST 50 FT SEC 1 T31N- R4W SUB TO EASEMENT FOR INGRESS, EGRESS & UTIL CONT 35 AC M/L 2000 OF 069-001-100-005-01

Comments/Influences
EXISTING BLDG APPLIED 8-24-04
EXISTING BLDG APPLIED 8-24-04

Class: 201 Commercial Va | Zoning:
School: Gaylord Community
P.R.E. 0%
09 Txs: 02279.35
2010 Est TCV 115,000(Value Overridden)

Building Permit(s)	Date	Number	Status
ZONING	08/10/2009	PZ09127	

Improved | X | Vacant

Public Improvements
- Dirt Road
- Gravel Road
- Paved Road
- Storm Sewer
- Sidewalk
- Water
- Sewer
- Electric
- Gas
- Curb
- Street Lights
- Standard Utilities
- Underground Utils.

Topography of Site
- Level
- Rolling
- Low
- High
- Landscaped
- Swamp
- Wooded
- Pond
- Waterfront
- Ravine
- Wetland
- Flood Plain

Who	When	What

Land Value Estimates for Land Table .

Description	Frontage	Depth	* Factors * Front	Depth	Rate	%Adj.	Reason	Value
			35.000 Acres		0	100		0
			35.00 Total Acres		Total Est. Land Value =			0

Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/ Other	Taxable Value
2010	57,500	0	57,500			57,327C
2009	57,500	0	57,500			57,500S
2008	57,500	0	57,500			57,500S
2007	57,500	0	57,500			57,500S

Exhibit #3

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*** Information herein deemed reliable but not guaranteed***

v.: 0 3904 27838

Exhibit- #4

Otsego County
Land Use Services department

1068 Cross Street
Gaylord, Michigan 49735
989-731-7420 *Fax 989-731-7429

6-4-2010

To:
Otsego County Planning Commission

Please accept this letter as confirmation that in accordance with section 16.4 of the Otsego County Zoning Ordinance I have reviewed V100004. I am now forwarding it to you for your review

Also in accordance with Article 24 of the Otsego County Zoning Ordinance, I have forwarded the application to the Township in which the property is located for their review and input.

Joe Ferrigan
Director Otsego County Land Use Services

Exhibit #9

Otsego County
Land Use Services department

1068 Cross Street
Gaylord, Michigan 49735
989-731-7420 *Fax 989-731-7429

5-4-2010

Elmira Township

Pursuant to Article 24 of the Otsego County Zoning Ordinance. I am forwarding this request for site plan review to you for your review. Please review the attached documents and submit your findings in writing to Otsego County Land Use Services.

This is a renewal of an existing mining permit. I have also included the sections of the Ordinance that apply to mining operations.

I also ask if you require the Applicant to attend your meeting that you would please notify them of that requirement.

If you require any further clairification on this matter please do not hesitate to contact me.

Joe Ferrigan
Director Otsego County Land Use Services
Direct phone (989) 731-7423

Exhibit #5

OTSEGO COUNTY
PLANNING COMMISSION

PUBLIC HEARING NOTICE
June 21, 2010

The Otsego County Planning Commission will hold a public hearing on Monday; June 21, 2010 at 6:00pm in the Multi-Purpose Room of the J. Richard Yulll, Alpine Center, 800 Livingston Blvd; Gaylord, Michigan.

The purpose of the public hearing will be to obtain citizen comment on the following:

A request to continue sand and gravel mining operation located at 3006 Martindale Road, Gaylord Mi.

All citizens are welcome to attend the meeting or provide written comment. If written comments are provided the comments must be received at the Otsego County Land Use Services Office by noon the day of the meeting.

Any citizen who has questions regarding this application or who need assistance to attend this meeting should contact the Director of Land Use Services at (989) 731-7420

Exhibit #6.

Otsego County
Planning & Zoning

1068 CROSS STREET
GAYLORD, MI 49735
(989) 731 7400 *Fax (989) 731 7419

11-20-09

TO: H&D Excavating

From: Joe Ferrigan: Director Otsego County Land Use Services

Re: Property # 060-001-100-005-03

Location: 3006 Martindale Road.

Inspection Report of special use permit PC90977-EA

Date of Inspection: 10-15-09

SECTION 18.25 MINING, GRAVEL, SAND, CLAY, TOP SOIL, MARL

All excavations for the removal (or filling) of gravel, sand, clay, top soil, marl, and similar resources not otherwise regulated by State mining laws, may be permitted in B3, I, FR & AR Districts provided the activity is conducted in accordance with the Permits and Standards of Otsego Soil Conservation District's Erosion & Sediment Control Specifications and/or be in accordance with the provisions of Part 91 of PA 451 State of Michigan. A site plan illustrating the arrangement of uses, machinery, equipment and stock piled material shall require Planning Commission approval, prior to commencing any extraction or filling of materials included herein.

1. PC90977 was approved at the May 16 -2005 meeting for a period of five years ending May 16- 2010.

18.25.4 A plan for extraction and reclamation for the total project which shall include; surface overburden and topsoil stripping and stockpiling plans and provisions for grading, re-vegetation, and stabilization that will minimize soil erosion, sedimentation and public safety problems.

2. Submit Plan

18.25.7 Rehabilitation: All extraction areas shall be rehabilitated progressively as they are worked out. Rehabilitated sites shall be reasonably natural and inconspicuous and shall be reasonably lacking in hazard. All slopes and banks remaining above water level shall be graded to angles which do not exceed one (1) foot in elevation for each three (3) feet of horizontal surface and they shall be treated to prevent erosion or any other potential deterioration.

3 .No signs of rehabilitation during inspection.

18.25.8 Site Development Requirements

18.25.8.1 Setbacks in which no part of the mining operation may take place, excepting ingress and egress shall be as follows:
Excavation below the existing grade of adjacent roads or property lines shall not take place within fifty (50) feet minimum from any adjacent property line or road right-of-way line.

No machinery shall be erected or maintained within one-hundred (100) feet of any property or road right-of-way line.
4. The site is in compliance with this section of the ordinance

18.25.8.2 Screening shall be according to standards of Section 18.18.
5. The site is in compliance with this section of the ordinance

18.25.8.3 Interior access roads, parking lots, haul road loading and unloading areas shall be maintained so as to limit the nuisance caused by wind blown dust.
6. The site is in compliance with this section of the ordinance

18.25.9 Evidence of Continuing Use: When activities on or the use of the mining area, or any portion thereof, have ceased for more than one (1) year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the mining area, the Zoning Administrator shall give the operator written notice of their intention to declare the mining area or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, he shall not declare abandonment.
7.Permit is valid to May 16-2010

18.25.10 Financial Guarantees: The Planning Commission shall require that the applicant file with the County Treasurer a surety bond, executed by a reputable surety company admitted to do business in the State of Michigan in a minimum amount of one-thousand ($1,000.00) dollars per acre of excavated area; or an irrevocable letter of credit from a commercial bank or cash bond in a minimum of five-hundred ($500.00) dollars per acre of excavated area. Excavated area shall include all areas of excavation, stockpiling, and processing which are not rehabilitated pursuant to Section 18.25.7 of this Ordinance. Required financial guarantees shall be reduced at a rate equal to the ratio of rehabilitation work completed and as other required improvements are completed. The Planning Commission shall in establishing the amount of financial guarantee consider the scale of operations, the prevailing cost to rehabilitate the property upon default of the operator, court costs and other reasonable expenses likely to be incurred by the county or township where the surface mine is located.
8. Unable to verify at this time.

18.25.11 Issuance of a Special Use Permit: Permits for surface mining shall be issued to the operator. If an operator disposes of his interest in an extraction area prior to final reclamation by sale, lease, assignment, termination of lease, or otherwise, the Planning Commission may release the operator from the duties imposed upon him by this Ordinance, as to the operation, but only if

the successor, operator, or property owner assumes the obligations of the former operator with reference to the reclamation activities. At that time the Special Use Permit may be transferred.
9. Not applicable.

18.25.12 Permit Expiration: If approval for a Special Use Permit is granted by the Otsego County Planning Commission it shall be for a specific period of time not to exceed five (5) years. Those permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year by the Zoning Administrator to insure compliance with the permit and Ordinance.
10. The special use permit PC90977-EA Expires on May 16-2010 .

18.25.13 Modification of the General Site Plan: The general site plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology or to correct an oversight. The Planning Commission may require the modification of the General Site plan when:
11. Not applicable.

18.25.13.1 Modification of the plan is necessary so that it will conform with the existing laws.
12. No modification is required at this time.

18.25.13.2 It is found that the previously approved plan is clearly impractical to implement and maintain.
13. Not applicable .

18.25.13.3 The approved plan is obviously not accomplishing the intent of the Ordinance.
14. The site complies with the Intent of the Otsego County Zoning Ordinance.

18.25.14 Shall be subject to all provisions of Article 16 and Article 20.
15. Both article 16 and article 20 have been complied with.

You are required to contact me at the Otsego County Land Use Services Department within 30 Days of receipt of this notice with a plan of action to remedy these violations
I would like to thank you in advance for your cooperation in bringing the property into compliance.

Sincerely

Joe Ferrigan
Director of Otsego County Land Use Services

Exhibit #8

RIETH-RILEY CONSTRUCTION CO., INC.

06795 US 31 NORTH • CHARLEVOIX, MICHIGAN 49720

"100% Employee Owned"

Otsego County Planning & Zoning
Attn: Joe Ferrigan
1068 Cross Street
Gaylord, MI 49735

April 20, 2010

RE: Signed Statement of Application

Otsego County Planning & Zoning,

I Matthew D. Stuck am an employee of Rieth-Riley Construction Company, Inc., and am authorized to submit a Special Use Permit application for the following property description:

Property Description: 40 acres, SE ¼ of the SE ¼ of Section 1, of T31N, R4W.
Street Address: 3006 Martindale Road, Gaylord, MI 49735
Tax I.D.: 69-060-001-100-005-03
A.K.A.: The North Townline Pit

Matthew D. Stuck — DATE 4/20/10

Lisa M Volkening — Witness of Signature — DATE 4/20/10

TELEPHONE: (231) 439-5757 • FAX: (231) 347-8862 • WWW.RIETHRILEY.COM

OTSEGO COUNTY
TREASURER'S OFFICE
Gaylord, Mich.,

4-6-05

I hereby certify that according to our records all taxes returned to this office are paid for Five years preceding the date of this instrument. This does not include taxes in the process of collection or B.O.R.

Linda Popp Deputy
COUNTY TREASURER

LIBER 1044 PAGE 875

OTSEGO COUNTY MICHIGAN
RECEIVED FOR RECORD
SUSAN DEFEYTER, CLERK/REGISTER OF DEEDS
04/06/2005 11:12:56 AM

N TOWNLINE

WARRANTY DEED

THE GRANTOR:	HGI, INC., a Michigan corporation (also known as H.G.I., Inc., a Michigan corporation)
WHOSE ADDRESS IS:	06795 US 31 North Bay Shore, Michigan 49711
CONVEYS AND WARRANTS	
TO THE GRANTEE:	RIETH-RILEY CONSTRUCTION CO., INC., an Indiana corporation
WHOSE ADDRESS IS:	PO Box 477 Goshen, Indiana 46527

the real estate situated in the Township of Elmira, Otsego County, State of Michigan, more fully described as;

The N 1/2 of the SE 1/4 of Section 1, T31N, R4W; AND The SE 1/4 of the SE 1/4 of Section 1, T31N, R4W. MORE PARTICULARLY DESCRIBED AS: Part of the SE 1/4 of Section 1, T31N, R4W, described as: Beginning at the Southeast corner of said Section 1; thence North 89°43'36" West along the South line of said Section a distance of 1,326.86 feet to the East 1/8 line of said Section; thence North 00°06'02" West along said East 1/8 line 1,314.73 feet to the South 1/8 line of said Section; thence North 89°46'28" West along said South 1/8 line 1,323.12 feet to the North-South 1/4 line of said Section; thence North 00°03'43" East along said North-South 1/4 line 1,313.60 feet to the East-West 1/4 line of said Section; thence South 89°49'22" East along said East-West 1/4 line 2,638.78 feet to the East line of said Section; thence South 00°15'47" East along said East Section line 2,631.72 feet to the Point of Beginning; Subject to the right-of-way for Martindale Road over the Southerly 33.00 feet thereof;

TOGETHER WITH AN EASEMENT FOR DRIVEWAY PURPOSES OVER THE FOLLOWING DESCRIBED PROPERTY: EQ

060-001-100-003-03

Situated in the Township of Livingston, Otsego County, Michigan: 060-001-100-003-03

Beginning at the Southwest corner of Section 6, T31N, R3W; thence East 25.00 feet; thence North 100.00 feet; thence West 25.00 feet to Section line of said Section 6; thence South 100.00 feet to the Point of Beginning.

together with all improvements, fixtures, easements, hereditaments and appurtenances associated with the real estate ("**Property**"), subject to only to liens for taxes (but not assessmenst) for the current tax year and those matters described on **Exhibit A** attached this Deed.

N. TOWNLINE

TOL

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The Grantor grant to the Grantee the right to make 6 division(s) under Section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967, as amended ("Act"). The Grantor also grants to the Grantee the right to create 2 bonus parcel(s) if the Grantee qualified the Property for such bonus parcel(s) under Section 108(3) of the Act. The Grantor intends to transfer and, notwithstanding anything to the contrary, hereby does transfer, to the Grantee the right to make all divisions, bonus divisions and redivisions of the Property as the Grantor may have under the Act.

This Property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

This Deed is given for the consideration of $1.00 (Real Estate Transfer Tax Valuation Affidavit filed).

This Property is subject to Part 511, the Commercial Forest part of the Natural Resources and Environmental Protection Act.

RESERVING UNTO GRANTOR ALL RIGHTS TITLE AND INTERESTS TO THE TIMBER CURRENTLY THEREON PLUS ACCESS FOR THE EXERCISE OF ANY SUCH RIGHTS

Dated: March 30, 2005.

GRANTOR:
HGI, INC., a Michigan corporation

Thomas R. Irwin Pres.

BY: THOMAS R. IRWIN
ITS: President

STATE OF MICHIGAN)
: ss
COUNTY OF EMMET)

Acknowledged before me in Emmet County, Michigan, on March 30, 2005, by THOMAS R. IRWIN, the PRESIDENT of HGI, INC., a Michigan corporation, on behalf of the company.

Tina Marie Malloy

TINA MARIE MALLOY
NOTARY PUBLIC, STATE OF MICHIGAN
COUNTY OF CHEBOYGAN
MY COMMISSION EXPIRES MAR. 27, 2008
ACTING IN THE COUNTY OF Emmet

Notary Public, Emmet County, Michigan
My commission expires: _____
Acting in the County of _____

Drafted By:
James F. Wynn, Attorney at Law
P.O. Box 702
320 Howard Street
Petoskey, MI 49770
(231) 347-6929

N. TOWNLINE

EXHIBIT A

2. Rights of the public and of any governmental unit in any part of the land taken, used, or deeded for street, road, or highway purposes (Martindale Road).

3. Reservation of oil, gas, and other mineral rights as set forth in the Instrument recorded in Liber 770, Page 875.

4. All oil, gas, and mineral rights and reservations of every kind and nature, and all rights pertinent thereto as created in the Instrument recorded in Liber 770, Page 875.

5. Terms and Conditions of an easement in favor of Paxton Resources, L.L.C. as set forth in Pipeline Easement dated May 10, 1996 and recorded May 30, 1996 in Liber 612, Page 422 and assigned to MCN Oil & Gas Company by Partial Assignment of Easements dated March 14, 2001 and recorded April 27, 2001 in Liber 800, Pages 267 through 272.

6. Terms and Conditions of an easement in favor of Paxton Resources, L.L.C. as set forth in Pipeline and Access Road Right-of-Way Agreement dated December 30, 1999 and recorded March 20, 2000 in Liber 752, Pages 312 and 313 and assigned to MCN Oil & Gas Company by Partial Assignment of Easements dated March 14, 2001 and recorded April 27, 2001 in Liber 800, Pages 267 through 272.

7. Easement in favor of Paxton Resources, L.L.C. as set forth in Pipeline and Access Road Right-of-Way Agreement dated November 25, 1996 and recorded April 6, 2001 in Liber 797, Pages 235 and 236.

8. Terms and Conditions of an easement in favor of Ocer J. Wescoat and Sharon M. Wescoat as set forth in Non-Exclusive Easement for Driveway Purposes dated July 9, 2001 and recorded July 17, 2001 in Liber 812, Pages 613 through 617.

9. Easement for construction and maintenance of electrical transmission lines as set forth in the Instrument(s) recorded in Liber 1008, Page 979 and 980.

10. Terms and Conditions of a non-exclusive easement for driveway purposes as set forth in Instrument dated June 25, 2001 and recorded July 17, 2001 in Liber 812, Page 608 through 612.

11. Portions of this property are enrolled in the Commercial Forest Act

N. TOWNLINE

Exhibit 10

RIETH-RILEY CONSTRUCTION CO., INC.

06795 US 31 NORTH • CHARLEVOIX, MICHIGAN 49720

"100% Employee Owned"

Otsego County Planning & Zoning
Attn: Joe Ferrigan
1068 Cross Street
Gaylord, MI 49735

RE: Rieth-Riley North Townline Gravel Pit Special Use Permit (PC-90977-ED) "Renewal"

Mr. Ferrigan,

Rieth-Riley Construction Company, Inc. currently holds Special Use permit PC90977-EA. This Special Use permit is for the 40 acre parcel located in the SE ¼ of the SE ¼ of Section #1 of Elmira Township and has a street address of 3006 Martindale Road. Rieth-Riley Construction Company, Inc. would like to renew the Special Use permit PC90977-EA for sand and gravel extraction and production. The Special Use application is for the 40 acres currently permitted, with an option to eventually proceed into the adjacent acreage to the North. The option to proceed north is dependent on the demands of the market over the 5 year life of the permit. The current 40 acre parcel has not been mined in its entirety and Rieth-Riley Construction Company, Inc. would like to mine and produce gravel on this site as the mining process moves northerly and the site reclamation proceeds.

The following information is intended to be a supplement to the attached "Application for Site Plan Review":

16.3.1:	**Applicant's Name:**	Rieth-Riley Construction Co., Inc.
	Address:	06795 US-31 North Charlevoix, MI 49720
	Phone:	231-439-5757
	Fax:	231-347-8862
16.3.2:	**Legal Description:**	40 acres, SE ¼ of SE ¼ of Section #1, T31N, R4W (Elmira)
	Address:	3006 Martindale Road, Gaylord, MI 49735
	Tax: I.D. Number:	69-060-001-100-005-03

RIETH-RILEY CONSTRUCTION CO., INC.
06795 US 31 NORTH • CHARLEVOIX, MICHIGAN 49720
"100% Employee Owned"

16.3.3: Signed Statement of Application: I Matthew D. Stuck am an employee of Rieth-Riley Construction Co., Inc. and am authorized to submit this Special Use permit application in the best interests of the company.

Matthew D. Stuck 4/19/10

Matthew D. Stuck **Date**

16.3.4: Site plan meeting requirements of Section 20.2: Please see attached survey

16.3.5: Written description of the proposed special land use: Rieth-Riley Construction Company Inc. plans to continue to mine, extract, process, and sell the natural mineral deposit (sand, clay, and stone) located on the property described in section 16.3.2. The materials will be processed and moved using equipment that is regulated for safety and air quality by the Mine Safety and Health Administration (MSHA) and Michigan Department of Environmental Quality respectively. The materials will be sold for road and other construction applications.

16.7.1: The property described in section 16.3.2 is currently zoned: Forest/Recreation.

16.7.2: The existing property is screened by the use of berms and trees.

16.7.3: The proposed land has no adjacent homes and is screened on all four sides by berms and trees.

16.7.4: Property is zoned Forest/Recreation and surrounding properties are farm lands and timber.

16.7.5: N/A

16.7.6: N/A

16.7.7: All rain and water will be self contained as the property is surrounded by berms, creating a site that will control storm water until is naturally absorbed by the existing aggregate (sand/clay/stone/gravel).

TELEPHONE: (231) 439-5757 • FAX: (231) 347-8862 • WWW.RIETHRILEY.COM

RIETH-RILEY CONSTRUCTION CO., INC.
06795 US 31 NORTH • CHARLEVOIX, MICHIGAN 49720
"100% Employee Owned"

Section 18.25 Mining, Gravel, Sand, Clay, Top Soil, Marl

18.25.1: Rieth-Riley Construction Co., Inc.
06795 US-31 North
Charlevoix, MI 49720

18.25.2: Rieth-Riley Construction Co., Inc.
06795 US-31 North
Charlevoix, MI 49720

18.25.3: 40 Acres, 3006 Martindale Road, Gaylord, MI.
Elmira, T31N, R4W, SE ¼ of Section 1.

18.25.4: Topsoils and overburden are currently stripped and stockpiled on the west and north sides of the 40 acres. West end of the 40 acres has been graded and is being used for topsoil and product stockpiling area. When gravel/stone/clay mining is complete in the lower level all mining walls will be sloped to a grade equal or less than a one foot (elevation) to three feet (Horizontal) and then covered with existing on-site overburden and topsoils. Site will be seeded with a blend of hearty grass, rye, and/or clover. Reclamation will be progressive as the mining of the 40 acres is completed and as the mining moves into the adjacent acreage to the north.

18.25.5: All surface water will drain towards the center of the property and away from adjacent property boundaries.

18.25.6: N/A

18.25.7: Rehabilitation: as mining moves to the north and mining within the existing 40 acres is no longer marketable the banks to west and south will be sloped to a grade equal to or less than 1 foot vertical to 3 feet horizontal. This will create a site that can be progressively rehabilitated and still maintain room for material extraction and removal.

18.25.8: Site Development Requirements

RIETH-RILEY CONSTRUCTION CO., INC.
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"100% Employee Owned"

18.25.8.1: Set-back will be maintained as no mining will take place within 50 feet of from any adjacent property line or road right-of-way line.

When the portable crushing equipment is erected it will be done so that t maintains a minimum distance of 100 feet from any property or road right-of-way line.

18.25.8.2: All screening has been completed with the use of berms, tree plantings, and use of existing stands of trees, meeting requirements set in sections 18.18.

18.25.8.3: All interior roads, haul roads, loading, and unloading areas are brined and/or watered per the requirements of the DNRE Air Quality Division.

18.25.9: Site usage is based on the market and demand for sand & gravel products. Usually there is not a period over a year's time where use is not warranted.

18.25.10: Please see copy of the enclosed Surety Bond.

18.25.11: Read and understood

18.25.12: Read and understood

18.25.13: Read and understood

18.25.13.1: Read and understood

18.25.13.2: Read and understood

18.25.13.3: Read and understood

18.25.13.4: Read and understood (Article 20 information to follow)

RIETH-RILEY CONSTRUCTION CO., INC.
06795 US 31 NORTH • CHARLEVOIX, MICHIGAN 49720
"100% Employee Owned"

Article 20 Site Plan Review

20.2.1.1: **Applicant's Name:** Rieth-Riley Construction Co., Inc.
Address: 06795 US-31 North
Charlevoix, MI 49720

Phone: 231-439-5757
Fax: 231-347-8862

20.2.1.2: Please see enclosed 3 page document

20.2.1.3: **Signed Statement of Application:** I Matthew D. Stuck am an employee of Rieth-Riley Construction Co., Inc. and am authorized to submit this Special Use permit application in the best interests of the company.

Matthew D. Stuck 4/19/10
Matthew D. Stuck **Date**

20.2.1.4: Same as above, section 20.2.1.1

20.2.1.5: **Legal Description:** 40 acres, SE ¼ of SE ¼ of Section #1, T31N, R4W (Elmira)
Address: 3006 Martindale Road, Gaylord, MI 49735
Tax: I.D. Number: 69-060-001-100-005-03

20.2.1.6: N/A

20.2.1.7: Neil A. Holshoe, P.S.
Benchmark Engineering, Inc.
607 E. Lake Street
Harbor Springs, MI 49740

20.2.1.8: North Townline gravel site special use permit

RIETH-RILEY CONSTRUCTION CO., INC.
06795 US 31 NORTH • CHARLEVOIX, MICHIGAN 49720
"100% Employee Owned"

20.2.1.9: Gravel mining, extraction, processing, and removal of sand, stone, gravel, and clay on the existing 40 acres with the option to move north to the adjacent property as reclamation proceeds and market demands dictate.

20.2.1.10: See Survey/Property Map

20.2.1.11: Currently Permitted area: 40.00 acres
Total Adjacent and owned area: 79.77 acres

20.2.1.12: Forest Recreation

20.2.1.13: The mining, extraction, processing, and removal of the aggregates on site are for construction and road construction uses and therefore quantities produced and sold are dictated by the construction market and demand in the surrounding areas. Rieth-Riley Construction Co., Inc. is continuing with the same long term mining plan originally set in place by the former owners, H&D, Inc. Mining of the currently permitted 40 acres will continue to follow a phase by phase plan with the long term goal of gradually moving to the adjacent property to the north as reclamation continues and follows behind to the west and south portions. This process of gradually moving to the north will allow for mining and reclamation to continue simultaneously. Completion schedules and dates are uncertain due to uncertainty in the market demands and gravel deposit's quantities.

20.2.2 The Site Plan

20.2.2.1: See Survey/Property Map

20.2.2.2: See Survey/Property Map

20.2.2.3: Natural Sand, gravel, and clay.

20.2.2.4: Existing timber (maple) which is owned by a third party and being harvested in a method and timeline best suited for "selective" cutting.

20.2.2.5: Not applicable

20.2.2.6: Please see Survey/Property Map
Existing Mobile Scale Trailer (approximately 8'w x 12'L)
Portable Pit Scales (approximately 10'w x 70'L)

RIETH-RILEY CONSTRUCTION CO., INC.
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"100% Employee Owned"

20.2.2.7: All crushing equipment used at this is portable and normally is located on-site for no more than 1-2 months during any one consecutive time period. The equipment is erected in the lower elevated level and in various locations for each set.

20.2.2.8: See Survey/Property Map

20.2.2.9: See Survey/Property Map

20.2.2.10: Not Applicable

20.2.2.11: Not Applicable

20.2.2.12: Not Applicable

20.2.2.13: Not Applicable

20.2.2.14: Not Applicable

20.2.2.15: Not Applicable

20.2.2.16: Not Applicable

20.2.2.17: Not Applicable

20.2.2.18: See Survey/Property Map for location of berms and trees. Currently there are berms and trees located around all four sides of the 40 acre property.

20.2.2.19: See Survey/Property Map for perimeter berm and tree locations When the site is sloped, reclaimed , topsoil spread, and seeded then poplars and pines will be planted in various areas of the site.

20.2.2.20: Not Applicable

20.2.2.21: Not Applicable

20.2.2.22: Not Applicable

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20.2.2.23: Not Applicable

20.2.2.24: See Survey/Property Map

20.2.2.25: See Survey/Property Map

TELEPHONE: (231) 439-5757 • FAX: (231) 347-8862 • WWW.RIETHRILEY.COM

PERFORMANCE BOND

Travelers Casualty and Surety Company of America
One Tower Square 3PB, Hartford, CT 06183

Bond No. 105380165

KNOW ALL MEN BY THESE PRESENTS:

That RIETH-RILEY CONSTRUCTION CO., INC., 08795 US 31 North, Bay Shore, MI 49711, as Principal, hereinafter called Contractor, and, **Travelers Casualty and Surety Company of America**, of Hartford, Connecticut, a corporation duly organized under the laws of the State of Connecticut, as Surety, hereinafter called Surety, are held firmly bound unto STATE OF MICHIGAN, Contractors Section, Lansing, MI 48075, as Obligee, hereafter called Owner, in the amount of Forty Thousand and 00/100 Dollars ($ 40,000.00), for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated 4/30/10, entered into a contract with Owner for North Townline Pit- Aggregate Crushing, Otsego County in accordance with Drawings and Specifications prepared by _____ which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

1) Complete the Contract in accordance with its terms and conditions,

or

2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable to Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractors.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

Signed and sealed this 19th day of March 2010

Witness

RIETH RILEY CONSTRUCTION CO., INC.
Principal

Jennifer J. Bock
Witness — Jennifer J. Bock

Travelers Casualty and Surety Company of America
Susan A. Welsh — Attorney-In-Fact

Printed in cooperation with the American Institute of Architects (AIA) by Travelers Casualty and Surety Company of America. The language in this document conforms exactly to the language used in AIA Document A311, February 1970 edition.

S-1870-E (09-99)

ACKNOWLEDGEMENT BY SURETY

STATE OF ILLINOIS
COUNTY OF COOK

On this 19th of March, 2010, before me, Sandra M. Nowak, a Notary Public, within and for said County and State, personally appeared Susan A. Welsh to me personally known to be the Attorney-in-Fact of and for Travelers Casualty and Surety Company of America and acknowledged that she executed the said instrument as the free act and deed of said Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the aforesaid County, the day and year in this certificate first above written.

Sandra M. Nowak
Notary Public in the State of Illinois
County of Cook

OFFICIAL SEAL
SANDRA M. NOWAK
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES
FEBRUARY 9, 2014

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

TRAVELERS

POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 215800

Certificate No. 003530548

KNOW ALL MEN BY THESE PRESENTS: That St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Thomas J. Joslin, Karen Daniel, Kathleen J. Mailes, Linda Iser, Sandra Martinez, Susan A. Welsh, Susan J. Preiksa, Geoffrey E. Heekin, Marcia K. Cesafsky, Patricia M. Doyle, and Richard A. Moore Jr.

of the City of Chicago, State of Illinois, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 11th day of October, 2007.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

State of Connecticut
City of Hartford ss.

By: George W. Thompson, Senior Vice President

On this the 11th day of October, 2007, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2011.

MARIE C. TETREAULT NOTARY PUBLIC CONNECTICUT

Marie C. Tetreault, Notary Public

58440-4-09 Printed in U.S.A.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

Fugitive Dust Control Plan

I. Site Roadways / Plant Yard

A The dust on the site roadways/plant yard shall be controlled by applications of water, calcium chloride or other acceptable and approved fugitive dust control compounds. Applications of dust suppressants shall be done as often as necessary to meet all applicable emission limits.

B. All paved roadways/plant yard shall be swept as needed between applications.

C. Any material spillage on roads shall be cleaned up immediately.

II. Plant

A. The drop distance at each transfer point shall be reduced to the minimum the equipment can achieve. The transfer point from the re-circulating belt to the feed belt shall be equipped with an enclosed chute.

III. Storage Piles

A. Stockpiling of all nonmetallic minerals shall be performed to minimize drop distance and control potential dust problems.

B. Stockpiles shall be watered on an as needed basis in order to meet the opacity limit of 5 percent. Also, equipment to apply water or dust suppressant shall be available at the site or on call for use at the site within a given operating day. A record of all watering shall be kept on file and be made available to the Air Quality Division upon request.

IV. Truck Traffic

A. On-site: Vehicles shall be loaded to prevent their contents from dropping, leaking, blowing or otherwise escaping. This shall be accomplished by loading so that no part of the load shall come in contact within 6 inches of the top of any sideboard, side panel or tailgate; otherwise, the truck shall be tarped.

RIETH-RILEY CONSTRUCTION CO., INC.
06795 US 31 NORTH • CHARLEVOIX, MICHIGAN 49720
"100% Employee Owned"

PIT RESTORATION PLAN
(18.25.7)

Prior to mining operations, topsoil shall be stripped from the area to be mined and stockpiled. Initial topsoil stripping has been used to construct berms for sight and sound barriers. Topsoil will be taken from the stockpiles and placed in the mined area in phases, after all the extraction operations are completed and the area sloped and contoured. Topsoil shall be placed at a depth of 2" to 4" per Otsego County recommendations. All slopes around the mined perimeter shall be reclaimed to a maximum slope of one foot vertical to three foot horizontal before the topsoil is placed on them. The intent will be to shape the mined area in a manner that will make it harmonious with the surrounding terrain. All reclaimed areas shall be seeded and planted with a combination of deciduous and coniferous seedlings/transplants from areas of future mining. In addition the reclamation area will be seeded using a herbaceous seed mix, the type of seed mix will be determined in cooperation with the county extension service. We expect to start additional reclamation when the south 20 acres have mined completely. This process will continue in a progressive manner as mining continues to the north. Designated stockpile areas will be left within reclaimed areas as long as mining continues.

Screening has been accomplished by establishing berms and leaving a 50 foot wide belt of natural and existing vegetation along the property and public road right-of-way lines. Per the timber owner's timber management agreement, only selective timber cutting will continue within the 50' buffer zone.

It is the intent of Rieth-Riley Construction Company, Inc. to restore the entire property in such a manner as to leave it in a condition that will make it compatible with forest/recreational/residential land uses. All restoration practices will be done with this goal in mind.

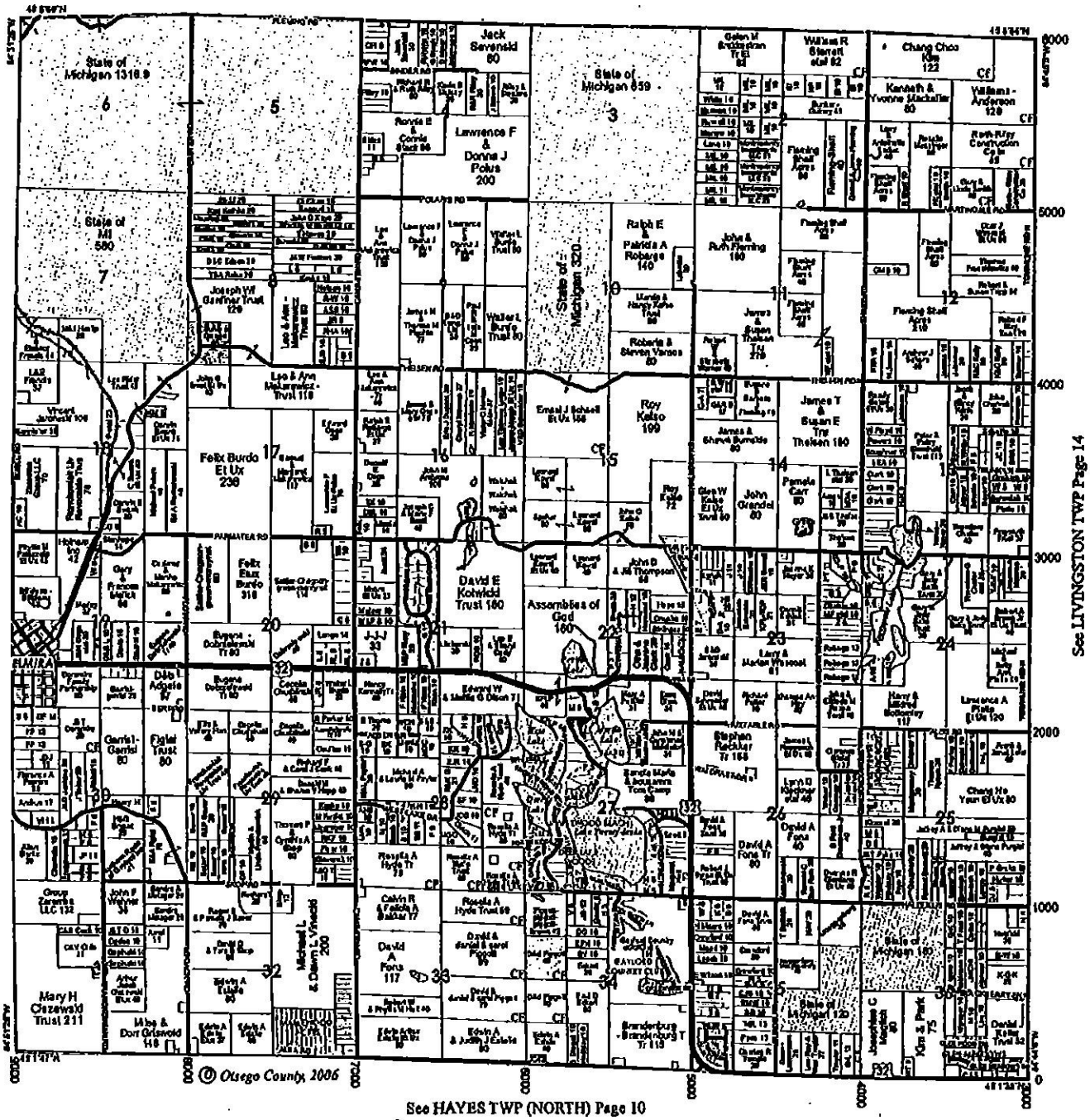
Final rehabilitation shall proceed in a progressive manner as areas' natural mineral become extracted out in their entirety.

TELEPHONE: (231) 439-5757 • FAX: (231) 347-8862 • WWW.RIETHRILEY.COM

ELMIRA TWP

T31N R4W

CHARLEVOIX COUNTY



See HAYES TWP (NORTH) Page 10

R.C. (Dick) Dunn
Professional Land Surveyor
7291 Wolverine Rd.
Wolverine, MI
49799
Office: 231-525-8712
Fax: 231-525-6756

GINOP SALES Inc.
11274 W. M-68
ALANSON, MI 49706
(231) 548-2272
FAX (231) 548-2278
1-800-344-4667
9010 E. M-72
WILLIAMSBURG, MI 49690
(231) 267-5400
FAX (231) 267-5477
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20511 W. M-32
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FAX (989) 742-7410
1-877-304-4667
HOURS:
8:00-5:30 MON.-FRI.
8:00-12:00 SAT.
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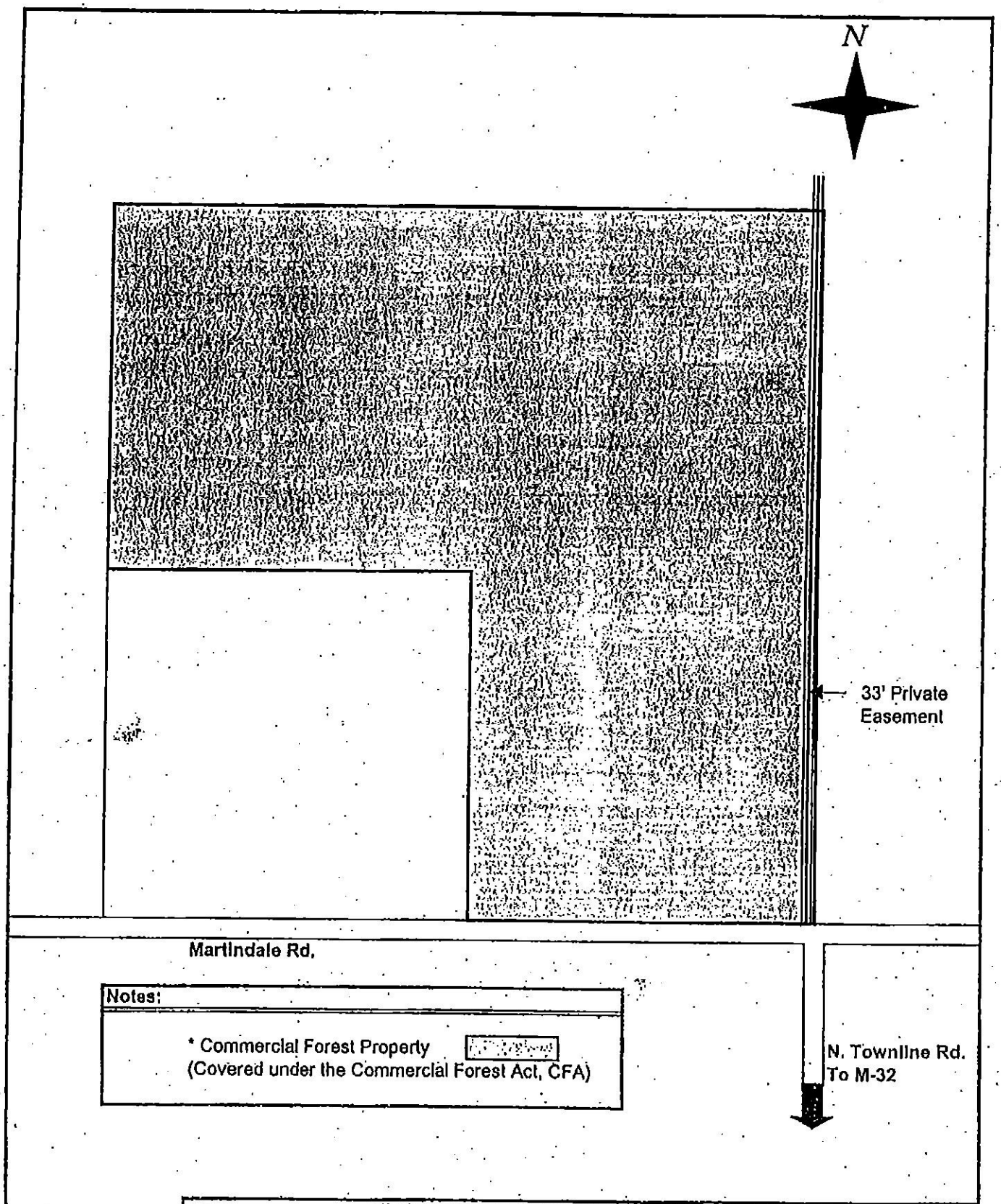
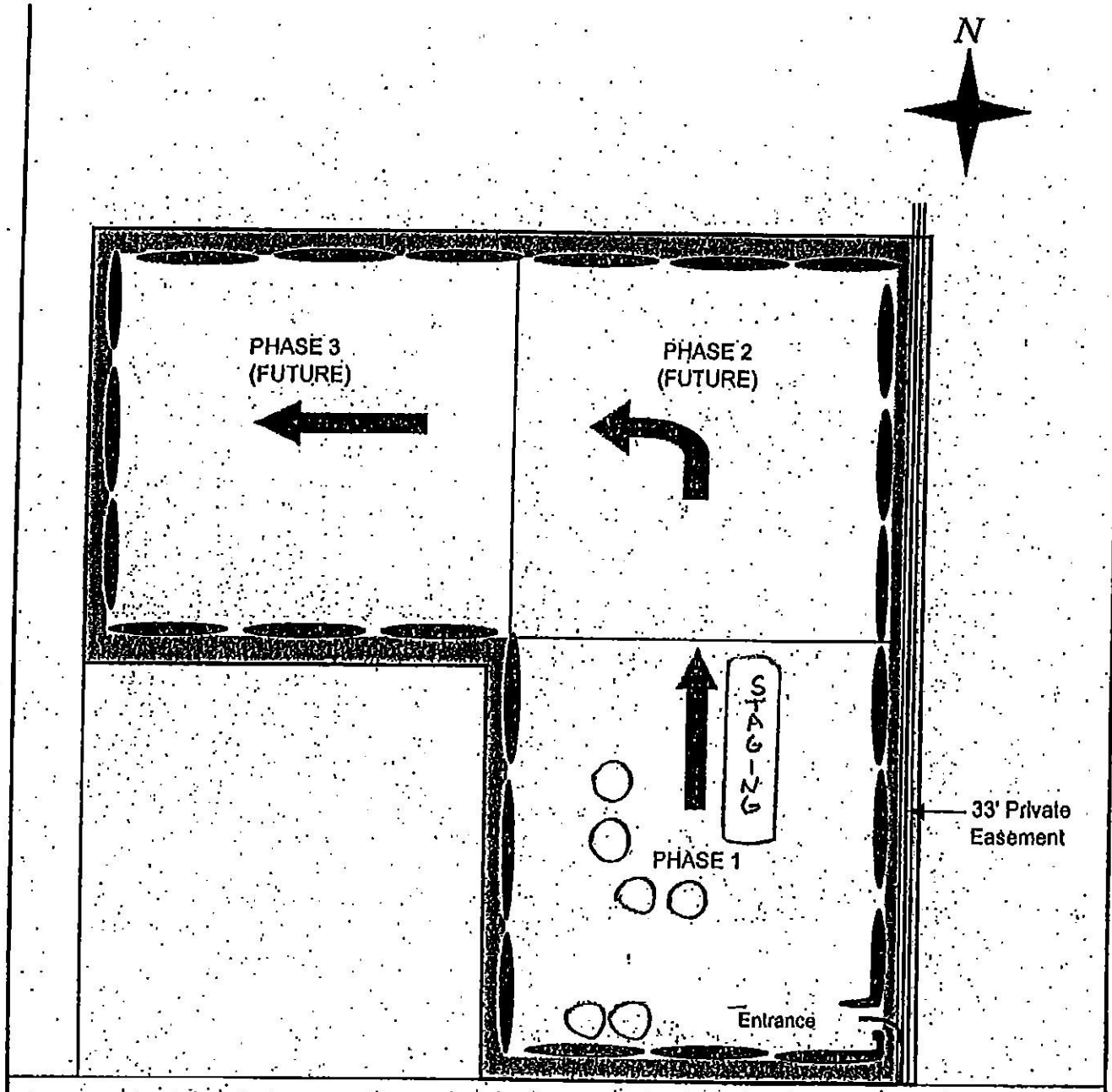
Lake City, MI 49651
Office: 231-839-7646
Fax: 231-839-4250



Notes:

* Commercial Forest Property
(Covered under the Commercial Forest Act, CFA)

Project	ELMIRA TOWNSHIP PROPOSED EXTRACTION SITE SPECIAL USE PERMIT APPLICATION
Sheet Title	EXISTING LAND USE
Sheet No.	1



Notes:

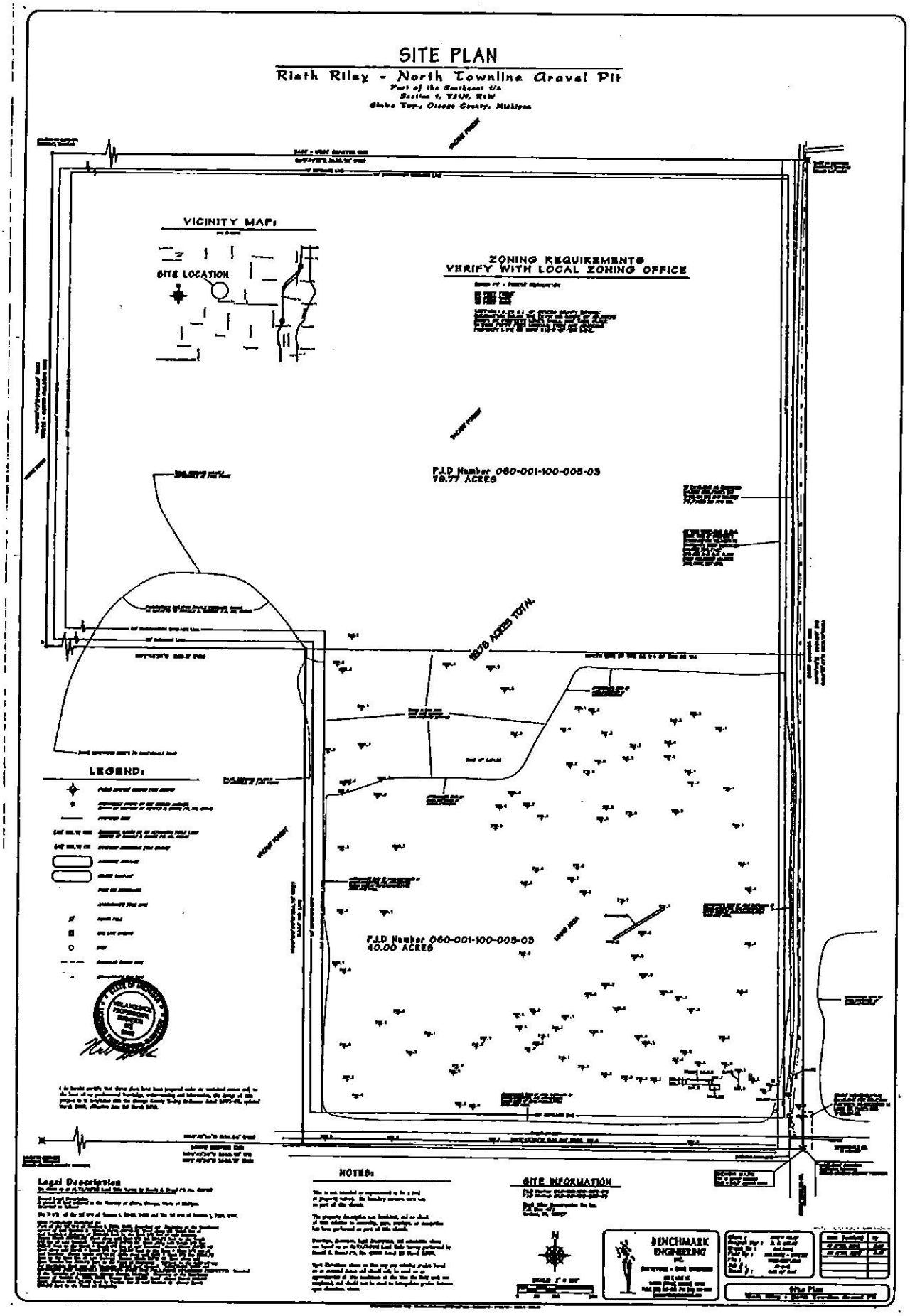
- * 50 Foot setback.
- * Potential area of extraction.
- O STOCK Piles
- * General direction of extraction activity.
- * Potential area for berm/topsoil storage as extraction progresses.

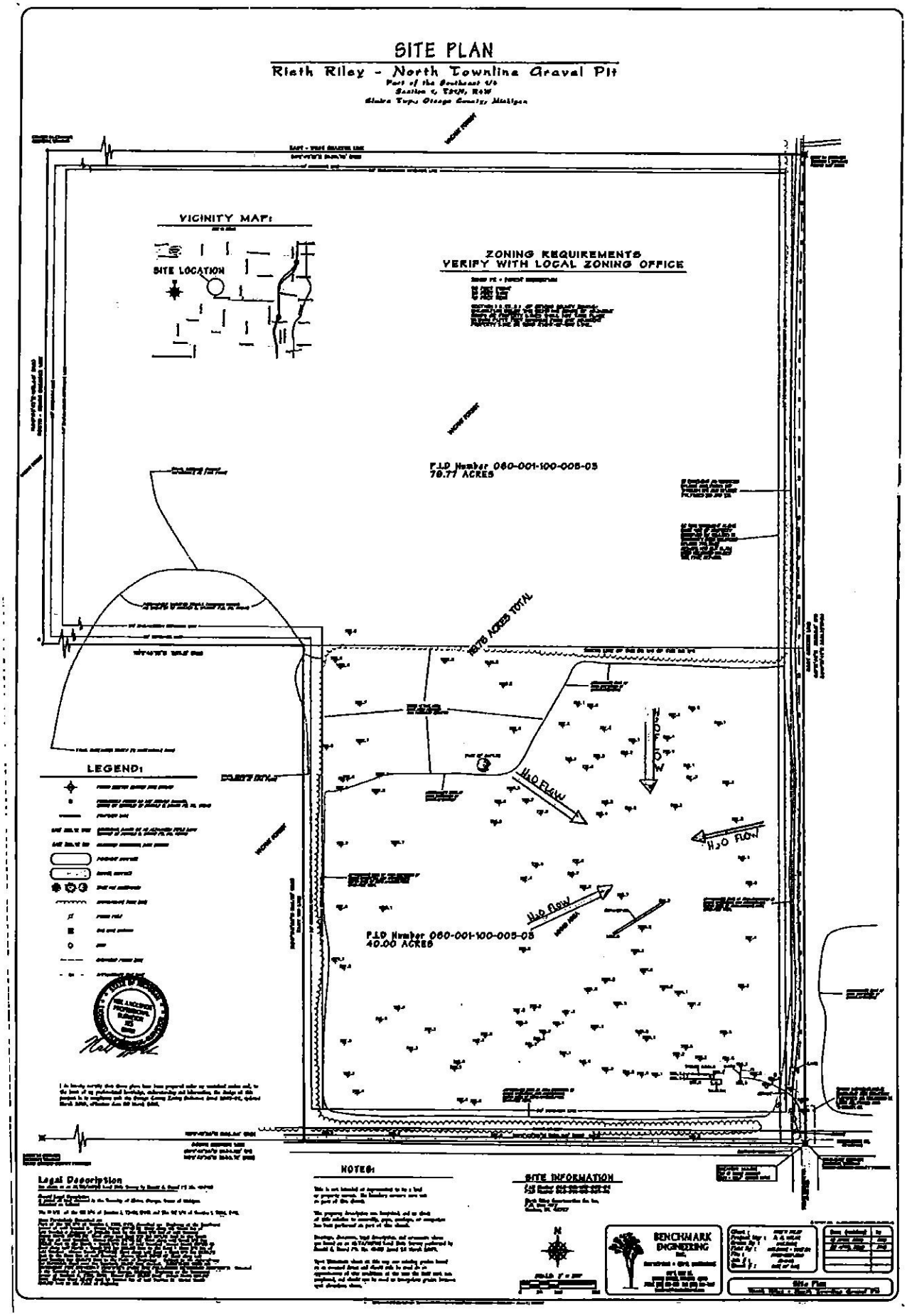
Project: ELMIRA TOWNSHIP PROPOSED EXTRACTION SITE
SPECIAL USE PERMIT APPLICATION

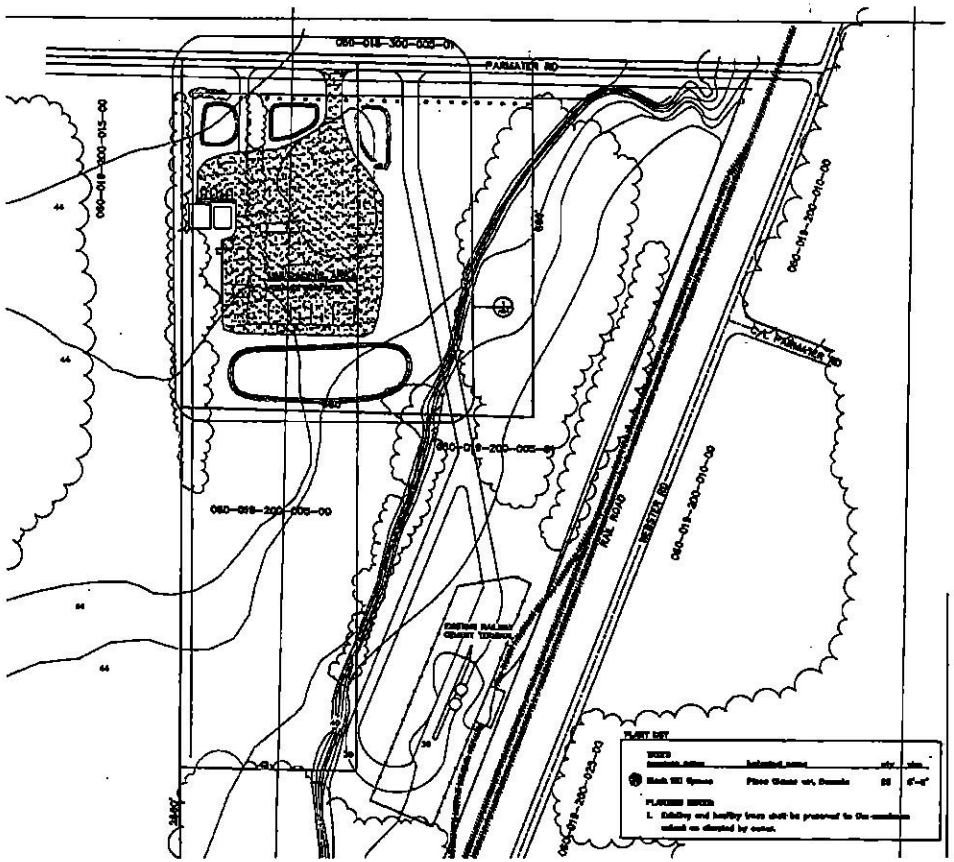
Sheet Title

LONG TERM EXTRACTION PLAN

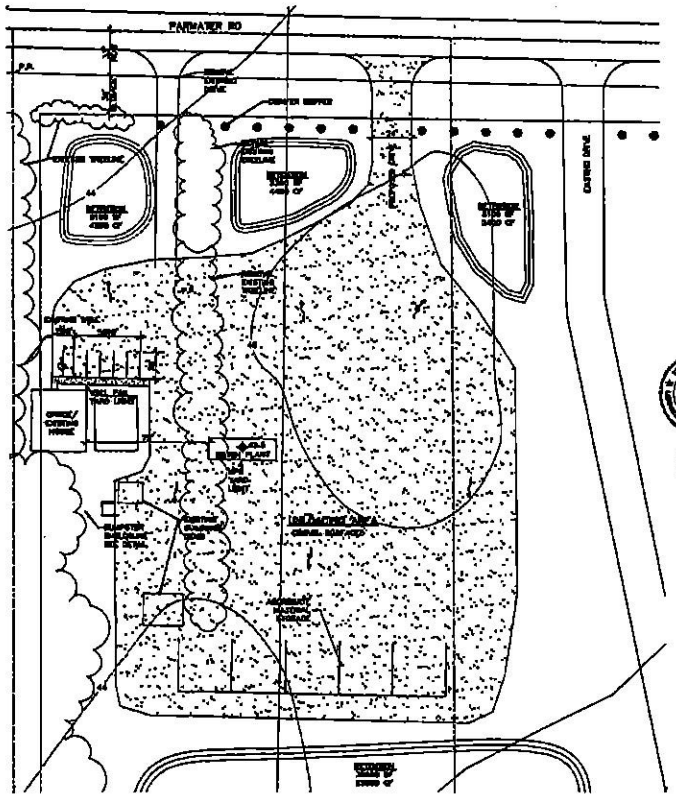
Sheet No. 2


SITE PLAN
Rieth Riley - North Townline Gravel Pit
Part of the Southeast 1/4
Section 1, T51N, R4W
Shelby Twp., Oceana County, Michigan
VICINITY MAP:
SITE LOCATION
ZONING REQUIREMENTS
VERIFY WITH LOCAL ZONING OFFICE
P.I.D Number 060-001-100-005-03
79.77 ACRES
119.76 ACRES TOTAL
LEGEND:
P.I.D Number 060-001-100-005-03
40.00 ACRES
Legal Description
NOTES:
SITE INFORMATION
BENCHMARK ENGINEERING
Site Plan

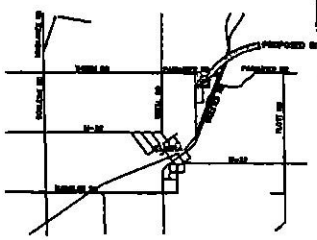

SITE PLAN
Rieth Riley - North Townline Gravel Pit
Part of the Southeast 1/4
Section 1, T5N, R4W
Elmira Twp., Otsego County, Michigan
VICINITY MAP:
SITE LOCATION
ZONING REQUIREMENTS
VERIFY WITH LOCAL ZONING OFFICE
P.I.D Number 060-001-100-005-03
78.77 ACRES
NET 6 ACRES TOTAL
H2O FLOW
H2O FLOW
H2O FLOW
H2O FLOW
P.I.D Number 060-001-100-005-03
40.00 ACRES
LEGEND:
Legal Description
NOTES:
SITE INFORMATION
BENCHMARK ENGINEERING
Site Plan



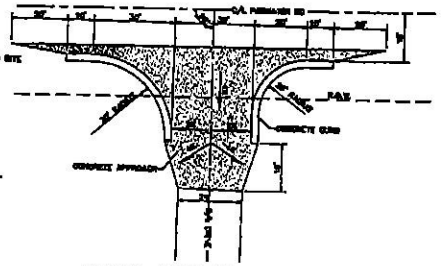
SITE PLAN
SCALE: 1" = 100'



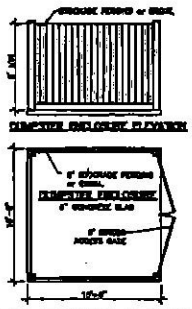
1 SITE PLAN DETAIL
SCALE: 1" = 40'



LOCATION MAP



DETAIL DRIVEWAY APPROACH
SCALE: 1" = 10'-0"



DETAIL DUMPSTER ENCLOSURE
SCALE: 1" = 1'-0"

Applicant/ Developer	LC Redi-Mix [illegible]	Adjacent Properties	Parcel Code	Parcel Zoning	Structures
	[illegible]		[illegible]	Forest Preservation	no
Property Owner	Adkins Inc [illegible]		[illegible]	Forest Preservation	no
			[illegible]	Business Light Manufacturing	no
Parcel ID.	[illegible]		[illegible]	Forest Preservation	no
Parcel Address	[illegible] Parmater Rd		[illegible]	Forest Preservation	Residential
	Elmira, MI 49730		[illegible]	Forest Preservation	no
Parcel Area	10 Acres M/L		[illegible]	Agriculture	no
Parcel Zoning	Business & Light Manufacturing		[illegible]	Agriculture	Residential
	[illegible]		[illegible]	Forest Preservation	no
	[illegible] Parmater Rd		[illegible]	Forest Preservation	no
	Elmira, MI 49730	Soil Type	[illegible]		
	10.0 Acres M/L	Gross Surfaced Area	[illegible]		
	Business & Light Manufacturing	Proposed Water Retention			
Parcel Description	Part Sec 10 [illegible]	Proposed Concrete [illegible]			
	[illegible]	Proposed Gravel [illegible]			
		24 hr 25 Yr Rainfall [illegible]			
		Project Volume, V [illegible]			
		Retention Volume Provided, [illegible]			
Project Description	Construct concrete ready-mix batch plant with outside aggregate material storage. Construct building enclosed silo[illegible] to other space.	I do hereby certify that these plans have been prepared under my personal supervision and, to the best of my knowledge and belief, comply with all applicable laws, ordinances, rules and regulations. The design of this project is in compliance with the Elmira County Zoning Ordinance dated [illegible] updated [illegible]			
Project Schedule	Project completion: June 2011				

Project
LC Redi-Mix Elmira Batch Plant
Parmater Rd
Elmira, MI

preseell engineering design

PROJECT NO.
1005

C1.0