

**OTSEGO COUNTY
PLANNING COMMISSION**

August 17, 2015
6:00 PM

MEETING WILL BE IN THE PLANNING AND ZONING MEETING ROOM LOCATED AT 1322 HAYES ROAD

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF MINUTES: From June 15, 2015 meeting
5. CONSENT AGENDA: None
6. OTHER: Cherry Capital Connection LLC/*Tim Maylone, representative*
Proposed language modifications to Sections 21.46.2.7 and 23.2
7. PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA:
(Please identify yourself for the record. All comments will be limited to two (2) minutes)
8. PUBLIC HEARINGS:
 1. *Reith-Riley Construction Inc, owners have requested a Special Use Permit/Site Plan Review for property located in Elmira Township:*
3006 Martindale Rd
060-001-10-005-03
Property located in a FR/Forest Recreation Zoning District
PSUP15-002- proposed use of the property is to extend the permit for an existing mining operation
 2. *Otsego County Zoning Ordinance Proposed Amendment*
PZO15-005-proposed language to Article 21/Section 21.46 WIRELESS COMMUNICATIONS and Article 27/TOWNSHIP PARTICIPATION IN COUNTY ZONING
9. ADVERTISED CASES:
 1. *Reith-Riley Construction Inc, owners have requested a Special Use Permit/Site Plan Review for property located in Elmira Township:*
3006 Martindale Rd
060-001-10-005-03
Property located in a FR/Forest Recreation Zoning District
PSUP15-002- proposed use of the property is to extend the permit for an existing mining operation
 2. *Otsego County Zoning Ordinance Proposed Amendment*
PZO15-005-proposed language to Article 21/Section 21.46 WIRELESS COMMUNICATIONS and Article 27/TOWNSHIP PARTICIPATION IN COUNTY ZONING
10. UNFINISHED COMMISSION BUSINESS
11. NEW BUSINESS
12. REPORTS AND COMMISSION MEMBER'S COMMENTS:
 1. Otsego County Parks & Recreation report/Judy Jarecki
 2. Sample Checklist to Guide Decisions on Special Land Uses/Zoning Training
13. ADJOURNMENT

Otsego County Planning Commission

Proposed Minutes for June 15, 2015

Call to Order: 6:00 pm by Chairperson Hartmann

Pledge of Allegiance

Roll Call:

Present: Chairperson Hartmann, Vice-Chairperson Jarecki, Mr. Borton, Secretary Arndt, Mr. Brown, Ms. Nowak, Mr. Klee, Mr. Hendershot, Mr. Mang, Ms. Corfis

Absent: Mr. Hilgendorf

Staff Present: Mr. Schlaud, Ms. Boyak-Wohlfeil

Public Present: Dean and Sara Gapinski, Randy Stults

Consent Agenda: None

Approval of minutes from: May 18, 2015

Motion made to approve minutes as written by Mr. Borton; Seconded by Mr. Brown.

Motion approved unanimously.

Other: None

Public participation for items not on the agenda: None

Public Hearing:

- Dean & Sara Gapinski, owners of Gapinski Forestry Products Inc, have requested a Special Use Permit/Site Plan Review for property located in Livingston Township at:
210 Meecher Rd Gaylord, MI 49735
081-210-000-001-00
Property located in a B2/General Business Zoning District
PSUP15-001-proposed use of the property is to build a 120x60 shop/office for equipment repair and outside log storage.*

Mr. Schlaud stated Dean and Sara Gapinski were proposing a transfer station for outside log storage and a building for storage and repair of their equipment. Both were permitted uses subject to special conditions in a B2 Zoning District.

Public Hearing open: 6:03 pm

Sara Gapinski stated Mr. Schlaud was correct but the log storage was short term. They do not make money on the storage.

Chairperson Hartmann asked Mr. Mang to read Livingston Township's recommendation.

Mr. Mang read the email from Livingston's Planning Commission Chairperson Steve Dipzinski, which stated they recommended approval of Special Use Permit PSUP15-001 contingent on two (2) conditions:

1. Establish a buffer with blue spruce on the north, south and west side of the property
2. Install a water/grease separator in the drain of the garage due to contaminants from that will take place from working on the trucks.

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Chairperson Hartmann asked the Gapinski's if they had a problem with either condition.

Mr. Gapinski stated they had already planned on installing the drain in the garage.

Chairperson Hartmann had gone by the property and stated pine trees already concealed the east side. He asked Mr. Schlaud's opinion.

Mr. Schlaud stated Livingston Township could make a recommendation as to the type of tree but the County could alter the condition. He stated the site plan depicted a buffer on the south side of the property but questioned Mr. Gapinski as to the buffer on the north side of the property and Mr. Mang why the recommendation of blue spruce and if the size or density had been discussed.

Mr. Gapinski stated the north and east property lines were buffered with trees.

Mr. Mang stated a member of Livingston's Planning Commission had specified blue spruce trees because the branches remained low to the ground and the density of the branches provided concealment. He stated they had not discussed the height or spacing of the trees.

After discussion, Chairperson Hartmann suggested planting blue spruce trees or equivalent at a height of four feet (4') ten feet (10') apart.

Vice-Chairperson Jarecki questioned the lighting and signage for the building.

Mr. Gapinski stated the lighting would be whatever the ordinance designated and signage was not needed.

Secretary Arndt questioned the drain installation in the building.

Mr. Schlaud stated the drain installation and any signage would be addressed with building permits.

Mr. Mang suggested the motion wording be changed to *'trees with similar characteristics'* opposed to equivalent because a blue spruce was a distinct species.

Mr. Borton stated the equivalence would be the screening ability of the tree, not the species.

Public Hearing closed: 6:21 pm

Advertised Case:

1. *Dean & Sara Gapinski, owners of Gapinski Forestry Products Inc, have requested a Special Use Permit/Site Plan Review for property located in Livingston Township at:
210 Meecher Rd Gaylord, MI 49735
081-210-000-001-00
Property located in a B2/General Business Zoning District
PSUP15-001-proposed use of the property is to build a 120x60 shop/office for equipment repair and outside log storage.*

Chairperson Hartmann requested a motion.

Motion made by Mr. Arndt to approve Special Use Permit PSUP15-001 subject to the condition of tree buffering with blue spruce or species with similar characteristics of screening ability at a minimum height of four feet (4') and spaced at ten feet (10') intervals along the perimeters of the property; Seconded by Mr. Borton.

Motion approved unanimously.

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Mr. Schlaud read the General Finding of Fact. *SEE ATTACHMENT 1*

Chairperson Hartmann read the Specific Finding of Fact/Article 19.7. All conditions had been met. *SEE ATTACHMENT 1*

Chairperson Hartmann excused the applicants.

Public Hearing:

2. *Otsego County Zoning Ordinance Proposed Amendment*
PZO15-3-proposed language to Article 9/AR/Agricultural Resource/Section 9.2.4 per Zoning Board of Appeals interpretation

Public Hearing open: 6:37 pm

Mr. Schlaud read the amendment and stated the proposed change was previously sent to townships and input was positive.

Public Hearing closed: 6:38 pm

Advertised Case:

2. *Otsego County Zoning Ordinance Proposed Amendment*
PZO15-3-proposed language to Article 9/AR/Agricultural Resource/Section 9.2.4 per Zoning Board of Appeals interpretation

Motion made by Mr. Hartmann to recommend to the Otsego County Board of Commissioners PZO15-003 an amendment to Article 9/Section 9.2.4 to include the addition of agricultural equipment auctions per the Otsego County Zoning Board of Appeals interpretation; Seconded by Mr. Arndt.

Motion approved unanimously. *SEE ATTACHMENT 2*

Public Hearing:

3. *Otsego County Zoning Ordinance Proposed Amendment*
PZO15-004- proposed language to Article 17/Schedule of Dimensions HX/Highway Interchange/Maximum building height

Public Hearing open: 6:41 pm

Mr. Schlaud stated the proposed change was previously sent to townships and input was positive as well.

Public Hearing closed: 6:42 pm

Advertised Case:

3. *Otsego County Zoning Ordinance Proposed Amendment*
PZO15-004- proposed language to Article 17/Schedule of Dimensions HX/Highway Interchange/Maximum building height

Motion made by Ms. Corfis to recommend to the Otsego County Board of Commissioners PZO15-003 an amendment to Article 17/Schedule of Dimensions to include the HX/Highway Interchange Zoning District to 'note g' for maximum building height; Seconded by Ms. Nowak.

Motion approved unanimously. *SEE ATTACHMENT 3*

Unfinished Commission Business: None

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New Business: None

Reports and Commission Member's Comments:

1. Otsego County Parks & Recreation report

Vice-Chairperson Jarecki reported the renovations at the Otsego County Community Center had begun and should be completed mid-July and the Parks & Recreation's director attended a beach safety session and was informed of new rules for signage at the County Park and Wah Wah Soo. The Groen Nature Preserve had been cleaned up after the tree harvest and was in good shape.

Mr. Schlaud stated a mining renewal permit for Rieth Riley had been sent to township and would probably be on July's agenda. There were a couple of other cases in the works for this summer also.

Mr. Borton stated they had four (4) applicants for Mr. Summerix's replacement. They would be interviewed the following week and it would be decided at their next Board of Commissioners meeting. There is a year and a half left on Mr. Summerix's term and he represented Bagley Township and a small portion of Hayes. The four (4) applicants are Ken Glasser, Frank Trigger, Adam Cherry and Larry Becker.

Secretary Arndt stated Bagley Township will review their Master Plan for updating and they were still working on the private road document.

Chairperson Hartmann stated Elmira Township would be sending the MUZ/Multiple Use Zoning document to the County in the near future for review and it would be presented by Duane Hoffman.

Vice-Chairperson Jarecki stated Corwith Township was still working on the Trailtown Gateway Community and possibly an information center out at the Pigeon River. She stated the Township Hall is being renovated and they are expanding the library. Additional computer access will be provided.

Ms. Corfis stated Otsego Lake Township will be reviewing their Master Plan for updates.

Mr. Brown stated Charlton Township would be reviewing their Master Plan next year.

Mr. Mang stated Livingston Township was considering installing professional signage depicting pictures and historical information on sites along the North Central State Trail.

2. General Information Guide for a PC or ZBA/Zoning Training

Adjournment: 7:05 pm by Chairperson Hartmann

Ken Arndt; Secretary

Christine Boyak-Wohlfeil; Recording Secretary

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ATTACHMENT 1:

OTSEGO COUNTY PLANNING COMMISSION

PSUP15-001
Special Use Permit/Site Plan Review
081-210-000-001-000

GENERAL FINDINGS OF FACT

1. This is a proposal for a 120x60 shop w/office for a forestry business with outside log storage. *Exhibit #1, Exhibit #5*
2. The property is located in a B2/General Business Zoning District. *Exhibit #2*
3. The proposed use is a permitted use subject to special conditions in a B2/General Business Zoning District. *Exhibit #3*
4. The property is currently under the ownership of Dean & Sara Gapinski. *Exhibit #4*
5. The Public Hearing Notice was published in the Herald Times on May 29, 2015 *Exhibit #6*
6. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit 7, Exhibit #8*
7. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #9*
8. The Planning Commission has the authority to approve a Special Land Use request after review and compliance with the Otsego County Zoning Ordinance. (Section 19.7) *Exhibit #3*
9. The required fees have been collected by Otsego County Land Use Services. *Exhibit #10*
10. The site plan requirements of Article 23 have been reviewed by Otsego County Land Use and all requirements pertaining to the proposed development have been addressed by the Applicant. *Exhibit #5, Exhibit #11, Exhibit #12*

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FINDINGS UNDER ARTICLE 19:

- 19.7.1 The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
HAS – HAS NOT BEEN MET
- 19.7.2 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.
HAS – HAS NOT BEEN MET
- 19.7.3 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.
HAS – HAS NOT BEEN MET
- 19.7.4 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.
HAS – HAS NOT BEEN MET
- 19.7.5 The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.
HAS – HAS NOT BEEN MET
- 19.7.6 The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
HAS – HAS NOT BEEN MET
- 19.7.7 If the proposed special land use includes more than fifteen thousand (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.
HAS – HAS NOT BEEN MET
- 19.7.8 The proposed special land use complies with all specific standards required under this Ordinance applicable to it.
HAS – HAS NOT BEEN MET

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SECTION 19.8 - CONDITIONS

The Planning Commission may attach reasonable conditions to the approval of a special use permit. These conditions may include those necessary to insure that public services and facilities affected by a proposed special land use will be capable of accommodating increased service and facility loads caused by the special land use, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all the following requirements.

- 19.8.1 Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed special land use, and the community as a whole.
- 19.8.2 Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use.
- 19.8.3 Be necessary to meet the intent and purpose of the zoning ordinance, be rated to the standards established in the ordinance for the special land use under consideration, and be necessary to insure compliance with those standards.

Motion made by Mr. Arndt to approve Special Use Permit PSUP15-001 subject to the condition of tree buffering with blue spruce or species with similar characteristics of screening ability at a minimum height of four feet (4') and spaced at ten feet (10') intervals along the perimeters of the property; Seconded by Mr. Borton.

Motion approved unanimously.

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ATTACHMENT 2:

***The Otsego County Planning Commission is submitting a proposed amendment to ARTICLE 9 AR/Agricultural Resource zoning districts per the Zoning Board of Appeals decision on a comparable use:**

ZBA Motion:

The Zoning Board of Appeals makes the determination that Agricultural Equipment Auctions are a comparable use to Article 9.2.4 'Livestock Auction Yards' and therefore, under Article 9.2.24 and Article 18.44, Agricultural Equipment Auctions are a permitted use subject to special conditions and the conditions of Livestock Auction Yards in the Agricultural Resource District (AR).

Agricultural Equipment Auction Yards:

ARTICLE 9 AR AGRICULTURAL RESOURCE DISTRICT

SECTION 9.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of [Article 19](#) and only after the review and approval of the site plan by the Planning Commission. [See [Article 21](#) for applicable Specific Requirements for Certain Uses, if any and [Article 23](#) for Site Plan Requirements.]

Current language:

9.2.4 Livestock auction yards with accessory buildings on a minimum forty (40) acres site with a minimum width of six hundred (600) feet, provided that there is no nuisance imposed upon the surrounding farms or dwellings.

Proposed language:

9.2.4 Auction yards for livestock and/or agricultural equipment with accessory buildings on a minimum forty (40) acres site with a minimum width of six hundred (600) feet, provided that there is no nuisance imposed upon the surrounding farms or dwellings.

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ATTACHMENT 3:

*The Otsego County Planning Commission would like your input in reference to the Highway Interchange Zoning District and 'note g'. A detail was omitted when previously presented concerning 'note g' and the maximum building height. It was referenced in the chart below but was not clarified in 'note g' itself as to the possible percentage to exceed.

ARTICLE 17 SCHEDULE OF DIMENSIONS

17.1 Table 1 - LIMITING HEIGHT, DENSITY, AND AREA BY ZONING DISTRICTS (See also [Article 21.1 Accessory Buildings](#) and [Article 22 General Exceptions for Area, Height, and Use](#))

| Zoning District | R1 & R2 | R3 | RR | FR & AR | Reserved for future use | Reserved for future use |
|--|----------------------------|--------------------|--------------------|-------------------------------|--------------------------------|--------------------------------|
| Min. Lot Area (Sq. feet) | 20,000 .46 acre | 40,000 .92 acre | 20,000 .46 acre | 88,000 2.02 acre | | |
| Min. Front Setback (b)(j) | 25 ft | 25 ft | 25 ft | 50 ft | | |
| Max. Front Setback | NA | NA | NA | NA | | |
| Min. Side Setback | 10 ft | 10 ft | 10 ft | 20 ft | | |
| Min. Rear Setback | 30 ft (a, h) | 30ft (a, h) | 30 ft (a, h) | 40 ft (a) | | |
| Min. Lot width (k) | 100 ft 150 ft Duplex | 100 ft | 100 ft | 150 ft AR 300 ft Duplex | | |
| Max. % lot coverage | 25% | 25% | 25% | 30% | | |
| Max. Building height (l) | 35 ft (g) | 35 ft (g) | 35 ft (g) | 35 ft (g) | | |
| Min. Ground Floor area of principal structure (Square feet) | 720 (i) | 720 (i) | 720 (i) | 720 (i) | | |
| Min. Width of principal structure | 20 ft (i) | 11ft (i) | 20 ft (i) | 11 ft (i) | | |

| Zoning District | B1 | B2 | B3 | I | HX | Reserved for future use |
|---|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------------------|
| Min. Lot Area (Square feet) | 10,000 | 10,000 | 20,000 | 40,000 | 10,000 | |
| Min. Front Setback | 30 ft (e) | |
| Max. Front Setback | NA | NA | NA | NA | NA | |
| Min. Side Setback | 10 ft (c) | |
| Min. Rear Setback | 20 ft (a, d, f) | |
| Min. Lot width (k) | 100 ft | 100 ft | 100 ft | 150 ft | 150 ft | |
| Max. % lot coverage | NA | NA | NA | NA | NA | |
| Max. Building height (l) | 35 ft (g) | |
| Min. Ground Floor area principal structure (Square feet) | NA | NA | NA | NA | NA | |
| Min. Width of principal structure | NA | NA | NA | NA | NA | |

Minimum front, side and rear setbacks, and maximum lot coverage modifications of up to twenty-five percent (25%) may be approved by the Zoning Administrator for nonconforming lots, as described in [Article 21.26.1](#) and [21.26](#).

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- Note a:** Lots within five hundred (500) feet of lakes, ponds, flowages, rivers, streams: see [Article 18, LOTS NEAR WATER](#).
- Note b:** Where the front yards of two (2) or more principal buildings in any block, or within five hundred (500) feet in existence at the time of the passage of this Ordinance (or amendment thereto), in the same zoned district or the same side of the road are less than the minimum front yard setback, then any principal building subsequently erected on the same side of the road shall not be required to provide a greater setback than the average for the existing two (2) or more principal buildings.
- Note c:** On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the residential side in B1, B2, B3 and HX.
- Note d:** Loading and unloading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per linear foot of front building wall. Loading space shall not be counted as required off-street parking. Loading zones may be located in other non-required yards if screened or obscured from view from public streets and residential districts.
- Note e:** Off-street parking may be permitted in the front yard, except that a ten (10) foot wide landscaped buffer is maintained between the front lot line (or right-of-way line) and the parking area.
- Note f:** No building shall be placed closer than forty (40) feet to the outer perimeter of such district or property line when said use abuts a residential district boundary.
- Note g:** Subject to approval by the Planning Commission, the maximum height of buildings may be permitted to exceed the maximum stated in the Schedule by up to fifty percent (50%) in R1, R2, R3, RR, B1, B2 and HX Districts; and up to one hundred percent (100%) in all other districts, provided that the applicant can demonstrate that no good purpose would be served by compliance with maximums stated, (as in the case of steep topography, a Planned Unit Development (PUD), or larger site); and further, there is no conflict with airport zoning height restrictions; fire safety is maintained subject to local fire authority approval; and the light, air and/or scenic views of adjoining property is not impaired. The Planning Commission and or Zoning Board of Appeals cannot allow a WTG height greater than allowed in [Section 21.47](#) or a Wireless Telecommunication Towers and Facilities greater than the height allowed in the Zoning District PRINCIPAL USES PERMITTED or PERMITTED USES SUBJECT TO SPECIAL CONDITIONS. Also see [Article 22 GENERAL EXCEPTIONS FOR AREA, HEIGHT AND USE](#) .
- Note h:** [Section 21.1](#) allows a rear setback of ten (10) feet for accessory buildings.
- Note i:** The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance.
- Note j:** In instances where the property is adjacent to a public right of way or ingress egress easement dedicated as permanent adequate access to one (1) or more lots, the setback shall be measured from that right of way or ingress egress easement.
- Note k:** Specific allowable uses have greater minimum lot widths as required in the Zoning District allowable use lists.
- Note l:** Specific allowable uses have greater allowable heights as stated in the Zoning District allowable use lists, [Article 21](#) and [Article 22, Section 22.3 Height Limits](#), of this ordinance

**OTSEGO COUNTY
PLANNING COMMISSION**

**PSUP15-002
Special Use Permit/Site Plan Review
060-001-100-005-03**

Exhibit List

- Exhibit #1:* Application/Submittal for case PSUP15-002 submitted by Applicant
- Exhibit #2:* Otsego County Zoning Map Effective Date March 20, 2010/Amended November 25, 2014
- Exhibit #3:* Otsego County Zoning Ordinance Effective March 20, 2010/Amended April 28, 2015
- Exhibit #4:* Copy of Otsego County Equalization Department record card/Warranty Deed 1044/875
- Exhibit #5:* Site Plan/Survey for case PSUP15-002 submitted by Applicant
- Exhibit #6:* Letter of representation from Rieth-Riley Construction Inc dated May 22, 2015
- Exhibit #7:* Public Hearing Notice
- Exhibit #8:* Letter to Elmira Township Planning Commission dated June 5, 2015
- Exhibit #9:* Letter dated July 10, 2015 from the Elmira Township Board
- Exhibit #10:* Map and list of parties notified
- Exhibit #11:* Receipt #01306543
- Exhibit #12:* General Finding of Fact/PSUP15-002
- Exhibit #13:* Specific Finding of Fact/PSUP15-002
- Exhibit #14:*

OTSEGO COUNTY
LAND USE SERVICES

PERMIT NO: PSUP15-003

1322 Hayes Road
Gaylord, MI 49735
PHONE: 989.731.7400 * FAX: 989.731.7419

APPLICATION FOR SPECIAL USE PERMIT

Date: _____

Tax Parcel Number: 69-060-001-100-005-03 Twp: Elmira Sec 1 N T31, R 4 W

Property location: (REQUIRED)

Address: 3006 Martindale Road City: Gaylord State: MI Zip: 49735

Applicant:

Name: Rieth-Riley Construction Co., Inc. Phone No. (574)-875 - 5183

Address: PO Box 477 City: Goshen State: IN Zip: 46527

Property Owner: (If different from applicant)

Name: _____ Phone No. (____)-____ - _____

Address: _____ City: _____ State: _____ Zip: _____

Description of project and proposed use: Sand and Gravel Extraction & Production

Signature of Applicant:

John Bernhart

Date:

5-22-15

*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 is not limited to all copies of drawing and blueprints.

Office Use Only

File No. _____

Fee amount: _____

Date Application Received _____

Received By: _____

**OTSEGO COUNTY
LAND USE SERVICES
1322 HAYES RD
GAYLORD, MI 49735
www.otsegocountymi.gov**

APPLICATION FOR SITE PLAN REVIEW

Applicant:

Name: Rieth-Riley Construction Co., Inc. Owner/Agent/Other interest (circle one)

Address: PO Box 477, Goshen, IN 46527

Phone: 574-875-5183 Fax: 574-875-8405

Property Owner: (if different from applicant)

Name: _____

Address: _____

Phone: _____ Fax: _____

Property Location:

Township: Elmira Section 1 Town 31N Range 4W Zoning District: _____

Site Address: 3006 Martindale Road, Gaylord, MI 49735

Parcel Code: 69 - 060 - 001-100 - 005-03

Description of Project and Proposed Use: Sand and Gravel Extraction and Production.

Signature of Applicant: John Bersheit Date: 5-22-15

*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, copyrighted drawings and blueprints.

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 ___ 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 ___ No ___ NA ___ 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 ___ 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 ___ No ___ NA ___ if "NA" explain: _____
5. The address and or parcel number of the property.
Yes ___ No ___ NA ___ if "NA" explain: _____
6. Name and address of the developer (if different from the applicant).
Yes ___ No ___ NA ___ if "NA" explain: _____
7. Name and address of the engineer, architect and/or land surveyor.
Yes ___ No ___ NA ___ if "NA" explain: _____
8. Project title.
Yes ___ 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 ___ No ___ NA ___ if "NA" explain: _____
10. A vicinity map drawn at a scale of 1"=2000' with North point indicated.
Yes ___ No ___ NA ___ if "NA" explain: _____
11. The gross and net acreage of all parcels in the project.
Yes ___ No ___ NA ___ if "NA" explain: _____
12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.
Yes ___ No ___ NA ___ if "NA" explain: _____
13. Project completion schedule/development phases.
Yes ___ No ___ NA ___ if "NA" explain: _____
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 three (3) acres and 1"=100 or fewer feet or less if the site is larger than three (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 ___ 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 ___ No ___ NA ___ if "NA" explain: _____
16. Existing topographic elevations and proposed grades in sufficient detail to determine direction of drainage flows.
Yes ___ 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 ___ No ___ NA ___ if "NA" explain: _____

18. Location and type of significant existing vegetation.

Yes ___ 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 ___ if "NA" explain: _____

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 ___ 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 ___ No ___ NA ___ if "NA" explain: _____

22. Location of existing public roads, right-of-ways 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 ___ No ___ NA ___ if "NA" explain: _____

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 ___ 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 ___ No ___ NA ___ if "NA" explain: _____

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

Yes ___ No ___ NA ___ if "NA" explain: _____

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

Yes ___ No ___ NA ___ if "NA" explain: _____

27. Location of water supply lines and/or wells, including fire hydrants and shut off valves, 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 ___ No ___ NA ___ if "NA" explain: _____

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

Yes ___ 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 ___ if "NA" explain: _____

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

Yes ___ No ___ NA ___ if "NA" explain: _____

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

Yes ___ 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 ___ if "NA" explain: _____

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 ___ if "NA" explain: _____

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

Yes ___ 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 ___ if "NA" explain: _____

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

Yes ___ No ___ NA ___ if "NA" explain: _____

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

Yes ___ No ___ NA ___ if "NA" explain: _____

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

Yes ___ No ___ NA ___ if "NA" explain: _____

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

Yes ___ No ___ NA ___ if "NA" explain: _____

40. Paid appropriate fees to Otsego County.

Yes ___ No ___ NA ___ if "NA" explain: _____

Otsego County Planning & Zoning
1068 Cross Street
Gaylord, MI 49735

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

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":

- 1: Applicant's Name:** Rieth-Riley Construction Co., Inc.
Address: PO Box 477
Goshen, IN 46527
- Phone:** 574-875-5183
Fax: 574-875-8405
- 2:** Ownership proof attached as Appendix A (3 pages)

3: Signed Statement of Application: I John Berscheid 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.


John Berscheid

5-22-15
Date

- 4: Same as Applicant.
- 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-
- 6: Same as Applicant.
- 7: Neil Holshoe, Benchmark Engineering, Inc. 607 E. Lake St.
Harbor Springs, MI 49740.
- 8: North Townline Pit
- 9: 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 5 above. 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. Included as Appendix B is s Pit Restoration Plan, and a letter detailing assumption of reclamation obligations.
- 10: Included on Site Plan attached.
- 11: Acreage included on all plans & maps.
- 12: Zoned Forest/Recreation.
- 13: See opening paragraph above, Appendix C (3 pages).

- 14:** Site Plan included is sealed by Surveyor Neil Holshoe.
- 15:** See Attachments.
- 16:** See Attachments: all water stays on site
- 17:** No detention basins. All water stays on site
- 18:** See Attachments. Wooded areas indicated.
- 19:** No water courses, drains, or water bodies
- 20:** Scale-house is indicated as "trailer" on Site Plan
- 21:** All equipment except Scale and Scale-house is portable. A list of commonly used equipment is included as Appendix D (1 page)
- 22:** Located on Attachments
- 23:** Located on Attachments
- 24:** Located on Attachments
- 25:** Located on Attachments
- 26:** Located on Attachments
- 27:** None on site
- 28:** An electric power line from the entrance to the scale and scale-house.
- 29:** None on site
- 30:** None on site
- 31:** None on site
- 32:** Located on Attachments

- 33: Located on Attachments
- 34: None on site
- 35: None on site
- 36: None on site
- 37: None on site
- 38: Included on Site Plan attached.
- 39: Included on Site Plan attached.
- 40: Check Included in Submittal package.

Appendix B

PIT RESTORATION PLAN

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.



RIETH-RILEY CONSTRUCTION Co., Inc.

06795 US 31 NORTH • CHARLEVOIX, MICHIGAN 49720

"100% Employee Owned"

Otsego County Planning & Zoning
Attn: Joe Ferrigan
1066 Cross Street
Gaylord, MI 49735

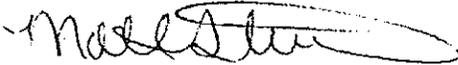
RE: Special Use Permit, Section 18.25.11

Mr. Ferrigan,

On March 31st, 2005 Rieth-Riley Construction Company Inc. purchased H&D Incorporated. With that purchase Rieth-Riley Construction Company Inc. acquired H&D Incorporated's North Townline Pit and the Special Use permit. Per Section 18.25.11 of the Otsego County Zoning Ordinance Rieth-Riley Construction Company Inc. agrees to assume the reclamation obligations of the former operator.

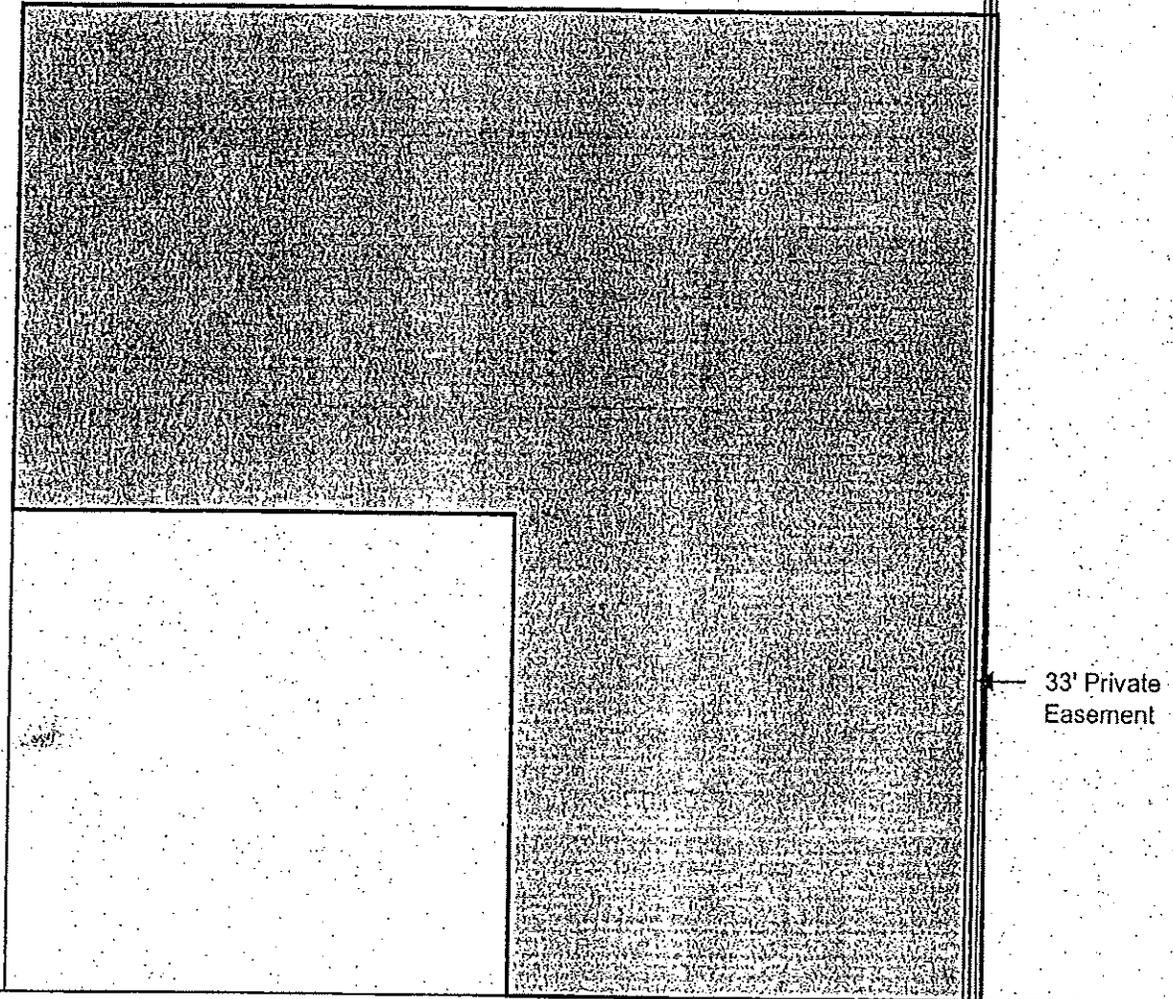
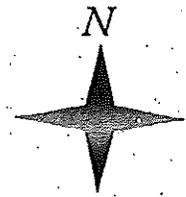
If you have any questions regarding the North Townline Site, please do not hesitate to call.

Regards,



Matt Stuck
Rieth-Riley Construction Co., Inc.
Aggregate Division

Appendix C



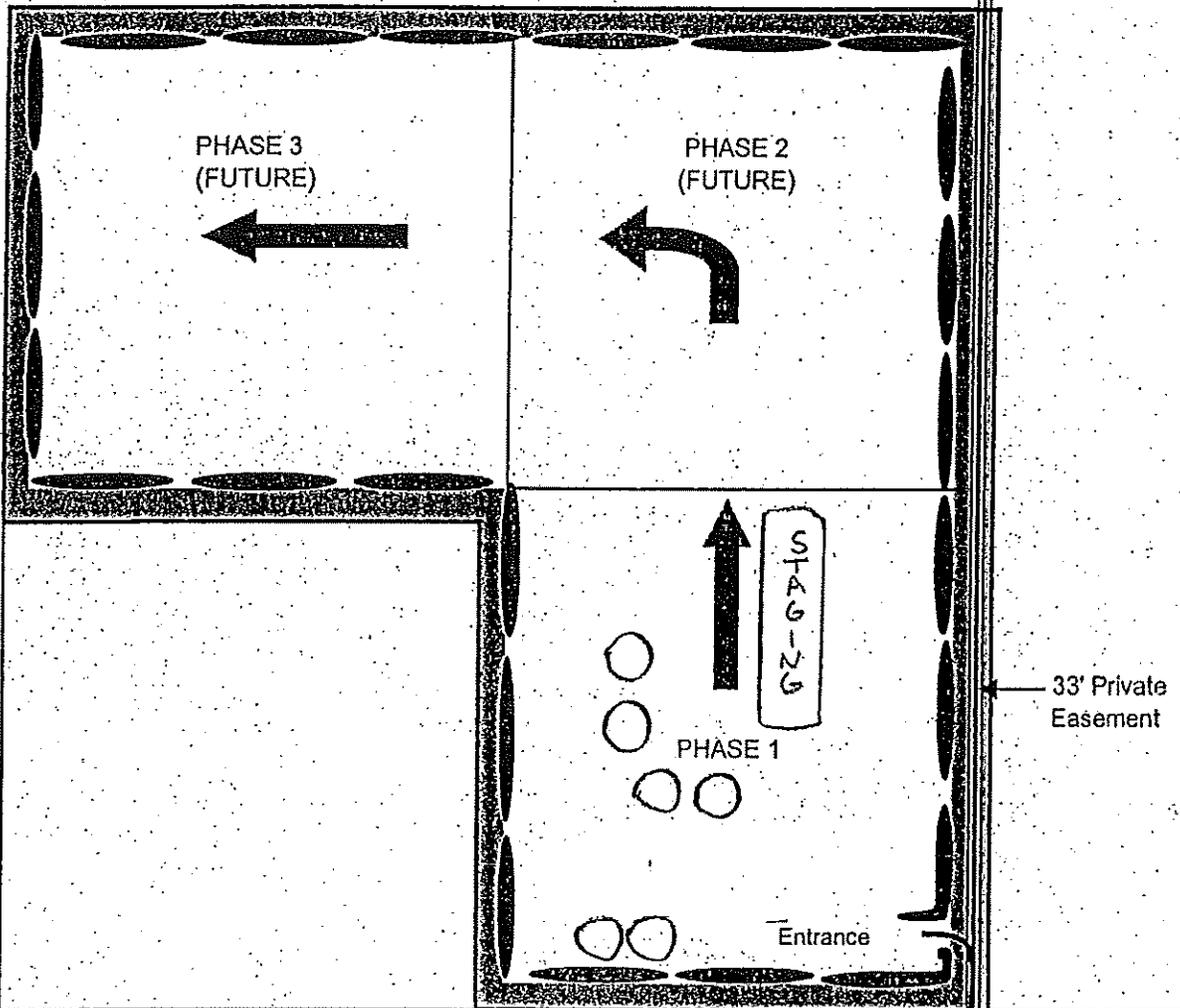
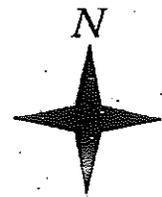
Notes:

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

N. Townline Rd.
To M-32



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



Martindale Rd.

Notes:

* 50 Foot setback.

* Potential area of extraction.

STOCK PILES

* General direction of extraction activity.

* Potential area for berm/topsoil storage as extraction progresses.

N. Townline Rd.
To M-32

Project **ELMIRA TOWNSHIP PROPOSED EXTRACTION SITE
SPECIAL USE PERMIT APPLICATION**

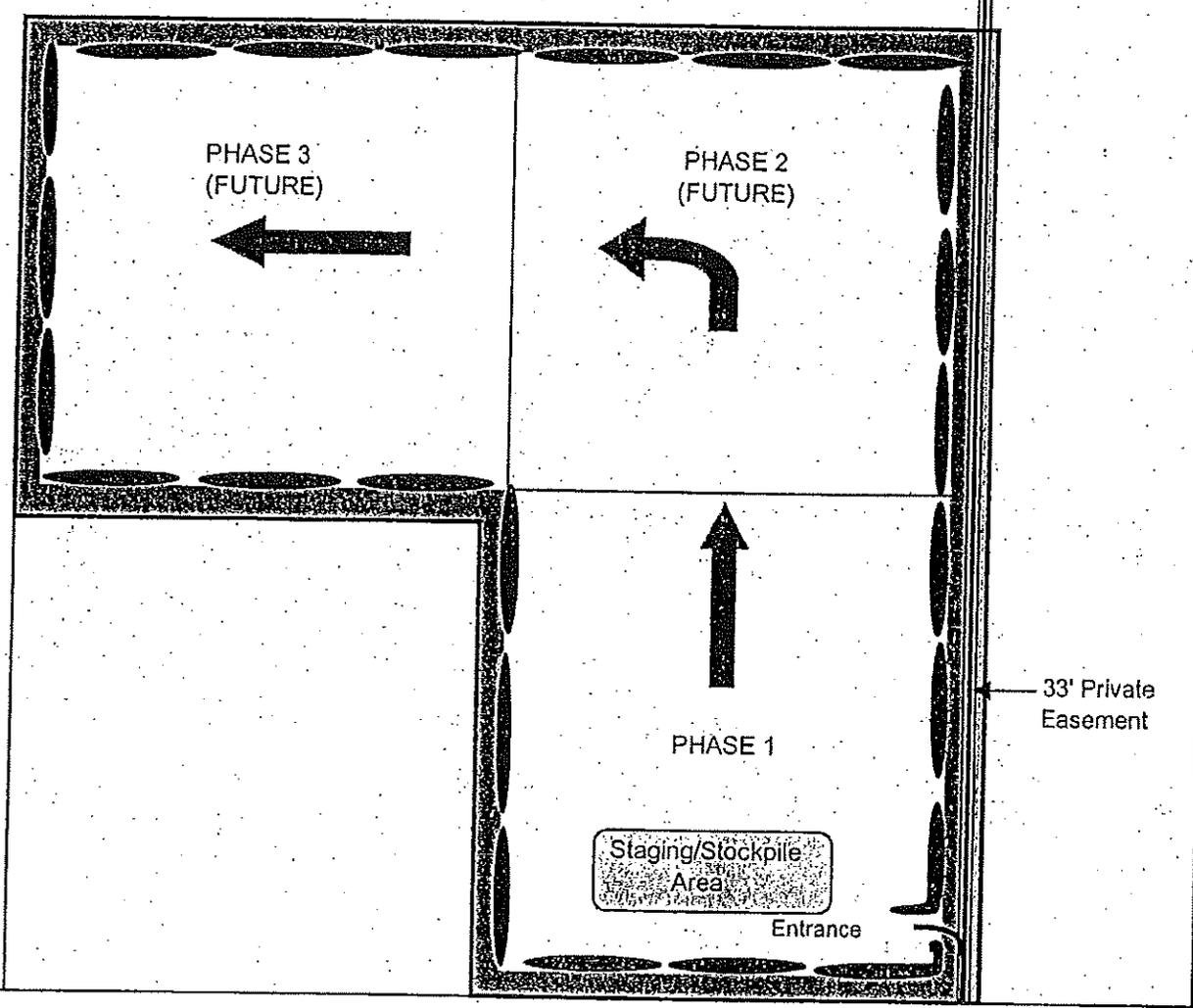
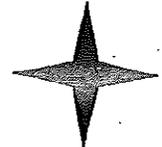
Sheet Title

LONG TERM EXTRACTION PLAN

Sheet No.

2

N



Martindale Rd.

33' Private Easement

PHASE 1

PHASE 2 (FUTURE)

PHASE 3 (FUTURE)

Staging/Stockpile Area
Entrance

N. Townline Rd.
To M-32

Notes:

- * 50 Foot setback.
- * Potential area of extraction.
- * 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. **5**

Appendix D



RIETH-RILEY CONSTRUCTION Co., Inc.

06795 US 31 NORTH • CHARLEVOIX, MICHIGAN 49720

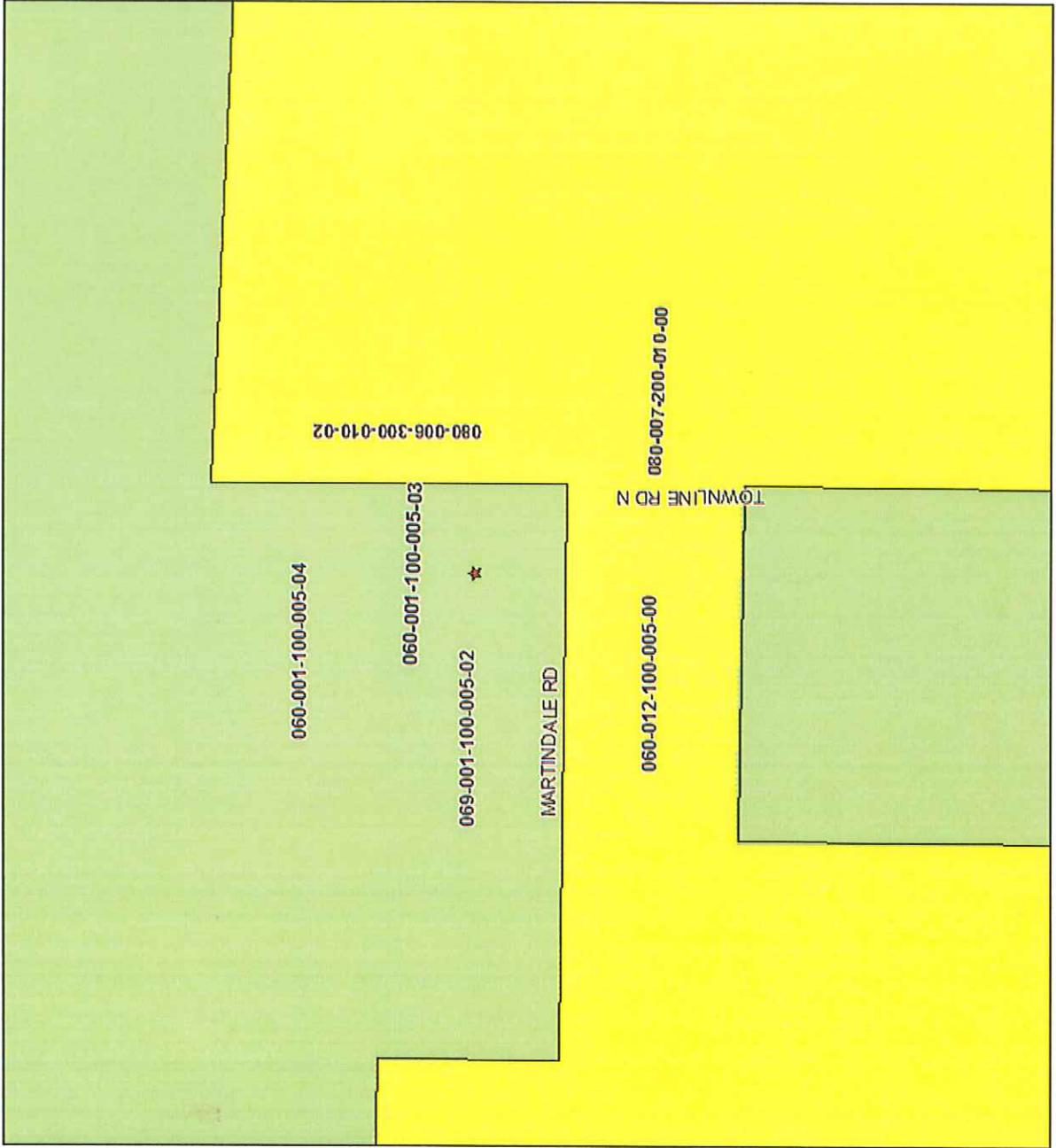
"100% Employee Owned"

Common Crushing/Processing Equipment Used

The following is a common quantity and list of equipment used during aggregate crushing and processing at the North Townline Pit. This list of equipment is set-up in varying sequences/orders depending on the product that needs to be produced. More often than not this equipment will be set-up in the lower level of the site, with the materials being stockpiled on either the upper or lower level.

1. Cone Crusher
2. Jaw Crusher
3. Generator (Housed in a Cargo Trailer)
4. Screen
5. Control Trailer
6. Tool Trailer
7. Blocking & Water Tank Trailer
8. Water Truck
9. 8-10 Various Conveyors.
10. 2-3 970 or 980 Wheel Loaders

PSUP15-002
 RIETH-RILEY CONSTRUCTION CO INC
 3006 MARTINDALE RD
 060-001-100-005-03



Zoning Legend

| | |
|--|-----------------------------------|
| | AR/Agricultural Resource |
| | PUD/Planned Unit Development |
| | R2/General Residential |
| | I/Industrial |
| | B3/Business & Light Manufacturing |
| | RR/Recreational Residential |
| | R1/Residential |
| | R3/Residential Estates |
| | B1/Local Business |
| | B2/General Business |
| | State Land |
| | FR/Forest Recreation |
| | Undefined |

Appendix A

OTSEGO COUNTY
TREASURER'S OFFICE
Gaylord, Mich.

4-6-05



LIBER 1044 PAGE 875

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. ad val.

Lenola Popp Deputy
COUNTY TREASURER



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:

Situated in the Township of Livingston, Otsego County, Michigan:

EQ
069-001-100-005-03
060-001-100-005-03

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 assessments) for the current tax year and those matters described on Exhibit A attached this Deed.

N. TOWNLINE

TOL

Exhibit 4

3

20/3



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

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

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

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

| | | | | | | | | |
|---------------------------------|--------------------------|---------------------------------------|------------|------------|--------------------|--------------|-------------|---------------|
| Grantor | Grantee | Sale Price | Sale Date | Inst. Type | Terms of Sale | Liber & Page | Verified By | Prcnt. Trans. |
| HGI INC | RIETH-RILEY CONSTRUCTION | 0 | 03/30/2005 | WD | Affidavit | 1044/875 | DEED | 100.0 |
| Property Address | | Class: 201 Commercial Va | | Zoning: FR | Building Permit(s) | Date | Number | Status |
| 3006 MARTINDALE RD | | School: Gaylord Community | | | ZONING | 08/10/2009 | PZ09127 | |
| Owner's Name/Address | | P.R.E. 0% | | | | | | |
| RIETH-RILEY CONSTRUCTION CO INC | | : 0.00 | | | | | | |
| PO BOX 477 | | 2015 Est TCV 85,600(Value Overridden) | | | | | | |
| GOSHEN IN 46527-0477 | | Improved X | | Vacant | | | | |

| | | |
|---|---------------------------------------|-------------------------|
| Tax Description | Land Value Estimates for Land Table . | |
| 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 | Description | * Factors * |
| Comments/Influences | Frontage | Depth |
| EXISTING BLDG APPLIED 8-24-04 | 35.00 | 35.000 |
| | Acres | Acres |
| | Total Acres | Total Est. Land Value = |
| | 0 | 0 |
| | 0 | 0 |

| | | | | | | | |
|--------------------|------|------------|----------------|----------------|-----------------|----------------|---------------|
| Topography of Site | Year | Land Value | Building Value | Assessed Value | Board of Review | Tribunal/Other | Taxable Value |
| Level | 2015 | 42,800 | 0 | 42,800 | | | 42,800S |
| Rolling | 2014 | 43,800 | 0 | 43,800 | | | 43,800S |
| Low | 2013 | 47,500 | 0 | 47,500 | | | 47,500S |
| High | 2012 | 51,300 | 0 | 51,300 | | | 51,300S |
| Landscaped | | | | | | | |
| Swamp | | | | | | | |
| Wooded | | | | | | | |
| Pond | | | | | | | |
| Waterfront | | | | | | | |
| Ravine | | | | | | | |
| Wetland | | | | | | | |
| Flood Plain | | | | | | | |
| Who | When | What | | | | | |

The Equalizer. Copyright (c) 1999 - 2009. Licensed To: County of Otsego, Michigan

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

RIETH-RILEY CONSTRUCTION Co., Inc.

POST OFFICE BOX 477 • GOSHEN, INDIANA 46527-0477 • WWW.RIETHRILEY.COM

"100% Employee Owned"

Otsego County Planning & Zoning
Attn: Christine Boyak-Wohlfeil
1068 Cross Street
Gaylord, MI 49735

May 22, 2015

RE: Signed Statement of Application

Otsego County Planning & Zoning,

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

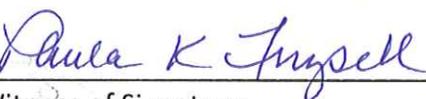
Property Description: 40 acres, SE ¼ of the SE ¼ of Section 1, of T31N, R4W.
Street Address: 3006 Martindale Road, Gaylord, MI 49735
Tax I.D.: 69-060-001-100-005-03
A.K.A.: The North Townline Pit



John Berscheit

5-22-15

DATE



Witness of Signature

5-22-15

DATE

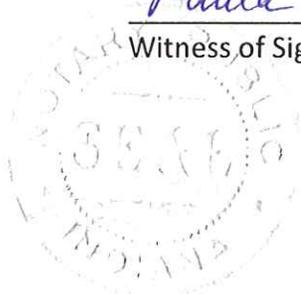


Exhibit 6

3626 ELKHART ROAD • GOSHEN, INDIANA 46526 • TELEPHONE: (574) 875-5183 • FAX: (574) 875-8405

"AN EQUAL OPPORTUNITY EMPLOYER"

Continuing . . . ASSURANCE OF SKILL • INTEGRITY • RESPONSIBILITY • IN CONSTRUCTION

**OTSEGO COUNTY
PLANNING COMMISSION**

**PUBLIC HEARING NOTICE
AUGUST 17, 2015**

The Otsego County Planning Commission will hold two (2) public hearings on Monday, August 17, 2015 at 6:00 pm in the Planning and Zoning Meeting room located at 1322 Hayes Rd Gaylord, Michigan.

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

1) Rieth-Riley Construction Inc has requested a Special Use Permit/Site Plan Review for property located in Elmira Township at 3006 Martindale Rd Elmira, MI 49797. The proposed use of the property is to extend the permit for an existing mining operation. The property is located in a FR/Forest Recreation Zoning District. A mining operation is a permitted use subject to special conditions in the FR Zoning District.

Parcel identification number: **060-001-10-005-03**
3006 Martindale Rd
Elmira, MI 49730

Legal Description:

SE1/4 OF SE1/4 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

2) Article 21/Section 21.46 WIRELESS COMMUNICATIONS and Article 27/TOWNSHIP PARTICIPATION IN COUNTY ZONING

Proposed amendments to update language and time frame to the sections of the Otsego County Zoning Ordinance listed above.

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 (12:00 pm) the day of the meeting.

Any citizen who has questions regarding this application or needs assistance to attend this meeting should contact the Director of Land Use Services at (989) 731-7400.



Otsego
COUNTY
M I C H I G A N

**Department of
Land Use Services**

1322 Hayes Rd • Gaylord, MI 49735
Phone (989)731-7400 • Fax (989)731-7419
www.otsegocountymi.gov

June 5, 2015

Elmira Township
PO Box 117
Elmira, MI 49730

Pursuant to Article 27 of the Otsego County Zoning Ordinance/Township Participation in County Zoning, I am forwarding the application for a Special Use Permit.

If you require the applicant, Rieth-Riley Construction Inc to be present at your meeting, you can notify them at:

John Berscheid, *Rieth-Riley representative*
PO Box 477
Goshen, IN 46527
574.875.5183

If you have any questions, please contact us and we will be glad to assist you. We look forward to your input concerning this matter. Thank you for your participation in County Zoning.

Sincerely,

Vern Schlaud
Otsego County Land Use Director

cbw

encl

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 • Dale Holzschu, Trustee

Diane Purgiel, Treasurer
1404 N. Townline Road
Gaylord, MI 49735
989-732-4446
989-732-9702 Fax

D & D Assessing
P.O. Box 117
Elmira, MI 49730
989-732-1099

Department of Land Use Services
1322 Hayes Road
Gaylord, MI 49735

July 10, 2015

PSUP15-002
Parcel # 060-001-100-005-03

Dear Vern:

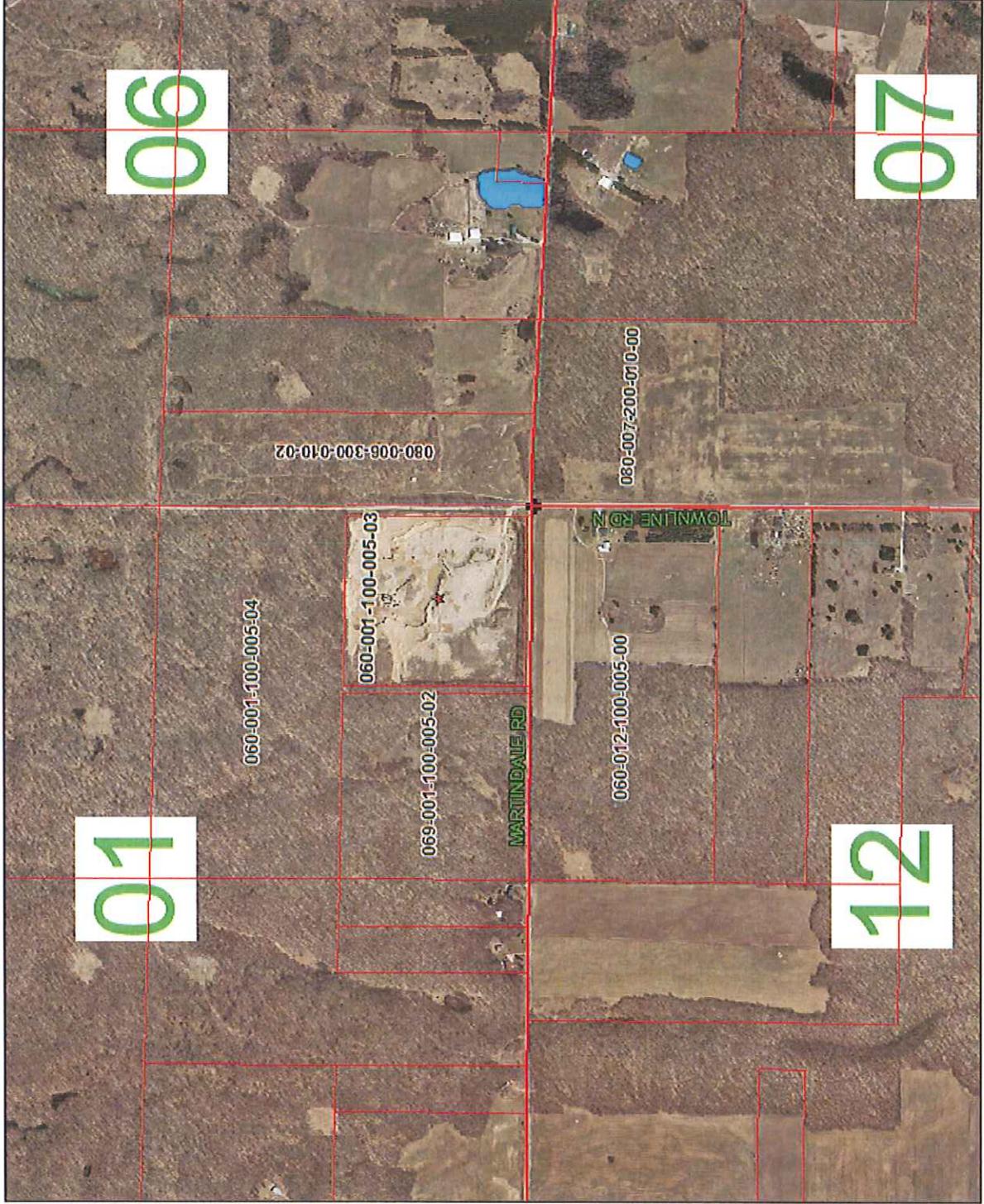
At a regular meeting of the Elmira Township board held on July 9, 2015 the board passed a motion to recommend approval by the Otsego County Planning Commission for an Application For Special Use Permit by Reith-Riley Construction Co., Inc. at 3006 Martindale Road; Gaylord, Michigan 49735.

Sincerely,


Susan Schaedig, Clerk

Cc John Berscheit

060-001-100-005-03
PSUP15-002
RIETH-RILEY CONSTRUCTION CO INC
3006 MARTINDALE RD



060-001-100-005-04
069-001-100-005-02
060-012-100-005-00
080-007-200-010-00
080-006-300-010-02

OWNERS WITHIN THREE HUNDRED FEET (300')

| PARCEL NUMBER | PROPERTY ADDRESS | OWNER NAME | OWNER ADDRESS |
|--------------------|--------------------|---------------------------------|--|
| 060-001-100-005-04 | | REITH-RILEY CONSTRUCTION CO INC | PO BOX 477 GOSHEN IN 46527-0477 |
| 069-001-100-005-02 | | SMITH, GARY R & LINDA L | 3548 MARTINDALE RD GAYLORD MI 49735 |
| 060-012-100-005-00 | 4888 TOWNLINE RD N | WESCOAT, OGER J ET UX | 4888 TOWNLINE RD GAYLORD MI 49735 |
| 080-007-200-010-00 | | GADZINSKI, WALTER TRUST | 41714 GARDEN WAY DR STERLING HEIGHTS MI 48314-3830 |
| 080-006-300-010-02 | | WESTCOAT, OGER J ET UX | 4888 TOWNLINE RD N GAYLORD MI 49735 |

**OTSEGO COUNTY
PLANNING COMMISSION**

**PSUP15-002
Special Use Permit/Site Plan Review
060-001-100-005-03**

GENERAL FINDINGS OF FACT

1. This is a proposal to extend an existing mining permit. *Exhibit #1, Exhibit #5, Exhibit #6*
2. The property is located in a FR/Forest Recreation Zoning District. *Exhibit #2*
3. The proposed use is a permitted use subject to special conditions in a FR/Forest Recreation Zoning District. *Exhibit #3*
4. The property is currently under the ownership of Rieth-Riley Construction Inc. *Exhibit #4*
5. The Public Hearing Notice was published in the Herald Times on July 31, 2015 *Exhibit #7*
6. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #8, Exhibit #9*
7. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #10*
8. The Planning Commission has the authority to approve a Special Land Use request after review and compliance with the Otsego County Zoning Ordinance. (Section 19.7) *Exhibit #3*
9. The required fees have been collected by Otsego County Land Use Services. *Exhibit #11*
10. The site plan requirements of Article 23 have been reviewed by Otsego County Land Use and all requirements pertaining to the proposed development have been addressed by the Applicant. *Exhibit #5, Exhibit #6, Exhibit #12, Exhibit #13*
- 11.

**OTSEGO COUNTY
PLANNING COMMISSION**

**PSUP15-002
Special Use Permit/Site Plan Review
060-001-100-005-03**

SPECIFIC FINDINGS OF FACT

FINDINGS UNDER ARTICLE 8/SECTION 8.2

ARTICLE 8 FR FORESTRY RECREATION DISTRICT

SECTION 8.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of [Article 19](#) and only after the review and approval of the site plan by the Planning Commission. [See [Article 21](#) for applicable Specific Requirements for Certain Uses, if any and [Article 23](#) for Site Plan Requirements.]

8.2.16 Surface mining of gravel, sand, clay, topsoil or marl [See [Article 21.25](#) for criteria]

FINDINGS UNDER ARTICLE 21 /SECTION 21.25

SECTION 21.25 MINING, GRAVEL, SAND, CLAY, TOP SOIL, and MARL

Allowed as a use Subject to Special Conditions in the (AR), (FR) and (I) zoning districts:
The Michigan Zoning Enabling Act, Act 110 of 2006, may allow this Use in other Zoning Districts:

21.25.1 Site Development Requirements/Restrictions:

The following Site Development Requirements shall be followed:

21.25.1.1 The site size shall be a minimum of ten (10) acres.

Setback Area: 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 from any adjacent property line or road right-of-way line. This shall include any sloping during the reclamation of the site.

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

On any site that is adjacent to lakes, rivers, streams or flowages of water that appear on most Geological Survey Quadrangle maps, the Otsego County Planning Commission reserves the right to increase the minimum set-back from the ordinary high water mark, to a distance greater than fifty (50) feet to ensure the maintenance of safe healthy conditions on the shorelands within Otsego County.

21.25.1.2 The area permitted for mining shall be marked with stakes or other markers as approved by the zoning administrator at all corners before the operation commences, and shall be maintained until the reclamation is approved in writing by the zoning administrator.

21.25.1.3 Sufficient native topsoil shall be left on the site as a ready resource to be used in reclamation work following excavation/extraction activity, unless an alternative or replacement plan is approved by the Planning Commission.

21.25.1.4 Physical isolation from residential properties shall be considered in locating development facilities. Topography, vegetation, screening devices and earth stockpiles may be used to accomplish this.

21.25.1.5 If necessary to protect the welfare of surrounding properties the access routes serving the site may be specified by the Planning Commission with input from the Otsego County Road Commission.

21.25.1.6 All structures, equipment and machinery shall be considered temporary and shall be removed upon completion of the mining, excavation, extraction or filling. Items not related to the operation shall not be stored at the site.

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

- 21.25.1.8 The operation of mechanical equipment of any kind may be limited by the day(s) and/or hours by the Planning Commission.
- 21.25.1.9 Processing may be limited to only the materials extracted from the site. If the Operator intends to bring in off-site materials, Planning Commission approval is required.
- 21.25.1.10 Air pollution, noise and vibration factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility.
- 21.25.1.11 All required Soil Erosion permit(s) shall be secured prior to the commencement of any operation. The Soil Erosion permit shall be issued for the same period of time as the permit for the operation and reclamation.

21.25.2 Reclamation:

Intent: To prevent negative impacts to soil, water and air resources in and near mined areas. To restore the quality of the soils to their pre-mining level and to maintain or improve landscape visual and functional quality. All reclamation plans shall comply with all applicable Federal, State, Local and Tribal laws related to mining and mined land reclamation.

- 21.25.2.1 Develop a reclamation plan that is consistent with the site capability, the planned land use and the landowner's conservation objectives. Include the practices necessary to reclaim and stabilize the mined areas to prevent further degradation of soil, water, air, plant and animal resources.
- 21.25.2.2 Dust control. Control the generation of particulate matter and fugitive dust during removal and replacement of soil and other materials. Detail the practices and activities necessary for dust control in the plans and specifications.
- 21.25.2.3 Properly identify areas for preservation including those containing trees, vegetation, historic structures, stream corridors, natural springs or other important features.
- 21.25.2.4 Remove trees, logs, brush, rubbish and other debris from disturbed areas that will interfere with reconstruction and reclamation operations. Dispose of these undesirable materials so they will not create a resource problem or interfere with reclamation activities and the planned land use.
- 21.25.2.5 Shape the land surface to provide adequate surface drainage and to blend into the surrounding topography. Use erosion control practices to reduce slope lengths where sheet and rill erosion will exceed acceptable levels.
- 21.25.2.6 Use sediment trapping practices such as filter strips, riparian forest buffers, contour buffer strips, sediment basins or similar practices to trap sediment before it leaves the project site.

The purpose of this section is: to protect and enhance property values, economic welfare and community attractiveness; to provide beneficial climatic impacts by cleaning the air and providing shade; to protect health, safety and welfare by reducing air and water borne pollutants, flooding and noise; to mitigate adverse effects of sighting different uses near one another. Establish drainage ways with sufficient capacity and stability to carry concentrated runoff from the reclaimed area into receiving streams without causing erosion.
- 21.25.2.7 Do site preparation, planting and seeding at a time and in a manner to ensure survival and growth of the selected species. In the plans and specifications, identify the criteria for successful establishment of vegetation such as minimum percent ground/canopy cover, percent survival and irrigation for initial establishment or stand density. Apply soil amendments and or plant nutrients as appropriate, according to the requirements of NRCS Conservation Practice Standard Nutrient Management (590). If the recommended fertilizer rate exceeds the criteria in NRCS Conservation Practice Standard Nutrient Management (590), use appropriate mitigating practices to reduce the risk of nutrient losses from the site. Use vegetation adapted to the site that will accomplish the desired purpose. Preference shall be given to native species in order to reduce the introduction of invasive plant species; provide management of existing invasive species; and minimize the economic, ecological, and human health impacts that invasive species may cause. If native plant materials are not adaptable or proven effective for the plant use, then non-native species may be used. Refer to the Field Office Technical Guide, Section II, Invasive Plant Species, for plant materials identified as invasive species.
- 21.25.2.8 Identify in the plans and specifications the species, rates of seeding or planting, minimum quality of planting stock, such as PLS or stem caliper, and method of establishment. Use only viable, high quality seed or planting stock. Use local NRCS criteria for seedbed preparation, seeding rates, planting dates, depths and methods.

21.25.3 Restore the Quality of Soils to Their Pre-mining Level

- 21.25.3.1 Complete a detailed soil survey of the proposed mine area if suitable soils information is not available. Use the soil survey information to determine the extent and location of prime farmland soils.
- 21.25.3.2 Remove all upper soil horizons from the project area that are suitable for reconstruction before operations commence.

- 21.25.3.3 Separate soils identified with high electrical conductivity, calcium carbonate, sodium or other restrictive properties, and treat if practicable.
- 21.25.3.4 Removal of overburden material for use as topsoil. Selected overburden materials can be substituted for or added to the A and B horizons if field observations and/or chemical and physical laboratory analyses demonstrate that the material, or a mixture of overburden and original topsoil, is suited to restoring the capability and productivity of the original A and B horizon material. Analyze overburden materials for pH, sulfide content, organic matter, nitrogen, phosphorus, potassium, sodium absorption ratio, electrical conductivity, texture and available water holding capacity. If the overburden material is determined to be suitable for topsoil, remove and separate from other materials and replace according to the requirements for topsoil placement.
- 21.25.3.5 Storage of soil materials. Stockpile soil materials to be used as topsoil until they are needed for reclamation. Locate stockpiles to protect against wind and water erosion, dust generation, unnecessary compaction and contamination by noxious weeds, invasive species or other undesirable materials.
- 21.25.3.6 Replacement of soil material. When placing cover materials, treat graded areas to eliminate slippage surfaces and promote root penetration before spreading topsoil. Spread topsoil so the position and thickness of each horizon is equivalent to the undisturbed soil without causing excess compaction the moist bulk density and soil strength of the reconstructed soil must support plant growth at a level equivalent to that of a similar layer in undisturbed soil.
- 21.25.3.7 Reclaim the site to maintain or improve visual quality based on the scenic quality of the reclaimed site as well as the function of the site for the end land use. Plan the reclamation to be compatible with the topography and land cover of the adjacent landscape. Focus on areas of high public visibility, and those offering direct or indirect human and wildlife benefits.
- 21.25.3.8 Grade and shape spoil piles and borrow areas to blend with the adjacent landscape topography to the extent practicable.
- 21.25.3.9 Develop a planting plan that mimics the species, arrangement, spacing and density of plants growing on adjacent landscapes. Choose native species of erosion control vegetation and other plant materials where practical. Arrange plantings to screen views, delineate open space, act as windbreaks, serve as parkland, wildlife habitat or protect stream corridors.

21.25.4 Plans and Specifications:

- 21.25.4.1 Plans and specification for Land Reclamation-Currently Mined Land shall be in keeping with this standard and shall describe the requirements for applying the practice to achieve its intended purpose.

21.25.5 Application Procedure:

An application for Mining- Gravel, Sand, Clay, Top Soil or Marl, shall contain all of the following:

- 21.25.5.1 Name and address of owner(s) of land where mining, excavation, extraction or filling are proposed to take place.
- 21.25.5.2 Name, address and telephone number of person, firm or corporation who will be conducting the actual operation. This person, firm or corporation shall be referred to as operator.
- 21.25.5.3 A current Survey and legal description of the site where the proposed operation is to take place.
- 21.25.5.4 A site plan complying with all requirements of [Article 20](#) of the Otsego County Zoning Ordinance in addition to showing all of the following:

- a. The proposed mining area:

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. This shall include any sloping during the reclamation of the site.

On any site that is adjacent to lakes, rivers, streams or flowages of water that appear on most Geological Survey Quadrangle maps, the Otsego County Planning Commission reserves the right to increase the minimum set-back from the ordinary high water mark, to a distance greater than fifty (50) feet to ensure the maintenance of safe healthy conditions on the shorelands within Otsego County.

- b. The placement of all equipment to be used during the operation.

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

- c. Required screening of the site shall be in compliance with standards of [Section 21.18](#) of the Otsego County Zoning Ordinance.

If the operator chooses to use a berm to achieve the required screening, the berms shall be placed no closer than twenty (20) feet to any property line.

- d. The proposed ingress and egress at the site and route(s) to be used to access the site when not located on a primary road. The route(s) for ingress and egress when not located on a primary road shall have written approval from the Otsego County Road Commission.

The operator shall be responsible for all road damage to public roads caused as a result of the operation.

- e. The type and location of any proposed accessory uses. The Planning Commission may approve vehicle maintenance, sorting, crushing, concrete mixing, asphalt batching and other uses as accessory uses subject to conditions placed upon the accessory uses.

21.25.6 Operational Plan including the following:

- 21.25.6.1 The Operational plan shall be in written form.
- 21.25.6.2 The written plan shall indicate the proposed size, depths, methods of operation, and type of material(s) to be mined, excavated, extracted or filled.
- 21.25.6.3 The written plan shall indicate the phases of operation and ending date for each phase.
- 21.25.6.4 The written plan shall indicate the method by which the operation shall be secured from entry during hours of non-operation.
- 21.25.6.5 The written plan shall indicate the proposed hours and days of operation.

21.25.7 Reclamation Plan:

- 21.25.7.1 A written detailed reclamation plan meeting all of the requirements of [21.25.2](#), [21.25.3](#) shall be submitted with the application and operational plan. The submitted reclamation plan shall include photographs of the site prior to commencement of the proposed operation.
- 21.25.7.2 The written reclamation plan shall be approved by Planning Commission and may have additional conditions placed upon it prior to final approval.
- 21.25.7.3 The approved site plan and/or reclamation plan may be revised at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology or to correct an oversight. Any costs to amend the plan(s) are to be borne by the initiating party. The Planning Commission may require the modification of the approved Site plan and/or reclamation plan when:
 - a. Modification of the plan is necessary so that it will conform to existing laws.
 - b. It is found that the previously approved plan is clearly impractical to implement and maintain.
 - c. The approved plan is obviously not accomplishing the intent of the Ordinance.
 - d. Any modification shall be subject to all provisions of [Article 19](#) and [Article 23](#).

21.25.8 Approval Process:

- 21.25.8.1 All approvals shall be made in accordance with the process prescribed in [Article 19 Permitted Uses Subject to Special Conditions](#).

21.25.9 Performance Guarantees:

After a special use permit application has been approved, but before the permit is issued, the applicant shall file with the Otsego County Clerk, a performance guarantee in the form of a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the Planning Commission and conditioned on faithful performance of all requirements under [Section 21.25](#) and the permit.

The performance guarantee shall cover that area of land within the permit area on which file applicant will initiate and conduct the mining and rehabilitation operations. The amount of the performance guarantee shall be determined by the Planning Commission and shall reflect the rehabilitation requirements of the permit and the probable difficulty of the rehabilitation, giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential. The amount of the performance guarantee shall be sufficient to assure the completion of the rehabilitation plan if the rehabilitation had to be performed by the County in the event of non-performance by the applicant. Any cash deposit of certified funds shall be refunded to the applicant in the following manner:

- a. One-third ($\frac{1}{3}$) of the cash deposit after completion of one-third ($\frac{1}{3}$) of the rehabilitation plan;
- b. Two-thirds ($\frac{2}{3}$) of the cash deposit after completion of two-thirds ($\frac{2}{3}$) of the rehabilitation plan;

- c. The balance at the completion of the rehabilitation plan. Any irrevocable letter of credit or surety bond shall be returned to the applicant upon completion of the rehabilitation plan.

In order to receive a refund of the performance guarantee as provided for in subsections (a) through (c) above, the applicant shall file a written request with the Zoning Administrator. The written request shall include the type and dates of rehabilitation work performed, and a description of the results achieved as they relate to the applicant's rehabilitation plan. Within thirty (30) days after receiving the written request for a refund of the performance guarantee, the Zoning Administrator shall conduct an inspection and evaluation of the rehabilitation work performed. The evaluation shall consider, among other things, the degree of difficulty to complete any remaining rehabilitation, whether pollution of surface and subsurface water is occurring, the probability of continuance of future occurrence of the pollution, and the estimated cost of abating the pollution. Within thirty (30) days after the inspection, the Zoning Administrator shall send written recommendations to the Planning Commission indicating approval, partial approval, rejection, or approval with conditions, of the rehabilitation work performed by the applicant, along with a statement of the reasons for any rejections.

The Planning Commission shall approve, partially approve, or reject the rehabilitation work performed by the applicant with the recommendation of the Zoning Administrator's written statement, and shall notify the applicant in writing of the action of the Planning Commission. Where partial approval is granted the applicant shall be refunded a portion of the performance guarantee that is proportionate to the cost of the rehabilitation work approved. Upon approval or partial approval by the Planning Commission, the County Clerk shall refund the performance guarantee or a portion thereof as specified by the Planning Commission to the applicant.

21.25.10 Inspection:

- 21.25.10.1 Mining, excavation, extraction or filling permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year during the operation period and a minimum of each one hundred (100) days during restoration, by the Zoning Administrator to insure compliance with the permit and Ordinance. The operator shall pay an inspection fee, as determined by the Otsego County Board of Commissioners, for each inspection to cover the costs of extraction and reclamation inspections required by this section within thirty (30) days of the invoice being sent to them or they will be in violation of the Special Use Permit.

21.25.11 Certificate of Completion:

- 21.25.11.1 A certificate of completion shall be issued to the operator when the Zoning Administrator makes the following determination.
- 21.25.11.2 All evidence of the operation has been removed from the site.
- 21.25.11.3 All required grading of the site has been completed.
- 21.25.11.4 All required re-vegetation of the site has been completed and initial growth has begun and there is no erosion present.
- 21.25.11.5 Completion and approval of the soil erosion permit has been given.

21.25.12 Evidence of Continuing Use:

- 21.25.12.1 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/she shall not declare abandonment.

21.25.13 Transference of a Special Use Permit:

- 21.25.13.1 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.

21.25.14 Permit Extension:

- 21.25.14.1 All requests for an extension/renewal of a Special Use Permit shall for mining, excavation, extraction or filling follow the same process as a request for a new permit.

21.25.15 Permit Expiration:

- 21.25.15.1 If approval for a Special Use Permit for mining, excavation, extraction or filling is granted by the Otsego County Planning Commission, it shall be for a specific period of time not to exceed five (5) years and shall specify the period of restoration which cannot extend more than eighteen (18) months beyond the permitted time for operation.

FINDINGS UNDER ARTICLE 19:

- 19.7.1** The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
HAS – HAS NOT BEEN MET
- 19.7.2** 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.
HAS – HAS NOT BEEN MET
- 19.7.3** 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.
HAS – HAS NOT BEEN MET
- 19.7.4** 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.
HAS – HAS NOT BEEN MET
- 19.7.5** The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.
HAS – HAS NOT BEEN MET
- 19.7.6** The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
HAS – HAS NOT BEEN MET
- 19.7.7** If the proposed special land use includes more than fifteen thousand (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.
HAS – HAS NOT BEEN MET
- 19.7.8** The proposed special land use complies with all specific standards required under this Ordinance applicable to it.
HAS – HAS NOT BEEN MET

SECTION 19.8 - CONDITIONS

The Planning Commission may attach reasonable conditions to the approval of a special use permit. These conditions may include those necessary to insure that public services and facilities affected by a proposed special land use will be capable of accommodating increased service and facility loads caused by the special land use, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically

desirable manner. Any conditions imposed, however, shall meet all the following requirements.

- 19.8.1 Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed special land use, and the community as a whole.
- 19.8.2 Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use.
- 19.8.3 Be necessary to meet the intent and purpose of the zoning ordinance, be rated to the standards established in the ordinance for the special land use under consideration, and be necessary to insure compliance with those standards.

**OTSEGO COUNTY
PLANNING COMMISSION**

**PUBLIC HEARING NOTICE
AUGUST 17, 2015**

The Otsego County Planning Commission will hold two (2) public hearings on Monday, August 17, 2015 at 6:00 pm in the Planning and Zoning Meeting room located at 1322 Hayes Rd Gaylord, Michigan.

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

1) Rieth-Riley Construction Inc has requested a Special Use Permit/Site Plan Review for property located in Elmira Township at 3006 Martindale Rd Elmira, MI 49797. The proposed use of the property is to extend the permit for an existing mining operation. The property is located in a FR/Forest Recreation Zoning District. A mining operation is a permitted use subject to special conditions in the FR Zoning District.

Parcel identification number: **060-001-10-005-03**
3006 Martindale Rd
Elmira, MI 49730

Legal Description:

SE1/4 OF SE1/4 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

2) Article 21/Section 21.46 WIRELESS COMMUNICATIONS and Article 27/TOWNSHIP PARTICIPATION IN COUNTY ZONING

Proposed amendments to update language and time frame to the sections of the Otsego County Zoning Ordinance listed above.

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 (12:00 pm) the day of the meeting.

Any citizen who has questions regarding this application or needs assistance to attend this meeting should contact the Director of Land Use Services at (989) 731-7400.

Current language:

SECTION 21.46 WIRELESS COMMUNICATIONS:

The Telecommunication Act of 1996, as amended February 8, 1996, sets forth provisions concerning placement, location and construction of towers and related facilities for wireless services. The purpose of this Section is to establish general guidelines for the sighting of wireless communications towers and antennas. The goals of the section are to:

- (1) Protect residential zoning districts from potential adverse impacts of towers and antennas;
- (2) Encourage the location of towers in non-residential areas;
- (3) Minimize the total number of towers throughout the county;
- (4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- (5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on aesthetics in this tourism based county is minimal;
- (6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, sighting, landscape screening, and innovative camouflaging techniques;
- (7) Enhance the ability of providers of telecommunication services to provide such services to the county quickly, effectively, and efficiently;
- (8) Consider the public health and safety of communication towers; and
- (9) Avoid potential damage to adjacent properties from tower failure through engineering and careful sighting of tower structures. In furtherance of these goals, due consideration shall be given to the Otsego County master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

Wireless and cellular phone service are specially determined to not be essential services, nor to be public utilities as such terms are used in this Ordinance.

It is not the intent to create "antennae farms" with a number of monopoles and antennae in a small area. Also, it is not the intent to regulate ham radio antennae under this section, or to regulate towers installed at single family dwellings for personal television reception.

Proposed language:

SECTION 21.46 WIRELESS COMMUNICATIONS:

Reference the Telecommunication Act (Act 104 of 1996 as amended) and the Michigan Zoning and Enabling Act (Act 110 of 2006 as amended including Act 143 of 2012). These set forth provisions concerning placement, location and construction of towers and related facilities for wireless services, provide rules for changes to existing towers and set time frames for municipality action. The purpose of this Section is to establish general guidelines for the sighting of wireless communications towers and antennas. The goals of the section are to:

Current language:

ARTICLE 27 TOWNSHIP PARTICIPATION IN COUNTY ZONING

It having been established that the Township units of government in Otsego County are desirous of actively participating in zoning amendment and zoning procedures; and Otsego County having determined that such participation is needed in the zoning process,

NOW, THEREFORE, IT IS HEREBY DECLARED to be the policy of Otsego County that no zoning decision (with respect to those matters hereinafter set forth) affecting any particular township shall be made without the direct participation of said township so affected in accordance with the following procedures:

27.1 When a Petition is filed with the Otsego County Planning Commission with respect to any of the four (4) types of requests listed below, and then the procedure specified in [27.2](#) shall be followed prior to a decision being rendered by the County Planning Commission or the County Zoning Board of Appeals:

27.1.1 Changes in zoning district boundaries;

27.1.2 The approval of Uses Subject to Special Conditions, Special Approval Uses, and Special Land Uses;

27.1.3 The approval of Planned Unit Developments, all condominium projects, and all subsequent phases of an approved phased development;

27.1.4 Any appeal of an administrative decision, Ordinance interpretation, or variance.

27.2 Prior to a hearing by the County Planning Commission, the Otsego County Zoning Administrator shall forward, by certified or first class mail, said written petition to the township clerk of the township within which the property associated with the petition is located and shall execute and file an Affidavit of Mailing such petition.

Upon the approval or disapproval of the petition by the affected township, said township's clerk shall notify, in writing, the petitioning party and the Otsego County Zoning Administrator of the Township Board's decision. The Petition shall then be acted upon, with due regard to the affected Township's decision, by the Otsego County Planning Commission in conformance with this Ordinance.

In like manner, and under the same conditions, authority, and rule of policy, the Otsego County Board of Appeals, shall make no rule, interpretation or determination on any matter pertaining to a zoning variance ([Article 26.2](#)) affecting any particular township, without the Otsego County Zoning Administrator first forwarding, by certified or first class mail, said written petition to the township clerk of the township to be affected by said petition; the Zoning Administrator shall execute and file an Affidavit of Mailing as to such petition.

Upon the approval or disapproval of the petition by the affected township, said township's clerk shall notify, in writing, the petitioning party and the Otsego County Zoning Administrator of the Township Board's decision. The petition shall then be acted upon with due regard to the affected Township's decision by the Otsego County Zoning Board of Appeals in conformance with this ordinance.

The affected township shall take some official action to notify the county Zoning Administrator of its decision within forty (40) days after having received the written petition. The township may take an additional thirty (30) days to study the matter and take action thereon; but it shall file written notice with the Zoning Administrator within the original forty (40) days of its intention to take the additional time. It shall be presumed that the township waives its right to act if no action is taken within the applicable time period(s).

Proposed language:

The affected township shall take some official action to notify the county Zoning Administrator of its decision within forty (40) days after having received the written petition. The township may take an additional thirty (30) days to study the matter and take action thereon; but it shall file written notice with the Zoning Administrator within the original forty (40) days of its intention to take the additional time.

Exception: Due to state law time frames for wireless communication towers, an extension beyond the original forty (40) days shall not be permitted. It shall be presumed that the township waives its right to act if no action is taken within the applicable time period(s).

June 15, 2015

Mr. Vern Schlaud, Director
Land Use Services
1322 Hayes Road
Gaylord, Mi 49735

Dr. Mr. Schlaud,

The Otsego Lake Township Planning Commission at its June 4, 2015 meeting voted to approve the recommended changes to Article 27 and Article 21/Section 21.46 Wireless Communications. However the Otsego Lake Township Planning Commission would also recommend the Zoning Ordinance include a 72 hour notice (after the application is deemed complete) be given to the affected township so they will have time to adequately respond. Thank you for this opportunity to provide our input.

Regards,

A handwritten signature in cursive script that reads "Kara Corpio".

Secretary

Sample Checklist to Guide Decisions on Special Land Uses

An important concern in reviewing special land use requests is whether or not the proposed site is appropriate for the land use in question. A special land use is usually a unique use which may have particular intrinsic or design characteristics that could create potential problems for adjacent property owners. For this reason, a special land use may be appropriate in one place, but not in all locations throughout the particular zoning district. A classic situation is a proposal to build an all-night gasoline service station or car wash near a predominantly residential intersection, even though the subject property is zoned for commercial uses. Rational judgments need to be made and conditions may need to be imposed to protect adjacent lands and the overall character of the area from adverse changes and impacts. The following checklist is suggested for considering the appropriateness of a special land use in a particular area:

1. Relationship to the general health, safety, and welfare of the community-at-large. This includes:
 - accessibility of the property in question to fire and police protection;
 - traffic conditions (especially adding to a hazardous situation);
 - transportation design requirements, if any, which will be needed to accommodate any traffic impact from the use intended; and
 - appropriateness of the location, nature and height of the proposed use to the size, type and kind of buildings, uses and structures in the vicinity and adjacent properties, including the safety and convenience of people.
2. Any potential decrease in the pleasant use and enjoyment of adjacent buildings, uses and structures which are permitted by right under current zoning and as might be reflected through decreases in property values, if the proposed special land use were approved.
3. Harmony with the local master plan. This considers whether the location and size of the proposed use, the nature and intensity of the activities involved, the size of the site with respect to existing and future streets (giving access to it), and parks and drainage systems, will be in harmony with the character of land use intended for the area or district in question as stated in the master plan.
4. Impacts of the applicant's proposed use, its location and intensity and the height of its buildings, walls, fences and other structures upon the appropriate character of development existing or planned for the area.
5. Any hazards arising from storage and/or use of flammable fluids or other hazardous substances.
6. That the operation in connection with any special use is not environmentally objectionable to nearby properties because of noise, fumes, pollution, vibration, or light to an extent which is more than would be expected of any use permitted by right in the district in which the special land use is proposed.