OTSEGO COUNTY
PLANNING COMMISSION

AGENDA
August 16, 2010
6:00 PM

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

1. CALL TO ORDER

2. PLEDGE OF ALLEGENCE

3. ROLL CALL

4. CONSENT AGENDA

   a. None

5. APPROVAL OF MINUTES: From the 7-19-2010 meeting

6. OTHER: Otsego County Administrator update

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

8. UNFINISHED APPLICANT BUSINESS:

9. PUBLIC HEARINGS:

   1. Capital Improvement plan for 2011 to 2016

10. UNFINISHED COMMISSION BUSINESS:

    1. Northern Processing pit restoration plan and Otsego Conservation District recommendations

11. NEW BUSINESS:

    1. Capital Improvement plan for 2011 to 2016

    2. Article 18.25 discussion to begin the updating of this section of the ordinance.

12. REPORTS AND COMMISSION MEMBER'S COMMENTS:

    1. Zoning Administrators report on Recreational Equipment

13. ADJOURNMENT:

Planning Commission

Meeting Minutes 7-19-10

1) Call to order 6:00pm

2) Pledge of allegiance

3) Roll call
Present: Mr. Borton, Ms. Nowak, Mr. Klee, Mr. Colosimo, Mr. Arndt, Mr. Stults, Mrs. Jarecki, Mr.Hilgendorf, Ms. Backenstose

Excused: Mr. Mang

Staff present: Mr. Ferrigan, Mrs. Bolinger, Mr. Burt-County Administrator and Mr. Kazim-Council for the County

Public present that signed in: Olen Harris, Robert Harkness-County Commissioner, Harry and Gloria Clark, Colleen Jozwiak, Matt Stuck and 1 other non readable signature.

4) Consent agenda – None

5) Approval of minutes from the 6-21-10 regular meeting.

Motion made by Mr. Arndt to approve minutes as corrected.

Support by: Mr. Hilgendorf.

Motion approved unanimously. Motion carries.

6) Other: Commissioner Robert Harkness' explanation of request for planning commission to review medical marijuana law and Zoning Ordinance requirements.

Commissioner Harkness addressed the commission. He gave an overview of why he is asking the Planning Commission to take a look at the medical marijuana law to see if there was anything in the ordinance that would apply for this County.

Mr. Stults stated that the commission can only regulate certain items as it pertains to land use. He also suggested that if it is to be allowed, that they might have it restricted to a B-3 district. He asked John Burt if there could be a committee arraigned by the Board of Commissioners with several departments aiding with the input including the Sheriff's department, Health department, Zoning department, Prosecutors office as well as others that may have an interest.

Mr. Burt said he would convey this to the Board of Commissioners.

7) Public participation for items not on the agenda.

Mr. Harry Clark addressed the Commission concerning no longer being able to obtain a camping permit with the Zoning department to stay on his property in a platted subdivision.

Mr. Ferrigan gave an explanation of why Mr. Clark came to this commission with an issue in the Ordinance in section 18.33 pertaining to camping trailers in the R1, R2 districts and platted subdivisions. He requested that the commission take a look at this section for possible revision.

The members of the Planning Commission requested that the Director of Land Use bring back proposed language for section 18.33 to a future meeting.

8) Unfinished applicant business. – None

9) Public hearings:

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

Mr. Ferrigan stated that the applicant wished to be removed from the agenda and the public hearing to not be heard until a later time so they could get their property in order. The Chairman and the Commission agreed. The public hearing will need to be republished when L.C. Redi-Mix is ready to proceed.

10) Unfinished Commission business:

1. SPR10-001 LC Redi-Mix, request to construct cement plant located at 8715 Parmater Road. **Removed from agenda.**
2. V100004 Reith Reily Construction, request to continue sand and gravel mining operation at 3006 Martindale Road, Gaylord, MI 40735. Public Hearing was held at the 6-21-2010 regular meeting.

Matt Stuck applicant representative addressed the commission with his presentation to continue operations at their gravel mining pit. He stated that they are just asking for a continuance of mining of the existing 40 acre parcel that is already being mined.

Mr. Stults gave the observation overview of his and Mr. Ferrigan's visit to the site the week before this meeting.

Mr. Arndt read the 10 General Finding of Facts. The Commission members gave a verbal acknowledgement with each of the 10 Findings of facts.

Mr. Arndt read the 8 Finding of Facts for Planning Commission case V100004. The Commission members gave a verbal acknowledgement with each of the 8 Findings of facts.

Mr. Stults read the 17 staff recommendations to the commission members and they made corrections as needed as well as adding 1 more for a total of 18. (Attached) The Commission members gave a verbal agreement with each of the 18 recommendations.

Staff recommendations for V100004 Reith-Riley Construction Company Special Use Permit for mining gravel and sand at 3006 Martindale Road, Gaylord MI.

1. Permit is from July 19, 2010 and expires July 19, 2015.

2. All mining activity including reclamation shall be complete at the end of the five (5) year permit. Unless an application for renewal of the Special Use Permit has been made and approval granted by the Otsego County Planning Commission prior to the expiration of the permit.

3. The area permitted for mining shall be marked with stakes at all corners before mining starts, and shall be maintained until the reclamation is complete and approved in writing by the Zoning Administrator.

4. The open mining area shall have no more than 25 acres of open mining surface at any one time and maybe relocated with the approval of the Zoning Administrator as long as reclamation is started on the area no longer being mined within 45 days.

5. 18.25.8.1 Setbacks in which no part of the mining operation may take place except ingress and egress shall be as follows:

    a. 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.

The above paragraph shall be interpreted to mean that no excavation including sloping/grading for reclamation shall take place within (50) feet minimum from any adjacent property line road right-of-way.

6. Site shall display address in accordance with the Otsego County Ordinance and shall have the Owner/Operator contact information included on the sign which shall be located at the entrance to the site. Pit gates shall be kept locked when the pit is not in operation.
7. No machinery shall be erected or maintained within one hundred (100) feet of any property line or road right-of-way. Machinery shall be screened by tree cover or artificial barrier along a line shared with a dwelling in any direction.

8. Maintain topsoil berms of ten (10) foot in height.
9. The crusher shall be operated ten (10) feet below ground level as considered from the property borders.
10. Noise levels from the site shall not routinely exceed sixty (60) decibels at any existing residence or permanent dwelling.
11. No inoperable equipment shall be stored on site for a period longer than 90 days. All junk and trash is to be removed.
12. Interior roads, parking lots, haul road loading and unloading areas shall be maintained so as to limit the nuisance caused by windblown dust.
    a. A dust control plan shall be submitted and approved by the Zoning Administrator and the approved plan shall be followed.
13. No trucks shall be allowed to park beside any public road while waiting for the day's operations to begin or while waiting to be loaded or unloaded.
14. Mining operations on the site shall be restricted to 8:00am to 5:00pm Monday through Friday and from 9:00am to 12:00pm on Saturday. No crushing on Saturday and no activity on Sunday.
15. This Special Use permit is intended for sand and gravel mining/processing and the sale of material mined and processed from this site only. No other activities shall be allowed without Planning Commission approval.
16. The site Owner and or Operator shall accompany the Otsego County Land Use Services staff during all required inspections.
17. Comply with the 10-15-09 inspection findings by Otsego County Land Use Services.
18. A security bond is to be provided to Otsego County in the amount of $40,000.00.

Motion made by Mr. Borton to adopt the special conditions as written.

Support by: Mr. Klee.

Motion approved unanimously. Motion passes.

Motion by Mr. Klee: To approve SUP #V100004 for Reith Riley Construction. Elmira Township, 3006 Martindale Road, pursuant to General and Specific findings of fact and subject to the special conditions previously approved by the Planning Commission on July 19th 2010.

Support by: Mr. Hilgendorf.

Roll Call vote: Mr. Klee-yes, Mrs. Jarecki-yes, Mr. Colosimo-yes, Mr. Borton-yes, Mr. Arndt-yes, Mr. Hilgendorf – yes, Ms. Backenstose-yes, Mr. Stults-yes, Ms. Nowak-yes

Motion approved 9-0. Motion passes.

3. Pit restoration plan submitted by Northern Processing.

Mr. Ferrigan passed out the reclamation plan. Signed copy was given from Mr. Delaney.

Mr. Ferrigan stated that they addressed the four items that the Commission asked to be addressed.

Mr. Delaney council for Northern Processing LLC addressed the Commission on the pit restoration plan submitted.

Mr. Stults asked if there was any method to move this along quicker so seeding could get done this fall.

Mr. Delaney stated that he didn't think so. If the reclamation is forced then the seeding won't take and could be washed away.

Mr. Matelski addressed the Commission at the request of Mr. Delaney. He stated that he had consulted with several farmers in this area and that fall planting is not good because the seed is going to lay there and the bulk of you seed will rot before it gets to take root to start growing. He's gotten guidance as what to use as a cover crop like an oat that won't reseed itself and not compete with the grass. Mr. Matelski stated that even Mrs. Jozwiak's expert says that fall planting is not what you want to do, that spring planting's highly recommended. He would just as soon like to do this one time and do it right.

Mr. Stults asked if the Otsego Soil Conservation District has weighed in on this plan.

Mr. Matelski stated that he has talked with Ms. Osburn and she has pretty much left this up to Mr. Ferrigan.

Mr. Stults asked if she has seen this plan submitted tonight.

Mr. Matelski stated that he doesn't think she's seen this particular plan but he's been consulting with her right along.

Mr. Delaney stated that the July 19th plan has not made it Soil Conservation. He said that Conservation doesn't really weigh in until after the cutting of the banks and seeding has taken place.

Mr. Stults stated that the sloping is clearly defined in the Ordinance so that shouldn't be a delay at all to have the Soil Conservation District weigh in on what should be planted there. There is no reason why the sloping can't be started tomorrow. He stated that the Planning Commission needs to hear what Otsego Conservation District has to say about the pit restoration plan before they give a final approval. He is comfortable with a tentative approval subject to meeting any conditions or recommendations that are made by the Soil Conservation.

Mr. Delaney stated that he thinks that is a reasonable course of action.

Mr. Stults opened the discussion for public comments.

Mr. Mike Rola council for Mrs. Jozwiak addressed the Commission. He stated that they are the next item # 11 on the agenda which deals with this same issue of the property in question. Parcel #042-033-300-005-03 that's the Winters Road, Pike School Road gravel pit.

Mr. Rolla passed out a restoration plan (attached) prepared by Kim Gibson hired by Mrs. Jozwiak. Due to scheduling conflicts Ms. Gibson was not able to be here tonight. However it sets forth a number of things that were not addressed in the plan submitted by Northern Processing with Mr. Delaney's letter. There is nothing in there about removal of debris, entering into the fifty (50) ft. setback, there was not enough top soil reserved. They think it would be inappropriate at this time to make a decision until they have heard the other half of the story.

Mr. Kazim stated that given the fact there are two agenda items that are closely intertwined, with each other, it may be advisable to consider them together. There are other issues related to the approval of the pit restoration plan that may be on this second item of the agenda which are Mrs. Jozwiak issues. Then a final decision can be made as to how to proceed upon the Northern Processing request for approval on the pit restoration plan and as to what conditions if any need to be applied.

Mr. Stults asked if it would be agreeable with rest of the Commission to combine this item and the next two items on the agenda into a single discussion. There were no objections.

Mr. Stults asked if the eight o'clock limit could be evoked to review the items remaining on the agenda. There were no objections.

11) New Business

1. Colleen Jozwiak (Elliot Blumberg/Kim Gibson)
2. David Delaney / representing Northern Processing

Mike Rola addressed the Commission on behalf of Mrs. Jozwiak.

Mr. Rola reviewed the pit restoration document (attached) that was prepared by Ms. Gibson and handed out to the Commission this evening. He stated that they wanted things to be done the right way and that they are concerned that the restoration is not going to be done the proper way. He also went over the estimated associated cost. Ms. Gibson is recommending that approximately $145,000.00 be placed into escrow so the reclamation

that should be done actually is done and if it's not done there's money set forth to take care of that and have it done in an appropriate fashion.

Mr. Rola stated that Mrs. Jozwiak in light of the unnecessary delays and this entire circumstance she would not want this Commission to allow Northern Processing to handle the reclamation due to their track record. He respectfully suggests that the Commission uses Ms. Gibson's reclamation plan as opposed to the reclamation plan submitted by Mr. Delaney in his July 12th letter.

Mr. Delaney addressed the Commission on behalf of Northern Processing.

Mr. Delaney stated that Mr. Matelski has a clear, reliable track record in his site restorations in this county. He stated he thinks that the land owners is up to something else when they say don't let this particular mining operator who was directed and provided for in the special use permit to in fact restore the site.

Mr. Stults asked Mr. Delaney about the letter that was provided to the Commission directed to Judge Allen. He would like to know how that weighs in with the action that the Planning Commission may or may not take tonight because he is wary to tread into any ground where the Court is involved.

Mr. Delaney stated that he thinks that the Court does not want to inject itself into administrative proceedings until they are complete. The Courts are inclined to be hands off on Planning or Zoning Boards issues until all administrative remedies are exhausted. His view is that the Court is deferring to this Commission to put a reclamation plan approval together because the Court had some of the resolutions in minutes from the May 17th meeting requesting information. The Court is asking the Commission to approve a reclamation plan because he doesn't think the Court feels equipped and most courts aren't to decide zoning issues and reclamation plans.

Mr. Kazim provided some detail of the letter that was sent to Judge Allen from Mr. Delaney. There was a hearing held in front of Judge Allen on July 7th on Mrs. Jozwiak's motion seeking an order from the court to eject Mr. Matelski and Northern Processing LLC. Joe Ferrigan was subpoenaed as a witness at that hearing. It addressed contractual issues with which the Planning Commission has no concerns. However it did address the fact that Northern Processing LLC is in violation of the Otsego County Zoning Ordinance because they continue to carry out certain operations on the property after the expiration of their special use permit in January of 2009.

Mr. Kazim also recommended that the Planning Commission receive the recommendations from the Soil Conservation District.

Mr. Delaney added that the motion to eject was denied without prejudice.

Mr. Kazim that just means that Ms. Jozwiak may file again after the Planning Commission has made its ruling.

There were multiple discussions back and forth between the three Attorneys.

Mr. Kazim stated that Mr. Ferrigan has held back on the enforcement actions against Northern Processing. Because of the request to be on the agenda of tonight's meeting He recommends that he go forth with enforcement actions if necessary.

There were multiple discussions concerning as to whether Mr. Matelski is still operating out of the site.

There were multiple discussions concerning the timing of the submission of the restoration plan.

Mr. Kazim stated that he doesn't believe that the Soil Conservation office has even seen the reclamation plan. His recommendation is to have the Soil Conservation District review this plan and give us their recommendations in writing.

Mr. Klee asked directly to Mr. Matelski if he actually plans to reclaim this property.

Mr. Matelski stated yes, that he has been working on it since this last spring.

Mr. Burt stated that he would contact Mrs. Osburn concerning the review of the reclamation plan.

Mr. Kazim suggested that phase one can be proceeded with even without a reclamation plan approval.

Mrs. Jozwiak addressed the commission. She stated a few of her issues with the pit restorations.

Motion made by Mr. Klee: That Northern Processing shall proceed with phase one of the proposed pit restoration plan, submitted on July 19th 2010 which shall include sloping of the embankments for the property located at the corner of Winters Rd. and Pyke School Rd. without awaiting formal approval of the plan by the Planning Commission. Furthermore the proposed pit restoration plan shall be submitted to the Soil Conservation officer for her review and written recommendations prior to a decision upon the plan by the Planning Commission.

Support by: Mr. Borton.

Motion approved unanimously. Motion passes.

Mr. Stults gave an update on the dumpster enclosure subcommittee.

Meeting adjourned at 9:22pm.

NORTHERN PROCESSING, LLC
P.O. Box 2
Vanderbilt, MI 49795
(989) 983-2600

PIT RESTORATION PLAN
(18.25.7)

Prior to mining operations, topsoil shall be stripped from the area to be mined and stockpiled initially to provide additional sight and sound barriers. Topsoil will be taken from these stockpiles and placed in the mined area after all extraction operations are completed and the area graded. Topsoil shall be placed at a depth of 2" to 4". All slopes around the mined perimeter shall be reclaimed to a maximum angle of one (1) foot vertical to three (3) foot horizontal before the topsoil is placed on them. All reclaimed areas shall be seeded with ten (10) pounds of DNR mix per one acre of reclaimed property or stabilized with some other acceptable form of turf establishment, as recommended by the Otsego Conservation District. Following the seeding of all reclaimed areas, rye, wheat or oats will be applied as a cover crop. Our intent will be to shape the mined area in a manner that will make it harmonious with the surrounding terrain.

Screening will be accomplished by leaving a fifty (50) foot minimum wide belt of natural and existing vegetation along the property and public road right-of-way lines. Final rehabilitation shall proceed in a progressive manner as areas become mined out.

90 days will be necessary to complete Phase I, slopping of the embankments. Phase II, replacement of top soil and phase III seeding, will not be immediately commenced since the embankments must be stabilized to avoid erosion. Top soil replacement and seeding is not commenced during fall and winter months due to temperature of the ground which does not allow seeding to germinate and proliferate.

Phase I will be completed in October 2010. Phases II and III will be completed following the dissipation of frost from the ground in spring 2011.

It is the intent of Northern Processing, LLC, 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.

Date July 19, 2010

NORTHERN PROCESSING, LLC

By: Thomas J. Matelski
Its: Member

Otsego County Land Use Services
1066 CROSS STREET
GAYLORD, MI 49735

(989) 731 7400 *Fax (989) 731 7419

David M. Delaney
PO BOX 1771
GAYLORD, MI. 49734

Thursday, July 29, 2010

Mr. Delaney,

This letter is in reference to the ongoing Planning Commission case involving Northern Processing and the Gravel Pit located on the corner of Winters and Pyke School roads.

The following is the motion that was made and passed at the July 19, 2010 Planning Commission meeting.

Motion made by Mr. Klee: That Northern Processing shall proceed with phase one of the proposed pit restoration plan, submitted on July 19th 2010 which shall include sloping of the embankments for the property located at the corner of Winters Rd. and Pyke School Rd. without awaiting formal approval of the plan by the Planning Commission. Furthermore the proposed pit restoration plan shall be submitted to the Soil Conservation officer for her review and written recommendations prior to a decision upon the plan by the Planning Commission.

Support by: Mr. Borton.

Motion approved unanimously. Motion passes.

I have met with the Otsego Conservation District officer Patricia Osburn and received the written review and recommendations of the Pit Restoration Plan Submitted by Northern Processing. The written recommendations are attached to this letter for your review.

Also attached are the minutes from the November 2, 2001 Planning Commission meeting where the Special Use Permit for the mining operation was approved with the conditions attached on page #3 condition #3 you will find the condition that reads "Pit rehabilitation or restoration shall follow guidelines found in Section 18.25.7 of the Otsego County Zoning Ordinance and the recommendations of the Otsego County Soil Conservation District."

I have also included the minutes from the January 19, 2004 Planning Commission meeting where the permit was extended for an additional Five year period. You will see that by reference the motion that was made and passed included the conditions from the 2001 meeting.

I am asking you to amend the Pit Restoration Plan Submitted at the July 19, 2010 Planning Commission meeting, to include the recommendations from the Otsego Conservation district. Please resubmit the amended Pit Restoration Plan no later than August 5, 2010 So that it may be included in the packet for the August 16, 2010 Planning Commission. Please plan on attending the meeting so the Planning Commission can address the amended plan.

Thank you for your prompt attention to this matter.

Sincerely,

Joseph S. Ferrigan

Joseph S. Ferrigan

MICHIGAN
CONSERVATION DISTRICTS

OTSEGO CONSERVATION DISTRICT
800 Livingston Blvd., Suite 4-A
Gaylord, MI 49735

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AmeriCorps Member

7-22-2010

Otsego County Land Use Services Department

12068 Cross Street

Gaylord, MI 49735

Otsego County Land Use Services Department:

After reviewing the Northern Processing, LLC, Pit Restoration Plan (18.25.7), the Otsego Conservation District (OCD) has the following concerns and recommendations. Restoration plan 18.25.7 states "All reclaimed areas shall be seeded with ten (10) pounds of DNR mix per one acre of reclaimed property or stabilized with some other acceptable form of turf establishment, as recommended by the Otsego Conservation District." OCD cannot recommend the DNR mix without reviewing a species list. Our recommendation would be to follow Technical Guide Section IV, Critical Area Planting 342 - Table 2 - Permanent Critical Area Seedling, which is to plant a mixture of Creeping Red Fescue 20 lbs./acre, Perennial Ryegrass 6 lbs./acre and Red Clover 3 lbs./acre. Fertilize according to the soil test results is recommended. If no soil test is available, use the fertilization recommendations in Table 5 of Critical Area Planting, which states to apply 500 pounds per acre of 12-12-12 or equivalent (Equivalent 19-19-19 is 315 pounds per acre).

Phase 1 states sloping of embankments will be complete by October 2010. To avoid erosion of site, topsoil could be placed this fall and the above seed mixture with a cover crop of Cereal Rye at a rate of 28lbs/acres would be mixed together and hydraulically seeded. This mixture would need to be planted by mid-October at the latest. This would stabilize the site and provide a nurse crop for the seed mixture to grow next spring. Cover crop and planting dates are taken from Technical Guide Section IV, Cover Crop 340.

If a hydraulic seeder is used, the seed, fertilizer and mulch may be applied together with water. For more information on hydraulic seeding, you may contact our office.

Sincerely,

Patricia Osburn, Otsego Conservation District

(989) 732-4021

The ideas express in the suggested Changes to the Otsego County Zoning Ordinance that follow are intended to start the discussion towards revising Section 18.25 MINING, GRAVEL, SAND, CLAY, TOPSOIL, MARL and other sections as related to it. As you review this please consider the items you think must be addressed when granting a special use permit for mining, that are missing from the current ordinance and the special conditions that have been placed on this type of operation. What concerns do you have that we should include in updating this section of the ordinance?

SECTION 18.9 DISCRETIONARY APPROVAL CONDITIONS

Whenever the Planning Commission, Zoning Board of Appeals, Zoning Administrator, or other official or body with authority to make a discretionary decision as provided for in the Michigan Zoning Enabling Act (PA 110 of 2006 as amended) determines that a fence, greenbelt, berm, landscaping or other buffering or screening device or land use arrangement shall be necessary, said body or official may require such condition per the requirements of the applicable section of this Ordinance. This includes the lighting requirements of Section 18.19, the outdoor speaker requirements of Section 18.41, and the fencing requirements of Section 18.10.

SECTION 18.25 MINING, GRAVEL, SAND, CLAY, TOP SOIL, MARL
All excavations for the removal (or filling) of gravel, sand, clay, top soil, marl, and similar resources not otherwise regulated by State mining laws, may be permitted in B3, I, FR & AR Districts provided the activity is conducted in accordance with the Permits and Standards of Otsego ~~Soil~~ Conservation District's Erosion & Sediment Control Specifications and/or be in accordance with the provisions of Part 91 of PA 451 State of Michigan. A site plan illustrating the arrangement of uses, machinery, equipment and stock piled material shall require Planning Commission approval, prior to commencing any extraction or filling of materials included herein. The Planning Commission may place additional conditions RELATED TO THE REQUIREMENTS in 18.25 as part of a site plan approved when the additional condition promotes and protects the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of Otsego County.

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

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

18.25.3 Location, size, depths, methods of operation, ~~and~~ legal description of the total site area to be mined and of the operations.

18.25.4 A written plan for extraction indicating the phases for extraction, ending date for each phase and written reclamation plan including a site plan of the reclamation, for the total project which shall include; surface overburden and topsoil stripping and stockpiling

plans and provisions for grading, re-vegetation, and stabilization that will minimize soil erosion, sedimentation and public safety problems.

18.25.X 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.

18.25.X The hours and days of operation.

18.25.5 Surface water drainage provisions and outlets.

18.25.6 The location and size of any structures.

18.25.X The type and location of any 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.

18.25.7 Rehabilitation:

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

18.25.7.2 The setbacks required in 18.25.8.1 shall remain at the existing grade under reclamation and rehabilitation.

18.25.7.3 A final grading and rehabilitation plan shall be part of the site plan with the object of the rehabilitation plan to restore the site to a natural appearance and for uses allowed in the zoning district.

18.25.7.4 A written re-vegetation plan including grading, seeding practices, ground cover, trees, grasses and time frame for each shall be reviewed by the Otsego Conservation District for comments and recommendations.

18.25.7.5 The written re-vegetation plan shall be approved by Planning Commission, may have conditions place upon it and shall be based on the USDA Soil Conservation standards and specifications.

18.25.7.6 Specific development reclamation requirement may vary depending on the location of the development in terms of its exposure to view, physical isolation, influence on residential areas, sensitivity to the natural environment and/or reuse potential. The Planning Commission shall state specific reasons for such allowed variances.

18.25.7.7 A rehabilitation plan may be revised prior to the expiration of permitted operations with Planning Commission approval of a revised Site Plan.

18.25.8 Site Development Requirements

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

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

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

18.25.8.2 Screening including fences, berms, walls and other visual screening devices of sufficient height shall be required to screen operations and stockpiles from the views on public roads or waterways shall be according to standards of Section 18.18.

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

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

18.25.8.5 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.

18.25.8.6 The operation of mechanical equipment of any kind may be limited by the day(s) and/or hours by the Planning Commission.

18.25.8.7 All structures, equipment and machinery shall be considered temporary and shall be removed from the development upon completion of the mineral extraction, mining or relocation.

18.25.8.8 Air pollution noise and vibration factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility.

18.25.8.9 If necessary to protect the area, access routes serving the development may be specified for the purpose of limiting the exposure of residential areas to earth moving vehicles.

18.25.8.10 The location of earth stockpiles, machinery, equipment and buildings, may be required to be approved to protect adjoining properties. Topography, vegetation, screening devices and physical isolation from residential properties shall be considered in locating development facilities and earth stockpiles.

18.25.8.11 Processing may be limited to only the materials extracted from the site.

18.25.9 Evidence of Continuing Use: When activities on or the use of the mining area, or any portion thereof, have ceased for more than one (1) year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the mining area, the Zoning Administrator shall give the operator written

notice of their intention to declare the mining area or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, he shall not declare abandonment.

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

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

18.25.12 Permit Expiration: If approval for a Special Use Permit for mining, gravel, sand, clay, top soil, and marl extraction 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 18 months beyond the permitted time for extraction. ~~These~~ Mining, gravel, sand, clay, top soil, and marl extraction permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year during the extraction period and a minimum of each 100 days during restoration, by the Zoning Administrator to insure compliance with the permit and Ordinance. The permit holder shall pay an inspection fee, as determined by the Otsego County Board of Commissioners, for each inspection to cover the costs of extraction and restoration inspections required by this section within 30 days of the invoice being sent to them or they will be in violation of the Special Use Permit.

18.25.13 Modification of the General Site Plan: The general site plan and/or reclamation plan may be modified at any time by mutual consent of the operator and the Planning

Commission to adjust to changed conditions, technology or to correct an oversight. The Planning Commission may require the modification of the General Site plan and/or reclamation plan when:

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

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

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

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

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FR - FORESTRY RECREATION DISTRICT

8.2.16 Surface mining (gravel, sand, etc.).

AR - AGRICULTURAL RESOURCE DISTRICT

9.2.17 Surface mining (gravel, sand, etc.).

B3 – BUSINESS, LIGHT MANUFACTURING DISTRICT

12.2.XX Surface mining (gravel, sand, etc.).

{This needs to be added to follow with what is stated in Article 18.25 "maybe permitted in B3, I, FR & AR Districts provided …".}

I – INDUSTRIAL DISTRICT

13.1.5 Gravel extraction, mining, or quarrying.

13.2.1 All uses subject to special conditions in the B3 Business, Light Manufacturing District.

Should the Use Descriptions be worded the same in each Zoning District? As you see in FR, AR we have "Surface mining (gravel, sand, etc.)" and in Industrial we have "Gravel extraction mining, or quarrying." Is "Gravel extraction and mining" the same as "Surface mining"? Should "quarrying" and "mining other than surface mining" be uses in the Industrial District"? "Surface mining" is in the Industrial District by way of 12.2.1. and subject to special conditions, yet Gravel extraction, mining, or quarrying is a principal uses permitted.