

Otsego County Planning Commission

Corrected Minutes for August 17, 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. Hilgendorf, Mr. Brown, Ms. Nowak, Mr. Klee, Mr. Hendershot, Mr. Mang, Ms. Corfis

Absent: None

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

Public Present: Bruce Vaughn, Tim Maylone; Cherry Capital Connections representatives, John Berscheid, Todd Colberg, Brad Shearer; Rieth-Riley representatives, Paul Slough, Barbara & Gene Fleming, Ron Jacob, Dennis Kreger, Gary & Linda Smith, Rhonda Behnke, Becki Jacobs

Approval of minutes from: June 15, 2015

Vice-Chairperson Jarecki stated the following change under '*Reports and Commission Member's Comments*' on page four (4), sixth (6th) paragraph 'Vice Chairperson Jarecki stated Corwith Township...and possibly *an information center*...' be changed to...and possibly ***for the information center*** out at the Pigeon River.

Motion made to approve minutes as corrected by Mr. Hilgendorf; Seconded by Mr. Brown.

Motion approved unanimously.

Consent Agenda: None

Other: Cherry Capital Connection LLC/*Tim Maylone, representative*
Proposed language modifications to Sections 21.46.2.7 and 23.2

Tim Maylone, lead engineer for Cherry Capital Connection introduced himself and Bruce Vaughn, stating their company specializes in high speed internet access services to rural areas. He provided a power point presentation along with hard copies to the Commission members which addressed articles within the Otsego County Zoning Ordinance that impacted Cherry Capital's ability to sustain a business in Otsego County.

Chairperson Hartmann requested they return to the Planning Commission at a later date with some proposed language for the members to consider and discuss for a possible amendment to the Zoning Ordinance.

Public participation for items not on the agenda: None

Public Hearing:

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

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Public Hearing open: 6:34 pm

Chairperson Hartmann opened the public hearing stating the case for Rieth-Riley had been heard at Elmira Township and their recommended approval had been submitted to the County.

Mr. Schlaud stated Rieth-Riley had submitted application to extend their current mining permit for an additional five (5) years. He stated he had allowed them to continue their mining operation after expiration because application had been submitted prior to that date.

John Berscheit, Rieth-Riley representative, stated they were requesting a five (5) year renewal of their current special use permit for a three (3) phase project. They were still in Phase I.

Secretary Arndt stated he remembered the previous renewal and thought there had been issues with traffic on Townline Rd and also resale values of residential property. It had been the Commission's findings back then that property had sold for more and questioned if that was still the case.

Mr. Berscheit stated he was unaware of any traffic issues or problems selling neighboring properties.

Gary Smith, owner of a neighboring property, stated he owned ten (10) acres and purchased an additional forty (40) acres prior to the gravel pit to prevent the cutting of all the trees. He presented pictures taken before the previous renewal stating it currently remained the same. He considered Rieth-Riley a good neighbor although truck traffic was heavy and the roads were somewhat deteriorated. His concern was once they moved on to Phase III the gravel pit would encompass his property on two (2) sides. He would like them to plant trees, shrubs and grass before they moved from one phase to another.

Chairperson Hartmann stated they had a reclamation plan in place and would have to reclaim the property before moving to the next phase. He also stated they were still in Phase I of the project and were not required to do anything until ready to move on to Phase II.

Vice Chairperson Jarecki suggested giving the Smith's a copy of the reclamation plan along with zoning requirements to help assure them. She stated Rieth-Riley also had a bond in place to cover the cost of reclamation.

Chairperson Hartmann requested staff to provide the Smith's with the information.

Mr. Smith requested the stop sign be replaced at the property entrance and also that they sweep the road to clear the sand, gravel and any other material from the asphalt.

Mr. Berscheit stated they would replace the stop sign and had just recently cleared the road. He also volunteered to give them a tour of the project for a more clear idea of the different phases.

Mr. Schlaud asked how long before they moved on to Phase II.

Mr. Berscheit stated it could be anywhere from two to seven (2-7) years depending on the work load and proximity of the projects.

Mr. Mang stated he felt the reclamation plan, addressed as 'Pit Restoration Plan' in the packet was lacking after the extensive work put into *the revision of* the mining section. He felt it necessary that the applicant revise the plan being sure to address each item under that section *in the Zoning Ordinance*.

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Mr. Hilgendorf agreed the plan should be more detailed considering the work put forth in the mining section.

Ms. Nowak concurred.

Mr. Berscheid stated they would address any part of the reclamation plan the Commission thought was lacking.

Chairperson Hartmann requested Rieth-Riley to review Section 21.25.2 and address their reclamation plan as needed to comply.

Public Hearing closed: 7:06 pm

Advertised Case:

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

Chairperson Hartmann read Article 19/ from the Specific Finding of Fact. *SEE ATTACHMENT 1*

Motion made by Mr. Hartmann to approve Rieth-Riley's Special Use Permit PSUP15-002 a mining permit extension for an additional five (5) years; Seconded by Mr. Klee.

Motion approved by majority.

Mr. Mang requested an amendment to the motion with the condition of addressing each item in Section 21.25.2.

It was requested that Rieth-Riley present the revised plan to Land Use Services before September's Planning Commission meeting along with an update of their soil erosion permit.

Mr. Hartmann amended his previous motion for PSUP15-002 as follows:

Motion made by Mr. Hartmann to approve Rieth-Riley's Special Use Permit PSUP15-002 a mining permit extension for an additional five (5) years subject to the condition of a revision to the Reclamation Plan addressing each item in Section 21.25.2 with Zoning Administrator approval; Seconded by Mr. Mang.

Motion approve unanimously. *SEE ATTACHMENT 1*

Public Hearing:

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

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Public Hearing open: 7:23 pm

Mr. Schlaud read the amendment and stated the proposed change was previously sent to townships and response was received from two (2), Charlton and Otsego Lake.

Ms. Corfis stated because of the shortened time frame, Otsego Lake Township felt it was important that the township involved be notified by email that a packet was being sent out.

Staff agreed to the recommendation.

Public Hearing closed: 7:27 pm

Advertised Case:

*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*

Motion made by Mr. Brown to recommend to the Otsego County Board of Commissioners PZO15-005 an amendment to Article 21/Section 21.46 and Article 27 concerning a language update and time frame for wireless communications; Seconded by Mr. Arndt.

Motion approved unanimously. *SEE ATTACHMENT 2*

Unfinished Commission Business: None

New Business:

1. Reappointment of School Board Representative/Jim Hilgendorf

Motion made by Mr. Hartmann to recommend to the Otsego County Board of Commissioners to reappoint Mr. Hilgendorf as the School Board Representative to the Otsego County Planning Commission for another term of three (3) years; Seconded by Mr. Hendershot.

Motion approved unanimously.

2. Johnson Oil Company/Proposed rezone from HX to B3

Ed Johnson, Johnson Oil representative, was in attendance concerning a rezone of property in Otsego Lake Township from a HX/Highway Interchange Zoning District to a B3/Business, Light Manufacturing Zoning District to allow the addition of an eighteen thousand (18,000) gallon propane tank for distribution.

Nora Corfis, Otsego Lake Township representative, stated applications were received and the case was disapproved at the Township level because they did not feel the rezone was in line with the Otsego County Master Plan. She stated Johnson Oil was not represented at the meeting but suggested they present proposed language to the County to possibly amend the district to add the use.

She welcomed them to attend the Township meeting the first Thursday of the month.

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Reports and Commission Member's Comments:

1. Otsego County Parks & Recreation report

Vice-Chairperson Jarecki reported the Community Center front steps were under construction but the project may not be completed by the beginning of the school year. They were also looking into replacing the playground equipment and because of the cost of updating the after school program, the building would be open for use but the County would not be involved in programming. She stated the County Park campground has had a great season with many reservations already made for the 2016 season, Irontone Springs received their first reservation for the pavilion rental and the timber sale at the Groen Nature Preserve went well. The remaining debris would be chipped or hauled away.

Chairperson Hartmann stated the Elmira Township Planning Commission has adopted 1.7 miles of M-32 east of the County line and have cleaned up approximately 1.4 miles so far. They will also be sending the MUZ/Multiple Use Zoning document for County review before the end of the year.

Secretary Arndt stated Bagley Township's assessor had a heart attack and a quadruple bypass but was doing well. There was activity within the Township; they had recently heard a case and had another waiting to be placed on their agenda.

Mr. Borton stated the EMS building expansion was finally underway and the County was beginning to receive bids for the Courthouse Lawn Project. Funding for the project was separate from the Streetscape Project for the City; so the County was in good shape. The City was considering their options.

Mr. Schlaud stated the Zoning Department has been extremely busy. There is the possibility of three (3) public hearings on next month's agenda. One would be a rezone in Bagley Township, the DTE project in Otsego Lake Township and a guesthouse in Charlton Township. Another case was sent to Bagley for an inflatable amusement park for recommendation.

2. Sample Checklist to Guide Decisions on Special Land Uses/Zoning Training

Adjournment: 7:55 pm by Chairperson Hartmann

Ken Arndt; Secretary

Christine Boyak-Wohlfeil; Recording Secretary

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ATTACHMENT 1:

OTSEGO COUNTY PLANNING COMMISSION

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

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. Hartmann to approve Rieth-Riley's Special Use Permit PSUP15-002 a mining permit extension for an additional five (5) years subject to the condition of a revision to the Reclamation Plan addressing each item in Section 21.25.2 with Zoning Administrator approval; Seconded by Mr. Mang.

Motion approve unanimously

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ATTACHMENT 2:

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 siting 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, siting, 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 siting 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 siting of wireless communications towers and antennas. The goals of the section are to:...

Current language:

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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).