

**SHIAWASSEE COUNTY PLANNING COMMISSION
BOARD MINUTES – AUGUST 22, 2012**

1. CALL TO ORDER: Chair Fred Junger called the regularly scheduled monthly public hearing of the Shiawassee County Planning Commission to order at 7:00 P.M. within the County Board of Commissioners' meeting room located on the first floor of the Surbeck Building, 201 N. Shiawassee Street, Corunna, MI.

ROLL CALL: Board members present: Don Dickmann, Henry W. Martin III, Glenn Love Jr., Bonnie Ott, John Griffin, and Fred Junger. Absent: William Thelen.

Also present: Peter J. Preston/Community Development Director, Linda Gene Cordier/Zoning Administrator, and Ron Elder/County Board of Commissioner.

1a. EXCUSED ABSENCE: Cordier informed the board that Mr. Thelen had contacted the office earlier in the day and stated his wife was ill. He was taking her to the hospital for tests and didn't think he would be able to make the meeting.

Motion: Glenn Love Jr. moved to excuse Bill Thelen. **Support: Bonnie Ott. Motion carried: 6 ayes, 0 nays.**

2. PLEDGE OF ALLEGIANCE: Chair Junger led the Pledge of Allegiance to the flag.

3. PROOF OF PUBLICATION: Cordier informed the board that the notice for tonight's public hearing had been published within the Shiawassee County Independent on Sunday, August 5, 2012. Chair Junger declared the hearing as legally noticed.

4. APPROVAL OF AGENDA: Chair Junger stated he would like to add under #10 (Committee Reports) a letter written by him. **Motion: Bonnie Ott** moved to approve the agenda as amended. **Support: Henry W. Martin III. Motion carried: 6 ayes, 0 nays.**

5. APPROVAL OF BOARD MINUTES: **Motion: John Griffin** moved to approve the May 23rd, 2012 board minutes as printed. **Support: Bonnie Ott. Motion carried: 6 ayes, 0 nays.**

6. BOARD OF COMMISSIONER COMMENTS: Commissioner Ron Elder stated he didn't have much to present this evening other than the fact the commissioners were working with the department heads for the 2013 budget. The department heads were crunching numbers as property values remain low and it doesn't leave much to work with. The department heads and employees have been very cooperative. Plans are to have a balanced budget in place by the New Year.

7. CALL TO THE PUBLIC ON NON-AGENDA ITEMS: None.

8. OLD BUSINESS: None.

9. NEW BUSINESS:

9a. Amend Perry Township Zoning District Map

Request - Amend Perry Township Zoning District Map to encompass 13 parcels detached from City of Perry per election 2011

Site Location/Tax Identifications:

5120 W. Beard Rd., - 014-19-400-004; A-2	4380 W. Beard Rd., - 014-20-400-001; A-2
5110 W. Beard Rd., - 014-19-400-005; A-2	4370 Beard Rd., - 014-20-400-002; A-2
4608 W. Beard Rd., - 014-20-300-001; A-2	Beard Rd., - 014-20-400-003; A-2

4384 Beard Rd., - 014-20-300-002; A-2 Beard Rd., 014-20-400-004; A-2
4382 W. Beard Rd., 014-20-300-003; A-2 12454 S. M-52 – 014-21-200-011; A-2
Beard Rd., - 014-21-300-001; A-2 3618 Beard Rd., - 014-21-300-002; A-2
12300 Raelynn Hills Dr., 014-47-046-000; R-1B

Proposed Zoning Classification – A-2, Agricultural Production/Rural Residential, and R-1B,
One Family Low Density Residential

Action Required – Recommendation to the County Board of Commissioners

Cordier provided a brief staff report. On last year’s ballot, the people had the option of voting on whether or not 13 parcels could be detached from the City of Perry and placed back in Perry Township. The result of the election placed the thirteen parcels back in the township. The parcels need to have a zoning classification and the township zoning district map amended accordingly. The Future Land Use Committee consisting of Fred Junger and Glenn Love Jr. met within her office and reviewed the areas surrounding the parcels. Twelve of the thirteen parcels would be contiguous or across the road from an A-2, Agricultural Production/Rural Residential, zoning district. One parcel would be located directly behind a platted subdivision (Raelynn Hills) which is zoned R-1B, One Family Low Density Residential. The proposed zoning classifications would be in compliance with the County’s Future Land Use map. The proposed districts were then reviewed with Troy Parmalee of Perry Township including verification of the tax identification parcel numbers. All thirteen parcel owners and the township were notified of the proposed zoning classifications. If the board concurs, a recommendation to the County Board of Commissioners will be required for approval to amend the Perry Township Zoning District map.

Sid Grinnell, Perry Township Supervisor, stated the township had reviewed the proposed classifications. All but one would be considered agricultural/residential and one abutting a platted subdivision. Grinnell stated he had talked to most of the people involved with the detachment. The people are very happy. The residents felt that they were not receiving any city services such as trash pick-up so they felt they should be placed within the township.

Chair Junger asked staff if they could take action on all thirteen parcels as one or would they have to be considered individually.

Preston answered the detachment for zoning classification could be handled as one motion.

Chair Junger asked if the request had been properly noticed. Cordier noted that it had been advertised within the August 5th legal notice and notification was sent to the property owners and township board. Junger asked if there was any ex-parte contact to be disclosed. Hearing none, he opened the floor for public comment in support of the request. Hearing none, Junger opened the floor for public comment in opposition of the request. Hearing none, Junger asked Supervisor Grinnell if he had any additional comments.

Grinnell said both the Perry Township Planning Commission and Perry Township Board agreed with the proposed zoning designations. The parcel that is located directly behind the platted lot is owned by the same owner. The area was purchased so they could build a barn behind their property. The only access is across the platted lot. This was done while it was still located within the City of Perry. Grinnell again noted that the residents were pleased with the election results.

Chair Junger closed the public hearing and called for board discussion.

Discussion: Martin stated he was concerned with the landlocked parcel and felt the parcels should be combined. Preston explained it wasn’t that easy because the property in front is a registered plat. It

became a landlocked parcel prior to it coming under the County's jurisdiction. Junger agreed we are not creating a new situation.

FINDINGS OF FACT:

1. What, if any, identifiable conditions related to the petition have changed which justify the petitioned change in zoning.

Staff: The acquisition of new property into the township.

Board: Concur with staff's findings.

2. What, if any, error in judgment, procedure, or administration was made in the original Ordinance which justifies the petitioned change in zoning.

Staff: The small detachment of property from City of Perry was the result of an election requiring the County to amend the Perry Township Zoning District Map by designating appropriate zoning classifications to the parcels.

Board: Concur with staff's findings.

3. What are the precedents and the possible effects of precedent which might result from the approval or denial of the petition?

Staff: If the parcels are not classified and the zoning map amended accordingly, the parcels would remain non-zoned.

Board: Concur with staff's findings.

4. What is the impact of the amendment on the ability of the County and other governmental agencies to provide adequate public services and facilities and/or programs that might reasonably be required in the future if the petition is approved?

Staff: The supervisor informed us earlier that the residents within the detachment were not happy being a part of the City of Perry as they were unable to obtain city services. They are happy to be a part of the township; therefore, there should be no issues.

Board: Concur with staff's findings.

5. Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?

Staff: The proposed classifications would be in compliance with the surrounding properties.

Board: Concur with staff's finding.

6. Does the petitioned zoning change generally comply with the adopted Future Land Use Plan of Shiawassee County?

Staff: It would be in compliance with the Township and County's Future Land Use Plan.

Board: Concur with staff's findings.

7. Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:

- 1) Surface water drainage problems
- 2) Waste water disposal problems
- 3) Adverse effect on surface or subsurface water quality
- 4) The loss of valuable natural resources such as forest, wetland, historic sites, wildlife, mineral deposits, or valuable agricultural land.

Staff: It will be in compliance with the County's Future Land Use Plan as well as Perry Township's. Nothing will change; there will be no negative impact.

Board: It will be placing agricultural land back within the township. Concur with staff's findings.

Motion: **Bonnie Ott** moved to recommend to the County Board of Commissioners to amend the Perry Township Zoning District map by adding the 12 parcels detached from the City of Perry within the A-2, Agricultural Production/Rural Residential, Zoning District and 1 parcel within the R-1B, One Family Low Density Residential, Zoning District, based on the findings of fact and township recommendation.

Support: Henry W. Martin III.

Roll Call: Ayes to Recommend Approval: Don Dickmann, Glenn Love Jr., John Griffin, Bonnie Ott, Henry W. Martin III, and Fred Junger. **Nays:** None. **Motion carried: 6 ayes, 0 nays.**

9b. Application – PREZ12-002

Applicant – Jeff Peltier, Owosso, MI (owner’s representative)

Owners – Brad Faber/Eddie Louch, 4051 S. M-52, Owosso, MI

Site Location – 2881 W. Bennington Road, Owosso, MI, Section 10, Bennington Twp.

Tax Identification of Parcel – 010-10-100-001-01 and 010-10-100-001-00

Proposed – Rezone a portion of 010-10-100-001-01 (from M-1, Light Industrial) and a portion of 010-10-100-001-00 from **A-2**, Agricultural Production/Rural Residential) to **B-2**, General Business

Action Required – Recommendation to the County Board of Commissioners

Chair Junger asked if the request had been properly noticed. Cordier replied it had been published within the Shiawassee Independent on Sunday, August 5, 2012. The applicant, township, and surrounding property owners were notified by mail. Junger asked if there was any ex-parte contact to be disclosed. Hearing none, Junger stated they would proceed.

Preston provided a brief staff report explaining the site location (southeast corner of M-52 and Bennington Road) within Section 10 of Bennington Township. The property not only has mixed uses, but has different zoning classifications. Crooked Tree Nursery and a Fitness Center are currently located on the property. Across the road is a cemetery. A single-family resident is located to the south of the property. The property contains M-1 (Light Industry) and A-2 (Agricultural Production/Rural Residential) zoning classifications. The corner area has contained a number of different uses in the past. East of the property along Bennington Road, the area has been residentially developed with a portion of vacant land that had been proposed for future residential development. The applicant and his partner would like the ability to construct a commercial building on a portion of the vacant land to the east for commercial use. If the rezoning is approved, the applicants would need to apply for a Site Plan Review approval prior to any zoning and building permits or construction. Preston noted that a site inspection of the property to the east found some action has already taken place on the property prior to any approvals. Preston discussed the Future Land Use Plan map and noted that it didn’t include a scale making it difficult to draw up a map. The staff report included uses by right, by right with condition, or by special use permit. Although the applicant has indicated plans are for a commercial structure, a particular use can not be tied to the request unless provided for by the applicant. For example if the applicant wanted to put a McDonald’s on this site instead, it would be a use allowed under a special land use permit. Preston added that the petitioned rezoning sizes noted were: Area #1, M-1 to B-2, as 1.15 acres more/less and Area #2, A-2 to B-2, as 8.5 acres more/less. Area #1 frontage contains approximately 103 feet along Bennington Road and 42 feet along M-52. Area #2 has approximately 312 feet frontage on Bennington Road and approximately 256 feet frontage on M-52. Bennington Township had reviewed it and recommended approval.

Preston informed the chair that the property owners (Eddie Louch and Brad Faber), their attorney (John Homola) and their engineer (Jeff Peltier) were present.

Attorney John Homola spoke on behalf of O.R.E.N. LLC. He also thanked Pete for working with them on this request. This came about after his client sought a zoning and building permit for an accessory

building for additional storage on the property for the business. Proposed is moving the boundary line of the B-2 district to the east. The property along M-52 would have one neighbor that could be effected by the change (Steve Bartlett). This was addressed at the township level and Mr. Bartlett provided a letter stating he wouldn't object. The business has grown and they need additional space for storage. There will be no additional commercial activities on the property. They just want to be in compliance. Homola said he first became involved with this back at the beginning of the year.

Chair Junger opened the floor for public comments in support of the request. Hearing none; Junger opened the floor for public comments in opposition of the request. Hearing none, Junger noted the township had submitted written confirmation of their recommended approval. Junger closed the public hearing for board deliberation.

Preston explained to the board that he wanted the board to be aware that grade work had taken place and that some sand had been placed in the area to the east of the fitness center. The Environmental Health Department would require a Soil Erosion and Sedimentation Control permit. He didn't want the board to be misinformed because of what has already taken place out at the site.

Martin questioned the fitness center. Louch replied that his partner's son was in charge of the fitness center. He normally trains with one-to-three people at a time.

Dickmann replied that the drawing provided should have included a North arrow; it was difficult to determine where M-52 and Bennington Road was located.

FINDINGS OF FACT (Article 19, Section 19.5):

1. What, if any, identifiable conditions related to the petition have changed which justify the petitioned change in zoning.

Staff: There appears to be no change in identifiable conditions that justify the petitioned change in zoning other than the petitioner is seeking to expand the commercial use at the southeast corner of M-52 and Bennington Road. This area is a mixed-use area and is anticipated to continue to be so in the future.

Board: Concur with staff's findings.

2. What, if any, error in judgment, procedure, or administration was made in the original Ordinance which justifies the petitioned change in zoning.

Staff: There does not appear to be any error in judgment, procedure or administration was made in the original Ordinance. This area is a mixed-use area and is anticipated to continue to be so in the future.

Board: Concur with staff's findings.

3. What are the precedents and the possible effects of precedent which might result from the approval or denial of the petition?

Staff: It does not appear that any precedent would result from approval or denial of the petition due to the mixed-use nature of the petitioned area.

Board: Concur with staff's findings.

4. What is the impact of the amendment on the ability of the County and other governmental agencies to provide adequate public services and facilities and/or programs that might reasonably be required in the future if the petition is approved?

Staff: The petitioned rezoning to B-2 is a lesser intense district than the M-1 zoned property and a more intense zoning than the A-2 district. It does not appear that additional public services and facilities will be necessary, but if they are, the property owner or user of the property will be required to extend such services or facilities.

Board: Concur with staff's findings.

5. Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?

Staff: A portion of the site is presently developed. The petitioned rezoning to B-2 is a lesser intense district than the M-1 zoned property and a more intense zoning than the A-2 district. Amending the map does not appear to adversely affect the environmental conditions or value of the surrounding property.

Board: Concur with staff's finding.

6. Does the petitioned zoning change generally comply with the adopted Future Land Use Plan of Shiawassee County?

Staff: It is staff's opinion that the proposed zoning change complies with the adopted Future Land Use Plan of the County. Although the County has designated this area as "commercial", the Township Future Land Use Plan designates the area as "commercial" as well. Both land use plans act as a guide to future rezoning. Staff's opinion of compliance is based on the geographic location of the property on West Bennington Road and the size of the property.

Board: Concur with staff's findings.

7. Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:

- 1) Surface water drainage problems
- 2) Waste water disposal problems
- 3) Adverse effect on surface or subsurface water quality
- 4) The loss of valuable natural resources such as forest, wetland, historic sites, wildlife, mineral deposits, or valuable agricultural land.

Staff: The petitioned rezoning to B-2 is a lesser intense district than the M-1 zoned property and a more intense zoning than the A-2 district. It does not appear that significant negative environmental impacts would occur if the petitioned zoning change were approved.

Board: Concur with staff's findings. If approved it would eliminate the industrial zoning district. At one time it was a Christmas Tree Farm, Crooked Tree Nursery falls under the agricultural use guidelines, and the area hadn't been farmed in years so there is no loss of farm land.

Chair Junger noted that the Bennington Township Board and Township Planning Commission recommended approval. Junger reminded the board that a recommendation to the County Board of Commissioners would be needed. Junger called for additional discussion.

Martin asked if the Site Plan Review Committee had reviewed this. Preston answered no, not at this time. The committee will review it when the applicant comes back with a site plan for the new structure.

Motion: John Griffin moved to recommend that the Shiawassee County Board of Commissioners approve the petition to amend the zoning district from M-1, Light Industrial, and A-2, Agricultural Production/Rural Residential, to B2, General Business, for property located at 2881 West Bennington Road (Parcel Id. 78-010-10-100-001-01 and 78-010-10-100-001), Section 10, Bennington Township, and as legally described in the petition based on the following reasoning:

1. The ten (10) finding of fact outlined in Section 19.5 as detailed within the staff report have been satisfied.

Support: Glenn Love Jr.

Roll Call: Ayes - Bonnie Ott, Don Dickmann, Henry W. Martin III, Glenn Love Jr., John Griffin, and Fred Junger. **Nays – None. Motion carried: 6 ayes, 0 nays.**

9c. Application – PSUP12-06

Applicant/Owner – Pineview Mining and Development LLC, Washington, MI

Site Location – 9542 Beard Road, Perry, MI

Tax Identification of Parcel – 78-013-21-400-001, Section 21, Woodhull Twp.

Request – Special Use Permit/Site Plan for Concrete Crushing and Sand Removal

Ordinance Reference – Section 4.3.67 (Surface Mining), as amended

Chair Junger asked if the request had been properly noticed. Cordier answered it had been placed in the Shiawassee Independent and the applicant, township, and surrounding property owners had been notified by mail.

Preston proceeded with the staff report. The proposed request is located within Section 21 of Woodhull Township containing an irregularly shaped 79-acre parcel of land based on prior land divisions over the years. The property is accessed by Beard Road. It has been an existing sand and gravel operation under a special land use permit since 1976. Accessory uses on this property include concrete crushing, which they had been permitted to do in the past under a temporary use permit, and mixing of municipal water treatment by-products. Due to the fact requests for a temporary crushing operation were being received on an annual basis since 2007 and 2008, staff requested the owner seek a special land use permit. The Zoning Ordinance was amended in 2011 and considers concrete crushing as a valid accessory use.

Preston continued that the request tonight would be only to consider concrete crushing on a portion of the property. It would not include the special use permit for the existing surface mining operation. Preston referred to his staff report noting items that were missing on the site plan which need to be included:

- 3.1. - Distance between crushing equipment location and west property line.
- 3.2. - Is the site fenced or does the applicant intend to fence the area subject to the petition.
- 3.3. - Declare anticipated noise levels at adjacent property lines.
- 3.4. - Identify how processes, interior haul routes and other activity areas will be treated to prevent wind-blown dust
- 3.5. - Note hours of operation for the petitioned use area.
- 3.6. - Describe future reclamation of the petitioned area.

Preston proceeded with the site plan evaluation. A broken concrete staging area is planned at the northern end of the petitioned area. Plans are to have one primary crusher, one secondary crusher, a screening plant and no more than eight conveyors. There has been an occasional complaint from time to time over the years. Again the surface mining operation has been in operation for many years. The main complaint was tracking of dirt onto the public road. Records reflect the owner has responded to the issue in a timely manner by having a street sweeper come in and sweep the area. This body can no longer control truck traffic on a public road. The Drain Commissioner, Environmental Health Department, and Michigan Department of Natural Resources and Environment may have additional concerns.

Setback requirements were discussed. A minimum requirement of 150 feet is required. The Planning Commission can consider reducing it down to 75 feet from a property line if a waiver is received from the adjoining property owner. The parcel is adjoined by State land. There is no dwelling unit or property located within 300 feet of the petitioned six-acre area. Preston again noted that the mining operation has been in existence since 1976. Discussion on fencing followed. Preston stated there may be a number of activities that take place on the adjoining state land such as hiking or hunting. The Planning Commission should determine if a fence should be installed if one isn't already in place.

Dickmann responded that the state land was a popular place to hunt. Junger felt there may already be a fence in place.

Preston continued that overall most of the standards as outlined within the ordinance have been met on the site plan. A bond will be required for the concrete crushing phase of the operation.

Ott asked about designated wetlands. Preston stated he believed a designated wetland had to contain two or more acres at which time it would become regulated by the MDNRE.

Chair Junger opened the public hearing and asked the applicant if he wished to present his request.

Bob Rogers replied that Mr. Preston basically stated what their plans were. They would like to be able to continue with periodic concrete crushing.

Griffin asked if they crushed during a particular time of the year.

Rogers answered that they bring the broken concrete in and turn it into a viable product that can be taken back out and used which keeps it from going to a landfill. A crusher is brought in for two-to-three weeks. There is no dust or noise associated with it. Rogers said he didn't believe the neighbors even were aware when the crusher was in there. In the past they were given a temporary permit for two-to-three months. We have crushed concrete for M.D.O.T. It was brought in, crushed, and returned.

Chair Junger noted that on a similar request, the applicant was asked to provide staff with a date the crusher was being brought in so a letter could be mailed to the surrounding property owners giving them the dates crushing would take place. That proved to work quite well.

Rogers explained that because the crusher is so far back off the road, you cannot hear it running up by the road. We would like the ability to be able to crush concrete as it has given us another avenue for resources as sand isn't moving as steadily with the down economy. The concrete is being recycled into another usable product. The property is fenced on three sides. The back is fenced and posted.

Chair Junger opened the floor for public input.

Speaker #1 – Sid Grinnell, Perry Township Supervisor. Grinnell wondered how many trucks would be associated with the concrete crushing as Beard Road to the East enters into Perry Township.

Rogers answered it would depend on M.D.O.T.

Grinnell noted it mentioned he had a Perry mailing address.

Cordier replied she had made an error; the mailing for the property at 9542 Beard Road was Laingsburg and not a Perry mailing address.

Grinnell noted that Beard Road was an all-weather Class A road which would have weight restrictions.

Rogers answered that typically they crush during the summer months only.

Chair Junger asked for public input in support of the request. Hearing none, he called for public input in opposition of the request. Hearing none, he noted one letter had been received and asked Cordier to read it aloud.

August 15, 2012

Concerning application #PSUP12-06, Site Location – 9542 Beard Road, Laingsburg, MI

I am in opposition of the proposed request because of dirt and noise of trucks.

Carolyn Quick, 9454 W. Beard Rd., Laingsburg, MI

Chair Junger asked if anyone from Woodhull Township was present and wished to speak. Preston noted the Woodhull Township Planning Commission had responded and read aloud the township's response:

1. Subject to state law owners of concrete crushers are required to possess an operating permit issued by the Michigan Department of Environmental Quality (MDEQ) which regulates particulate matter and addresses air quality issues. The special use request application makes no mention of the applicant possessing a valid MDEQ permit. Contingent upon the issuance of a SUP, the County should ensure that a permit is sought and remains current at all times. Furthermore, the County should ensure that a valid MDEQ permit is obtained and referenced in all SUP applications of this nature in the future.

Preston noted the special use permit includes compliance with other agencies as required and is monitored by staff.

2. Lack of County monitoring and enforcement of this ordinance, and others, undermines the effectiveness of permit regulations and compliance in general. As a result, SUP's of this nature should be provided only on a temporary basis, which allows for the periodic public review and evaluation of performance and compliance by the applicant. Thus, the Woodhull Township Planning Commission strongly urges that the SUP be issued on a temporary basis (not longer than two years).

Preston answered that this body has handled similar concrete crushing operations in the past and asked them to report back in two-to-three years. Cordier noted the amended language requires an annual update.

3. Section 4.2. of the application acknowledges "occasional" complaints relating to the public roadway. One resident noted the need for better maintenance of the road surface, including sweeping, watering, plowing, and patching. In addition, it is recommended that Pineview provide for the repairs of the curbs at corners north and south on the transportation route, which have been crushed by trucks when turning.

Preston replied that this board cannot require off-site improvements. Improvements may have to come from the Road Commission. Junger noted he rides his bicycle in this area and didn't find any curbs. Dickmann agreed and stated it was a dusty corner.

4. According to residents hours of operation by the trucks have varied and occur outside of daylight hours. It is recommended that hours of operation be specified in the permit and enforced.

Preston noted that the original use of the property is under the 1976 special land use permit. Rogers added that they haul in a municipal by-product generally early in the morning and late evenings. Preston stated in reference to the proposed concrete crushing operation, hours of operation are from 7:00 A.M. to 6:00 P.M., Monday through Saturday. No Sundays or holidays are permitted. This board can modify that if they feel it is needed to strengthen it up.

5. It is recommend that truck loads be covered (and enforced) at all times.

Preston replied that again this is a regulation that is enforced by another authority once the trucks exit the property.

6. It is recommended that the company place visible signage at the site entrance with a company contact name and telephone number for residents to call in the event of questions and/or to report violations.

Preston stated he wasn't opposed to that recommendation and believed signs were already in place.

7. *Planning Commissioners note a relatively low property assessment for this parcel given the ongoing use and requests that this value be examined and adjusted, as necessary, by the township assessor.*

Preston agreed this would have to be reviewed by the township assessor.

8. *The current mailing address of Pineview should be clarified. Are they located in Dexter, MI or Washington, MI?*

Preston read aloud from Section 4.3.67 (Surface Mining) #2 (Site Requirements), G. #16 – *On an annual basis from date of the approval of the Special Use Permit or as determined by the Planning Commission, the holder of the Special Use Permit or their assign shall provide a progress report and site plan showing the mining progress made in the previous year. The Planning Commission may have the standing sub-committee that reviews and makes recommendations concerning mining and related activities review the progress report and site plan.*

Rogers again informed the board that they make every effort not to truck late at night. The drivers are cautious about leaving trucks idle, use of Jake breaks, and turning sharp corners. Occasionally there is a dust issue and we get someone right on it with our equipment. If necessary, we do call in an outside company to sweep the road or de-water it.

Ott asked if the concrete that was brought in contained re-rod.

Rogers replied yes. It is separated out and placed in a dumpster.

Martin asked what the correct address was.

Rogers answered the address is Washington as indicated on their application.

Dickmann asked if the residents located on Beard Road would be able to hear the crusher in operation.

Rogers answered they would have to be standing next to the crusher otherwise you can't hear it. Dennis Houghton with Pineview stated he had approached a neighbor on Beard Road that was having a garage sale at the time the crusher was in operation and asked if they could hear the crusher. They stated no. Houghton said he informed them that it was in operation as he spoke with them.

Chair Junger closed the public hearing and asked Preston to review the standards for approval unless the board had additional questions.

General Standards for Approval of a Special Land Use Permit:

1. The special use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
Staff: The petitioned use is proposed in a generally low-density single-family residential area. Property immediately to the west is owned by the State of Michigan and is not anticipated to be developed in the near future. The standards of the Ordinance attempts to ensure that design, construction and operation of the facility are harmonious with the character of adjacent property. The Planning Commission, however, has discretion to levy conditions to obtain such compliance. Board: There is more state land surrounding the property than staff initially realized. The board agreed with staff's findings.
2. The special use shall not inappropriately change the essential character of the surrounding area.
Staff: The petitioned use is proposed in a generally low-density single-family residential area.

The Planning Commission should discuss the general location of the property and the longevity of the use. The Planning Commission has discretion to levy conditions to obtain such compliance.

Board: Concurred with staff's findings.

3. The special use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also are in keeping with the natural character and environmental quality of the site.
Staff: The Planning Commission should discuss the general location of the property, the intent of the Ordinance for the location of such uses, and the longevity of use at this particular site. The Planning Commission has discretion to levy conditions to obtain such compliance.
Board: Concur with staff's findings.
4. The special use shall not be hazardous to adjacent property or involve use, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, ground vibration, water runoff, fumes, light, or glare.
Staff: The provisions outlined in the Ordinance are intended to prevent such negative impacts. The Planning Commission should discuss with the applicant their operation on the site and if any conditions are appropriate to counter any possible negative impacts.
Board: Concur with staff's findings.
5. The special use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special use shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration.
Staff: Anticipated public facilities or services include road, police, fire and emergency services. Agencies responsible for such services have been given the opportunity to comment.
Board: Concur with staff's findings.
6. The special use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion.
Staff: Anticipated public facilities or services include road, police, fire and emergency services. Agencies responsible for such services have been given the opportunity to comment.
Board: Concur with staff's findings.
7. The special use shall be consistent with the intent and purpose of this Ordinance and the objectives of the County Land use Plan.
Staff: The petitioned use appears to be consistent with the underlying zoning district and the designation for this property under the Shiawassee County Future Land Use Plan.
Board: It is also tied to a special land use permit granted in 1976. The amended zoning ordinance language requires annual reviews as well. Concur with staff's findings.
8. For special uses in the A-1, A-1½, A-2 Districts, approval of a permit shall be further determined on the basis of the proposed land uses effect on a loss prime agricultural land or on the right-to-farm of any adjacent farm.
Staff: The petitioned use does not appear to impact the use of farmland in the area.
Board: This area has been in use for some time as a mining operation and appears it won't readily change if concrete crushing is approved. Concur with staff's findings.

Board discussion followed on the amount of bonding and consideration of a reduced setback waiver. A recommendation of a \$10,000 bond to cover the six-acre designated crushing area and a 75-foot setback from the State of Michigan property was agreed upon. Griffin asked Rogers if he felt the \$10,000 bond was unreasonable. Rogers answered no not at all.

Motion: **Bonnie Ott** moved to approve the Special Land Use Permit request and site plan for a concrete crushing facility as submitted by Pineview Mining and Development, LLC to be located on Beard Road and as legally described in Section 21 of Woodhull Township (Parent Tax I.D. 78-013-21-400-001) based on the following reasoning and conditions:

Reasoning: 1) Subject to the conditions provided below, it is found that the petitioned special use permit for a concrete crushing facility meets the general standards of the Ordinance. 2) Subject to the conditions provided below, it is found that the petitioned site plan for a concrete crushing facility meets the general standards as provided for in Article 14 and specific use standards set forth under Section 4.3.67. 3) Additional reasoning as presented by the Planning Commission.

Conditions: 1) Provide information as noted by this staff report as having not been provided for on the site plan or in supplemental information. Compliance shall be determined by the Community Development Director prior to the issuing of permits or authorization of construction of the petitioned use. 2) Compliance with the provisions of the Zoning Ordinance shall be determined by the Community Development Director prior to the issuing of permits or authorization of construction of the petitioned use. 4) Bonding set at \$10,000. 5) Reduction of setback requirements from property line to 75 feet. 6) Hours of Operation: As specified within the 1999 Zoning Ordinance, as amended. 7) Annual review as specified within the 1999 Zoning Ordinance, as amended. **Support: John Griffin.**

Roll Call: Ayes to approve: Don Dickmann, Henry W. Martin III, Glenn Love Jr., John Griffin, Bonnie Ott, and Fred Junger. **Nays:** None. **Motion carried: 6 ayes, 0 nays.**

Rogers thanked everyone and wanted the board to know he has worked with Ms. Cordier for many years. She has always had the answers or new where to find them for us. The lady at the front counter has been very good to work with as well as Mr. Preston. Rogers stated he just wanted to pass that along.

Chair Junger thanked him for his comments and noted that Cordier was the glue that held the department and the process together. His comments were very much appreciated. It is nice to hear something positive.

**9d. Text Amendments to the 1999 Shiawassee County Zoning Ordinance, as amended
Amend Article 5, Section 5.3.2. (Accessory Uses) #C – Open Outdoor Storage within the
M-1 and M-2 District**

Martin informed the board that the Rewrite Committee met prior to tonight's meeting to discuss the proposed text amendment and comments received back from the townships prior to tonight's public hearing. The Rewrite Committee is recommending approval of the text amendment to the County Board of Commissioners.

Preston explained that the open outdoor storage came about when a request came in to have outdoor storage on a vacant parcel located within the Perry Township Industrial Park on Bennett Drive. The outdoor storage would be from another business already located within the park. The business owner has an overflow of equipment three times a year. The ordinance only permits outdoor storage on a parcel when it is connected to a principal use and not on a vacant parcel. Preston reviewed the proposed changes within Section 5.3.2. the following changes are being considered for change as written:

C. **Open Outdoor Storage:** *Open outdoor storage shall be permitted as an accessory use in the cited districts and subject to the following standards and conditions.*

1. *Open Outdoor Storage* is permitted without a Zoning Permit in the rear yard of a developed site located in a M-1 and M-2 District provided the stored materials are screened and/or fenced and at least two-hundred (200) feet from the boundary of a residential district, and fifty (50) feet from the boundary of an office or business district.

2. *Open Outdoor Storage* in an M-1 or M-2 District in a side or rear yard, or up to fifty (50) percent closer than the separation distanced provided in this Section for rear yard storage, may be permitted by the Site Plan Review Committee if, after analysis, no significant nuisance on an abutting property would likely occur.

3. *In the M-1 or M-2 District, a principal use on one (1) property may utilized outdoor storage as an accessory use on another property as long as such other property is similarly zoned and located where no more than five-hundred (500) feet exists between property boundaries. The use of property for such purposes shall be reviewed as a principal use of property requiring site plan review by the Planning Commission. The proposed use and site development is subject to information requirements set forth in Article 14. The site meets the standards for development found in this section and other sections of the Ordinance, including but not limited to:*

- a. *Site landscaping, screening, and fencing provisions for similar and compatible uses.*
- b. *Storage only of non-hazardous materials and all materials must be adequately described to ensure compliance with other provisions of the Ordinance and rules, regulations, and requirements of other agencies or authorities.*
- c. *Adequate ingress and egress to the site, as well as ensuring that traffic between the principal use and accessory use are safe and do not impede or obstruct traffic; and*
- d. *Adequate surface treatment to prevent mud, dust, trenching, or other results that would impact the desirability of the site and other properties in the immediate area.*

4. *In the B-1, B-2, and B-3 Districts, the outdoor storage of merchandise normally carried in stock in connection with a business is permitted by issuance of a Zoning Permit when included in an approved site plan, provided that such storage is permitted in the applicable district regulations, and that storage does not occur in required parking or loading areas or within the minimum yard setbacks as measured from the property line towards the principal use.*

Preston stated Venice Township responded and had some concerns with the terms of outdoor storage.

Ott agreed. The committee talked about the amendment. In one area it (C), it states Open Outdoor Storage and in another area it states Outdoor Storage. The committee felt the ordinance should be amended to replace **outdoor storage** to **open outdoor storage** throughout.

Chair Junger confirmed with Cordier that the hearing for the text amendment had been properly noticed and noted for the record there was no ex-parte contact to disclose. Junger opened the floor for public comment, hearing none the public hearing was closed. Junger noted that the only township input received was from Venice Township. He also noted that because there would only be minor changes to the language (referring to Open Outdoor Storage and Outdoor Storage), it would not have to be sent back to the townships for additional review. Junger informed the board that because this came out of committee a support was not required.

Roll Call to Recommend to the County Board of Commissioners approval of the Text Amendment to Section 5.3.2. Outdoor Storage in M-1 and M-2 Districts. Ayes: Henry W. Martin III, Glenn Love Jr., Bonnie Ott, John Griffin, don Dickmann, and Fred Junger. **Nays:** None. **Motion carried: 6 ayes, 0 nays.**

9e. Text Amendment to Article 4, Section 4.3.76 (Wind Energy Conversion Systems)

Chair Junger asked if this had been properly noticed. Cordier confirmed it had been. Junger asked if there was any ex-parte contact to disclose. There was none.

Preston noted that the language has been amended from time to time since it first was adopted in 2010 and probably will continue to be amended as we learn more about wind energy. Preston informed the board that Cliff Williams, representative of Orisol, was present this evening. Williams is working with a firm hoping to erect a Wind Farm in Shiawassee County. The proposed language before you had been sent to the townships for review. The only comments received were from Venice Township. The township's only concern was who would determine the state of repair, who would remove it, and who would pay for it referencing #4, General Standards, letter "R".

Preston reviewed the proposed changes to Section 4.3.76 with the board.

Discussion followed. Martin noted that the Rewrite Committee may want to address the issue of height again at a later date. Preston said to respond to Venice Township's concerns; the building official or even zoning could ask an engineer to look at the turbine to determine if it should be removed. It would be covered under part of the Decommissioning plan. Dickmann questioned the state of disrepair, maybe it was out of commission because a part needed replacing.

Preston stated that Mr. Williams also reviewed the language and provided a couple of comments. There are different types of development. A lot of work goes into a project before it is ready for construction. There is a need to have at least one met test tower remain to continue gathering data. Another issue is the expiration date of the special use permit if construction has not commenced within six months. Another concern with the language was the term project life or abandonment. Preston said he was informed that sometimes a problem or issue may take upwards of six months or longer before it is addressed.

Chair Junger wondered if the special use permit would be handled as individual towers. Preston replied no, one special land use permit may have several towers associated with it. Junger asked for instance if a permit had 30 towers and one was considered in a state of disrepair, does that mean the entire special use permit or would all 30 have to be in a state of disrepair. Discussion on permit expiration was handled. The board considered language that would allow the applicant an opportunity to seek an extension prior to the permit expiring. Junger asked if any of the proposed changes would need to go back to the township board for additional review. Preston answered no.

Martin informed the chair that the Rewrite Committee is recommending approval to move it onto the County Board of Commissioners.

Cliff Williams informed the board that the company has about 15 wind turbines; however, none were in the U.S. The company came to the U.S. about two years ago. We anticipate one here and one in Lenawee County. Extensions are needed because if one of the turbines were to go down, it could take a while to obtain the parts needed for repairs. Plans are to have a utility farm similar to the one in Gratiot County.

Discussion followed on the size of the wind turbine, selling the energy, and grids. Williams noted that most turbines have the capability of measuring the wind speed on the back of each tower. The towers in Gratiot County were 500 feet or 146 meters. The board members stated they consider the ordinance language a living document that is constantly under change. Williams thanked the board for working with him. Preston was asked to define residential. Preston noted that it meant the principal use of the property.

Williams briefly explained to the board some of the things that have to be addressed when researching an area for a wind farm and why the need for a longer time period so it wouldn't expire before everything was in order to commence construction. They have to deal with such things as wetlands, wind speeds, and local ordinances. It would be a huge risk factor if they were approved once, but had to come back because it expired.

Junger felt the proposed language needed to keep moving. They can always come back with additional updates at a later time. After further discussion, Chair Junger called for a roll call vote to move it forward.

Roll Call Recommending Approval to the Board of Commissioners: Ayes: Don Dickmann, Henry W. Martin III, Glenn Love Jr., Bonnie Ott, John Griffin, and Fred Junger. **Nays:** None. **Motion carried: 6 ayes, 0 nays.**

10. Reports of Officers and Committees:

Future Land Use Committee: Love informed the board that the committee handled six P.A. 116 applications for George Zmitko and two for his son, George Zmitko III. Recommendations for approval were forwarded to the Board of Commissioners.

Gravel Mining Committee: Griffin stated that the committee will be making the annual visits to the gravel pits in September. Preston noted that he had received a revised site plan from Schlegel's with regard to their pit in Ovid.

11. Communications Received: None.

12. Director's Comments: Cordier informed the board that at this time she did not have anything to bring before the board in September. Chair Junger stated if nothing was pending, the September hearing would be cancelled. Cordier informed the board she would send out confirmation that the meeting was cancelled the first week of September.

13. Public Comments: Chair Junger informed the board that he and John's terms would expire in December and as they are term limited would be unable to seek reappointment. Junger asked to read the following letter for the record.

To: Shiawassee County Planning Commission

From: Fred Junger

Re: The planning process

Today it is too often said that government does not work and cannot be trusted. I have served, as a part of government, on planning commissions in Vernon and Woodhull townships and here at the county level almost continuously since 1975. As my final term comes to an end I would like to say, for the record, that government, as represented by these planning commissions has worked very well and been very trustworthy.

Planning Commissioners are citizen amateurs who are regularly asked to make decisions that are often controversial, technically complicated and legally complex. They are guided in these decisions by state and federal law, the county zoning ordinance, the staff in the Community Development Department, input from township governments, input from the public at public hearings and discussion with fellow commissioners during their public deliberations. Remarkably, these planning commissioners are able to reach the correct conclusions in almost all of the issue that come before them.

In my opinion, this part of government works so well because of the people who make it work. In our Community Development Department, Linda Gene Cordier is the glue that has made the system work for as long as I have been a part of it. Pete Preston is a great help and very valuable resource (this quality of help was not always available from some of his predecessors). Ruth Ebmeyer is always there to help make connections and provide needed information.

But in the end, the system works so well primarily because of the planning commissioners at the township and county level. With only a couple of exceptions, the planning commissioners I have known, and served with have been very conscientious and committed to doing their best in their difficult roles. They come to meetings prepared; they have read their packets and visited the sites under consideration. They actively seek additional information and clarifications both before and during meetings. They are able to give due consideration to public input despite the heightened emotions and controversies that sometimes occur during public hearings. Finally, their public deliberations are thoughtful as they reach a decision. Interestingly, final decisions usually include modifications and conditions developed during these public deliberations and are better for the process.

It has been a genuine honor and privilege for me to have served with these dedicated people through the years, and I am certain that this part of government will continue to work effectively into the future.

Griffin concurred with Junger's letter and added that they have served on this planning commission board for 12 years. Dickmann said he would hope the county can find people to fill John and Fred's shoes. Junger stated he would not be available for the November or December meetings if they are scheduled. Martin replied that there were always openings on the Zoning Board of Appeals if they wished to consider appointment to that board.

14. Adjournment: Motion: Bonnie Ott moved to adjourn the hearing. **Support:** Don Dickmann. **Motion carried: 6 ayes, 0 nays.** Meeting adjourned at 9:25 p.m.

Recording Secretary - Linda Gene Cordier

Fred Junger, Chairman
Shiawassee County Planning Commission

November 28, 2012

Approval Date