



Attorney Ken Vermeulen next spoke on behalf of Superior. He stated that he wanted to address a couple of issues that were raised since the last meeting. The most feasible method of extraction from the lake area will be done with a drag line. Dewatering is being taken off the table and will not be done. Mr. Vermeulen stated that he disagrees with the planner's report of no direct benefit from this operation. He stated that there will be a number of people employed at the work site, taxes on the property and cost of sand and gravel as it relates to the roads will cost less.

Mr. Vermeulen also noted that the property value impact study presented by Superior contained an error. On Page 25 and in second table the sale prices are incorrect. This table contained home sale prices in locations away from aggregate mining operations. Those listed in 2A-2D actually sold for less than what was originally reported. The report concluded that gravel operations do not have a material impact on real estate values.

At the previous meeting it had been mentioned by a resident to set a specific numeric limit for noise and dust. Mr. Vermeulen is not sure how that measurement was ascertained but it would be hard to measure and quantify. There are many factors to consider and it is hard to define with regards to establishing limits such as dust and noise. The PC has the authority to regulate hours, noise and dust but he stated that they have to be consistent with other traditional mining operations and can't be lower. If you want a limit set in numbers you have to have a base figure first. He feels the better practice would be to say that dust and noise will not create any nuisance. They will then do what it takes to resolve or remedy any nuisance complaints regarding.

Public Comment:

Mr. Pike - Presented the PC with an undated Petition signed by a number of township residents that demands that the Township Board and Planning Commission deny the special use permit for mining. Mr. Pike also presented a packet which contains narratives on (1) what to include in an impact study; (2) Danby Township master plan (3) very serious consequences; (4) hauling route issues; (5) a story problem; (6) review of Superior Asphalt special land use application narrative abstract; (7) a review the study of marketability conducted on behalf of Superior; and (8) was the DEQ permit circumvented before the ink was even dry on the page. They feel these documents outline reasons to deny the SUP for a mining operation.

Mr. Anderson, Ms. Lear, Mr. Rosier, Ms. Rademacher, and Mr. Fox - stated that they expect and want independent and unbiased studies on traffic and home values done on behalf of the township.

Ms. Pearson, Ms. Kowatch, Ms. Showerman, Ms. VanHauten, Ms. Lake, Mr. Myers, Mr. Showerman, Mr. Rademacher, Ms. Zimmer, Mr. Vogel, Ms. Dalton, and Mr. Moffatt , . - All expressed concerns with the traffic safety, speed and the truck route proposed.

Mr. Ginder - Stated that he has driven a lot of miles as a truck driver and signs near an operation where trucks will be entering/leaving are not uncommon. He also stated that an operation like this can offer employment to locals.

Mr. Sands and Mr. Fox - Expressed concern about the amount of the bond guarantee, reclamation and what happens if property is sold.

Mr. Showerman - Inquired about noise limits and how they are determined.

Mr. Balderson - Stated that past attempts have been made to have the speed limit changed but nothing happened and this is controlled by the State.

Ms. Zimmer - Also concerned with the water table and its impact on local wells.

Chairman Russman - Stated that a bond is already in place and the applicant is willing to sign a well guarantee. The PC will review and determine if real estate and traffic studies need to be done. The DEQ in their report giving approval stated there should be no impact to neighboring wells. If he is talking about the financial guarantee, they don't submit the bond amount until after approval and before starting mining. I don't know if this is what he was talking about or escrow? Highlight and click on "reject" change to remove these notes.

Mr. Fedewa - Stated that he appreciates comments of his neighbors but he does support the mining operation. He will be as close to it as anyone and he has no concerns. There was a gravel pit there years ago and he is supporting Superior in what they are doing.

Ms. Earnshaw - Stated she is concerned with the hours of operation, noise and dust. She reminds us that the Master Plan states that structures and/or uses that are industrial should not be allowed to be put in the Ag district. Also in accordance with our Master Plan, mining will adhere to state and local standards.

Mr. Lear - Concerns with this costing the township more tax money than it will generate from it. There is no benefit to the township as there is no personal property tax on this site.

Ms. Pike - Stated that State law allows a denial of a mining operation if a very serious consequence will result. She wants an impact study that will provide proof of what Superior is saying. There was only one case that is similar to theirs in Superior's real estate study. The impact study should look at hauling routes, trucks and how it impacts property values on that route. Superior's report is cherry picked and only includes information that is only favorable to them and doesn't show a true and accurate study. She doesn't agree with the decision of the PC to do a peer review rather than a full impact study because Superior's was inadequate or biased.

Mr. Miller and Ms. Margraf - Both inquired whether a comparison of a route from Clarksville versus Kent Street has been considered and whether this could be done? Cost to the Applicant should not be a factor on what truck route they use.

### Planner Report

LSL Planner David Jirousek presented his analysis of Superior's SUP for mining. He indicates that the PC's role is to assess impact and provide a recommendation to the Township Board based on a review of three sections of the Township Zoning Ordinance:

- Section 11.04 Site Plan Review Standards
- Section 13.04 General Standards for Approval
- Section 13.07 Special Land Use Specific Design Standards, Paragraph K. Mining of Natural Resources

Sections 11.04 and 13.04 consist of more generalized standards to consider during review of any type of Special Land Use. These standards generally encompass the intent as

outlined in Section 205 of the Michigan Zoning Enabling Act (the “Act”). The intent of the zoning standards and Section 205 of the Act is to consider and assess overall impact. To date, five outside parties have been involved in the review. Together, these reports could be considered a collective “impact study” that includes the following elements prepared by third parties:

- Hydrological/Environmental Review: Michigan Department of Environmental Quality
- Engineering/Specific Design Standards: Progressive AE
- Traffic and Roads: Ionia County Road Commission
- Planning/General Standards: LSL Planning
- Property Value Impact: A. Van Stensel & Sons, LLC\*

\*Report funded and provided by Superior Asphalt

Mr. Jirousek indicated that the State relies on this material and the related materials are not always in an ideal location. Summaries of the general conclusions and opinions of the project as they related to “very serious consequences.”

Reviews were done relative to the following:

- a. The relationship of extraction and associated activities with existing land uses.
- b. The impact on existing land uses in the vicinity of the property.
- c. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
- d. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
- e. The impact on other identifiable health, safety, and welfare interests in the local unit of government.
- f. The overall public interest in the extraction of the specific natural resources on the property.

Mr. Jirousek will address items a, b, c, and f. Progressive AE will address d and e.

a. *The relationship of extraction and associated activities with existing land uses.* Absent any state guidance, this is considered a “compatibility” assessment. Understanding local governments cannot “zone out” the location of mines, the potential remains for sand and gravel deposits to be located near or adjacent to residential development. Unlike the compatibility of commercial and residential land uses within mixed use developments, resource extraction can never be a truly compatible or integrated land use until the property has been reclaimed. Given the aggregate industry protection offered by Public Act 113 of 2011, compatibility can only be achieved by proper management procedures and practices, setbacks, buffers and general sensitivity to existing land uses.

Superior has implemented a multi-pronged approach to buffer the relationship between the nearby residences and the proposed mine. Increased setbacks far beyond the local and state requirements create a significant separation between uses. Within those setbacks are 13,000 planted evergreen trees, which may grow and average of one foot per year. Moreover, with the planting of these trees, this land is retired from agricultural use for the duration of the mine’s operation. It is conceivable to have pine forest in excess of eight (8) feet toward the projected completion date of cell #2 (2022).

b. *The impact on existing land uses in the vicinity of the property.* There will be an increase in noise and dust. To mitigate impact, the applicant plans to incorporate sensor

automated backup alarms on the equipment on-site. Internal truck circulation practices could also lessen the need for dump trucks to travel in reverse. Additionally, it will be essential for the paved and unpaved sections of internal haul roads to be maintained and clear of potholes, which may cause noise when hit by dump trucks. These measures along with the restricted hours of operation, planted evergreen buffer, increased setbacks and lower elevation of operations, will reduce the impact of noticeable noise. Remedies have been submitted to help these impacts.

While headlights may be noticeable within the first and last hours of operation during the early and late parts of the 40-week season, there are no permanent or temporary outdoor light fixtures proposed on the site. Headlight spillover will decrease as evergreens within the buffer area continue to grow. Dust may result from on-site truck movement, but internal paving and watering of unpaved circulation routes will lessen the impact. It is also important to note that farming is a current allowed use on the site that could potentially have a comparable or greater effect than the mining operation, along with less Township control and authority to regulate impacts.

c. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence. The applicant provided what appears to be credible evidence that property values in the vicinity will not be affected. The conclusions of the report included that mining does not negatively impact the marketability of properties adjoining or within close proximity to the site. It also states that mining does not negatively impact the market value of single family residential properties or vacant land within close proximity to the site. While it is acknowledged the property value report was funded by Superior, it is understood that the licensing and legal requirements of the profession to prepare unbiased and objective reports of this nature give it validity. However, we do support a third party peer review of the assumptions, methodology and conclusions of the report.

f. The overall public interest in the extraction of the specific natural resources on the property. There is no direct and immediate benefit to the public interest. However, the aggregate industry is protected by the Act to preserve the overall statewide economic and public interest. From the Township's perspective, unless there is enough evidence of a very serious consequence and unacceptable impact of the proposed mining operation, the most effective action is to prepare a thorough resolution of approval. Conditions of approval must be clear, defensible, related to the intent of the Zoning Ordinance, as well as easily interpreted and enforced. The following content is recommended as a starting point, acknowledging that the list may be amended after the public hearing and additional discussion by the Planning Commission:

- Frequency of compliance inspections.
- Permit timeframe and process for approving extensions.
- Dust control measures and standard operating procedures for reporting and responses.
- Reclamation protocol.
- Open excavation size limit.
- Evergreen replanting/replacement policy.
- Internal haul road paving (designated length), internal haul road maintenance.
- Internal road signs including but not limited to: No engine brake, speed limit 10 MPH, slow (at road approach), and stop (at intersection).
- Processing plant minimum setback.
- Restricting of burning of vegetative debris originating from the subject site unless allowed by a permit.

- Hours of operation.
- Hours of operation for crusher and notice to Township.
- Bonding.
- Well guarantee.
- Site lighting restrictions.
- Reference to compliance with all local, state and federal regulations.
- Reference to approved site plan.
- Reference to Ionia County Road Commission requirements or maintenance bond.
- Township engineer site plan recommendations.

### Engineer Report

Progressive AE Engineer, Mr. Mike Oezer reviewed the revised plans. He also looked at serious consequences for D and E. In addition, he received quotes from John A. Meyer Appraisal Company for \$2,000, Genzink Appraisal Company for \$10,000, and Great Lakes Appraisal Company for \$5,000 to conduct a peer review of the real estate report completed by A. Van Stensel & Son LLC on behalf of Superior. All three did indicate that it would take at least 30 days for a review to be completed.

The final plans submitted include setbacks along the river that range from 90 feet to 210 feet and a 70 acre lake located in the east end of the mining area in accordance with the MDEQ authorization. The setback along the north property line was expanded to 380 feet. Evergreen trees have been added along the north and west property lines for screening.

Processing plant is shown located in Cell 1, more than 1,000 feet from property lines. The plant will move west as operations move west, complying with the minimum setback requirements.

While dewatering techniques are listed in the Application Narrative, it was noted at the last meeting that this method will likely not be used and recommends that this point in the narrative be clarified. If the applicant is planning to dewater, the MDEQ should be consulted as to whether this is allowed by their permit.

Progressive concurs that only a minor impact to the groundwater table is anticipated and that risks to the local water wells for water flow and water quality are minimal.

Reclamation requirements regarding grading and maximum slopes of all final grades excavation should be reviewed by the township to ensure 'gentle rolling surface' and that it does not appear man-made.

Applicant needs to indicate how large of an area is anticipated within the first year of operation so that the financial guarantee can be established.

As stated earlier, Progressive reviewed d and e of the "very serious consequences" and determined the following:

d. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property. Townships have no authority or jurisdiction of the public road hauling route serving the property and it is the responsibility of the Ionia County Road Commission. A Commercial driveway permit will require paving of Emery Road. However the Road Commission stated that the haul route on Kent Street to I-96 is a Primary Road and can adequately handle the commercial road traffic anticipated. The road is intended for commercial traffic of this nature and they do not foresee problems

with the proposed use in relation to safety or structural integrity of the road. Progressive concludes that this item has been adequately addressed.

e. *The impact on other identifiable health, safety, and welfare interests in the local unit of government.* A thorough review was conducted and is satisfied that the applicant has met the requirements of the ordinance. The site has also been reviewed by the MDEQ and has obtained approval which determined no environmental impact will result.

Applicant Rebuttal

Mr. Vermeulen addressed the concerns regarding bonding, restoration and roads. Regarding the method of operation, he inquired whether the PC had something already that they can work from and that they would like to work with us on that to make some progress.

Chairman Russman also noted that approximately 8 letters had been received from residents in opposition to the mining operation. With no further public comment, the public hearing was closed at 8:55 p.m.

**Meeting Reconvened:** The meeting was reconvened at: 8:55 pm

Planning Commission Discussion and Motions:

New information has been submitted that the PC hasn't had an opportunity to review. It was noted that the peer review has not been completed. There was discussion whether a complete impact study or a peer review is appropriate. As stated earlier, Mr. Oezer had obtained estimates from three different appraisal firms to conduct a real estate appraisal review ranging from \$2,000 to almost \$10,000. It was also indicated that each would follow the same process to complete a review. Mr. Meyer seemed the most responsive relative to a time frame of approximately 30 days. The other two appraisal firms were 30 plus days out. Mr. Meyer would do a complete review of the methods and techniques to ensure that they were correctly employed and no substantial errors were contained that would affect the credibility of the report. In addition, it would ensure that the most applicable data was used, and a market review of other similar properties. He would develop his own opinion of value, and present his report in a manner that will be not misleading and understandable. It was determined that a real estate review should be conducted.

*Approve a real estate peer review of Superior's real estate portion of the Abstract. It is further approved and recommended that the Township Board determine the appraiser to be used, while being aware of costs associated with the review and the earliest date that a report can be completed.*

Motion by McCormack

Seconded by Russman

MOTION CARRIED

The PC also discussed the traffic issue and the fact that the County has control of the road. It was determined that the PC would like something in writing from the County regarding their opinion on the road traffic, need for any additional signage, and safety of the road relative to both vehicular and pedestrian traffic. No consensus could be reached regarding whether a full traffic safety study should be done.

*Approve tabling a final decision on Superior's SUP until after the real estate report has been completed and additional information provided has been reviewed.*

Motion by McCormack

Seconded by Russman

MOTION CARRIED

**Other Business:** None

**Public Comment:** None.

**Announcements:** Our next regular meeting will be held on March 18, 2015.

**Adjournment:** Meeting was adjourned 9:24 p.m.

Dated: March 1, 2015

*Pamela McCormack*

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Pamela McCormack  
Planning Commission Secretary