

PLYMOUTH BOARD OF ZONING APPEALS

June 6, 2023

The Plymouth Board of Zoning Appeals met in regular session in the Council Chambers of the City Building, 124 North Michigan Street, Plymouth, Indiana on June 6, 2023, at 7:49 p.m. Board Vice-President Mark Gidley called the meeting to order for Board Members Brandon Richie, Paul Wendel and Alternate Member Linda Secor. Board Members Art Jacobs and Alan Selge were absent. Alternate Fred Webster was in attendance but not needed after 7:35 p.m. when Brandon Richie arrived. Others present were Building Commissioner Dennis Manuwal Jr., City Attorney Sean Surrisi and Plan Consultant Ralph Booker. The public was able to see and hear the meeting through Microsoft Teams.

Board Members Wendel and Webster moved and seconded to approve the minutes of May 3, 2023. The motion carried.

The following legal notice was advertised in the Pilot News on May 25, 2023:

<p>NOTICE OF PUBLIC HEARING</p> <p>The Board of Zoning Appeals of the City of Plymouth, Indiana will hold a public hearing on June 6, 2023 at 7:30 p.m. in the Council Chambers of the City Building, 124 N. Michigan St. (Garro St. entrance), Plymouth, Indiana on the following matters:</p> <p>BZA 2023-11: Star Plymouth LLC, 900 Linden Ave, Suite 100, Rochester, NY 14625: A Variance of Use request to repurpose an existing building to have indoor climate controlled self-storage units along with some retail on parcel 50-32-93-202-100.000-019, at 320 N. Kingston RD, Plymouth, IN 46563, zoned C-1, General Commercial District.</p> <p>BZA 2023-12: Irving Materials, INC., 8032 N. SR 9, Greenfield, IN 46140-9017: A Special Use request to have a gravel pit with the extraction of sand and</p>	<p>116 Legals</p> <p>gravel on parcel 50-32-14-000-002.000-018 on 73.63 acres at the southern corner of King and 11th Road, zoned R-1, Rural Residential District.</p> <p>Information on these matters may be obtained at the office of the Clerk-Treasurer, 124 N. Michigan St., Plymouth, IN, and telephone #574-936-2124. Written objections to the proposal filed at the Clerk-Treasurer's office will be considered and oral comments will be heard. The hearing may be continued from time to time as may be found necessary.</p> <p>If you are disabled and need special accommodations, please call the ADA Coordinator at 574-936-2948.</p> <p>Kyle Williams, Recording Secretary, Board of Zoning Appeals, May 25, 2023</p> <p>May 25, 2023 PN346381 hspaxlp</p>
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At the City Attorney's recommendation Gidley wished to state before they begin that they wanted to go over what they are trying to accomplish tonight and how they are going to do that. He explains the Board of Zoning Appeals is in many ways a way of settling disputes between neighbors and he sees a lot of neighbors here today. He states in each one of these cases and the first case is the tabled case from the last meeting which is a storage facility over where they are commonly calling the old Dave and Ray's facility on Kingston Road. He states they start with that one and he sees a few people here for that. He states we want to hear from you, you will have an opportunity to speak at specific times and that is called the public comment section. He states the board and those presenting their request are going to speak and they would prefer you not lash out at them or make comments while they are speaking because everyone will get their chance to speak, and we will be limiting those chances to five minutes. He states the public section is broken down into two pieces. He clarifies those in favor will speak and then those against will speak and they will be separate. He states if you are going to say something two other people have

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said then they would prefer you say you agree with what has been previously said. He states they will also take a show of hands tonight of those in favor and those against for those who are a little embarrassed and afraid to speak.

Surrisi adds he would ask if you saying something more than just your name and address and they agree that they would like it if you made your way up to the microphone. He states the first thing you have to identify is your name and what your address is so they can get that for the minutes. He restates he would like it if you came up to the microphone because they do have people participating virtually online and there is a camera system in here so they can see who's up at the mic and they can hear better. He adds the microphone also picks up everything we need to record for the minutes and if you are not up at the microphone then it may not pick up your comments.

Gidley adds there is usually five people on this board and three is a quorum. He states two of them are regular members and three of them are not here. He states one is out of town and the other two they have not heard from. He clarifies that Webster and Secor are alternates.

Booker states when there are four members and it is a two-to-two vote then it is a non-motion. He explains you need to have three positive votes on any motion. He suggests whenever that happens, he suggests they table it to the next meeting.

Richie arrives at 7:35 p.m. and relieves alternate Webster.

BZA 2023-11: Star Plymouth LLC, 900 Linden Ave, Suite 100, Rochester, NY 14625: A Variance of Use request to repurpose an existing building to have indoor climate controlled self-storage units along with some retail on parcel 50-32-93-202-100.000-019, at 320 N. Kingston RD, Plymouth, IN 46563, zoned C-1, General Commercial District.

Plan Consultant Booker reviewed the findings of fact and the request from the applicant. He read the applicant's letter aloud. See attached letter below.



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STAR Development Group, LLC
900 Linden Ave.
Suite 100
Rochester, NY 14625

Our company vision is to purchase vacated/distressed retail stores/big boxes and repurpose them as a modern, efficient and safe place for people and businesses to store their property. Additionally, we take vacant properties in areas of interest and build "ground up" self-storage facilities.

Ground-Up Builds: For our ground up builds we find properties in area we believe will be perfect for self-storage and work hand in hand with municipalities to build a new facility that will be a bright light in the community.

All of our conversion projects are upgraded to bring them back to first class condition.

Depending on each property's needs we conduct the following improvements:

Façade: Façade upgrades (new signs and fresh paint) to make the building recognizable as a first-class storage facility as opposed to a building out of business.

Parking Areas: All potholes are filled and all deteriorating areas are fixed. If needed, we seal coat and stripe areas. Once the defects are corrected and the areas are brought up to a first-class condition, we will maintain said first-class condition year-round.

Exterior Lighting: We will upgrade the exterior lights to new code compliant LED lighting.

Landscaping: Upgrades to landscaping including but not limited to removing all current dead areas, providing new areas, if necessary, and maintaining the landscaping year-round to make sure our outside appearance is as good as our inside appearance.

Access: Our management company, see below, staffs the building from 8AM-8PM. We will install a state-of-the-art security system with keypad access control and security cameras (both on the interior and exterior).

Traffic Flow: Our customer traffic impact on our surrounding neighbors and access corridors will be virtually nonexistent. We anticipate between new customers, leaving customers and revisit customers there will be approximately 200-250 cars per month.

Property Management: Our properties are managed by either Extra Space or Cubesmart. Both Extra Space and Cubesmart, are publicly traded company with over 1500 locations each throughout the United States. Both are well-known brands that operate on a first-class basis both in managing the business and maintaining the property. In our agreements with Extra Space/Cubesmart we are responsible for all property maintenance so neither company defers any maintenance. We are not a hands-off owner as we work with and monitor the property on a daily basis.

We have little traffic, no crowds, no noise, no garbage and no peak hours of operation.

The building is transformed from a vacant eyesore into a well maintained, secure, safe, operational and vibrant asset to the community. Neighbors and municipalities will see an immediate benefit from our conversion.

We currently have self-storage facilities operating in:

Battle Creek, MI
Clay, NY
Delavan, WI
Elgin, IL
Erie, PA
Fort Gratiot, MI
Geneva, NY
Lenoir, NC
Lockport, NY
Lycoming, PA
Memphis, TN
Rochester, NY
Pittsford, NY
Saginaw, MI
Sidell, LA
Toledo, OH
Texarkana, TX
Tulsa, OK
Tupelo, LA
Youngstown, OH

Current conversion projects in:

Columblana, AL
Harrisburg, PA
Lafayette, LA
Plymouth, IN
Saginaw, MI (2nd facility)
Sherman, TX
Springfield, IL
Vero Beach, FL

We look forward to being an asset to the community.

Matthew Parrinello (900 Linden Ave., Suite 100, Rochester, NY 14625):

Parrinello states they are an indoor climate controlled self-storage company with indoor facilities in numerous states. He explains their general purpose is repurposing downtrodden properties and making them look nice fresh new and placing self-storage facilities within those properties. He states they hire a management company, one of two nationally traded companies, Cubesmart or Extra Space. He states they hire them to come in and manage the properties and they have around 30 facilities around the eastern half of the United States. He knows at the last meeting there was a question as to what the facility would look like and they had their architecture group draft up the rendering you all have seen. He states they went over the possibility of removing those diamond shaped concrete frontage on the building and practically it would be very difficult without demolishing part of the roof and building to remove those. He explains that is why he asked their architecture group to draft up a rendering as to what approximately the site would look like after they have freshened it up and repurposed it for everyone to see and that is what they submitted.

Gidley asks what they are going to do to those diamonds. He adds he sees they are red but how do they plan to make them red.

Parrinello responds by stating they would use paint. He states they did speak to their construction group and if necessary, they would have to sand it down to make it look smoother as opposed to it being choppy right now.

Gidley asks if he means choppy as they are deteriorated or just the surface being unlevel but it is stone.

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Parrinello responds by stating just the surface.

Gidley believes that stone is in epoxy so they are not just painting the stone but epoxy too.

Wendel asks if they could wrap them in aluminum.

Parrinello responds by stating he thinks they could. He states they use a company called Janus that builds the self-storage structures within their properties and there is a possibility of wrapping those in the same materials that the self-storage units are made from. He states it may be a little of a hefty lift just given the shape of those and their preference would be to paint the entire outside of the property in the colors that were in the rendering.

Gidley states in the application letter the company provided it listed a number of times that they were going to make this building first class. He states that is up to interpretation but if they were to make the requirement that they meet every one of these items listed that they would do part of the variance if they would be actually willing to do all of the things that you have in the letter.

Parrinello asks if he is referring to the general overview of what they do at the properties.

Gidley quotes, "All of our conversion projects are upgraded to bring them back to first class condition." He quotes under the façade it states, "to make the building recognizable as a first-class storage facility as opposed to a building out of business." He then quotes under Parking Areas, "All potholes are filled and all deteriorating areas are fixed." He brings up the last sentence in Parking Areas where it states, "Once the defects are corrected and the areas are brought up to a first-class condition, we will maintain said first-class condition year-round." He references the new LED lighting, landscaping and access. He lists that the building will be open from 8AM-8PM and they will have security. He lists it says there will be limited traffic flow. He also lists that the property will be managed by Extra Space or Cubesmart. He quotes the one of the closing statements, "The building is transformed from a vacant eyesore into a well maintained, secure, safe, operational and vibrant asset to the community. Neighbors and municipalities will see an immediate benefit from our conversion." He states he does not want him to take this wrong but you are out of New York and we are here so how often are you going to see this building and are you really going to turn it into a first-class facility.

Parrinello responds by stating 100% as they have done it in every single one of their 30 facilities.

Wendel states the parking lot is ugly. Parrinello agrees. Wendel states he wants to float a plan by you to tear out most of that parking lot that you do not need and put in green space. He states it would be in the southwest part of the property.

Gidley adds behind the Dollar General.

Booker adds they would need one space for every 5000 square feet of building.

Wendel asks what the square footage is.

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Parrinello responds by stating it is approximately 60,000 square feet.

Wendel believes it would be a lot cheaper to tear out part of the parking lot and put grass space in then repaving the whole thing but he could be wrong.

Parrinello states if that is the case then they may not be in compliance with the code. He states even though they do not need that many parking spaces for self-storage that they would still need to be in compliance with the code. He states his guess is they probably wouldn't be if they did that.

Wendel and Gidley discuss the math amongst themselves and believe it would only come out to 12 spaces. Gidley explains Dollar General made the improvements to the drainage by putting in a bigger line wrapped around the building and expanded the size of the retention pond behind the building. He states if you look at where the inlets are behind the Dollar General that the lot is in terrible condition. He states they haven't got any rain lately unfortunately but if they were to get a big rain then all that dirt and crud would wash into that line and it is already washing into there. He states that offer to have a first-class lot would mean you are probably going to have to patch 100's of holes and either repave it completely or top coat it.

Parrinello believes it would also make sense to make some of that green space as long as it is in compliance with the code. He states he knows their construction team will analyze both on drainage and water flow, cost of green space, cost of refilling pot holes, cost of resurfacing and there will be a mix of what makes practical sense and what makes financial sense for that area. He states once they've completed their transition from what the building looks like now to an open self-storage facility or ready to be open self-storage facility that they will be able to make their decision at that point in time for what they are hoping to do with that parking area.

Wendel states they are also going to need to put a sidewalk on the north side of the property to align with the Dollar General. He adds they would also have to do down Kingston Road.

Parrinello asks if that is on the parcel that they own or are they referring to the Dollar General.

Wendel responds by stating the parcel that Parrinello owns.

Gidley states the Dollar General has already been required they put a sidewalk down the side of their building. He states the one along Jefferson Street would be a lot shorter than the one along Kingston Road.

Richie states for the sake of transparency that he is struggling with the whole concept here. He states the reason being is they have a lot of self-storage locations and maybe they need one more so people can store all the stuff they buy at all their Dollar Generals. He states the fact of the matter is that is a way into Plymouth and one of the first things people see already is a Dollar General which he wouldn't believe he would disagree with him on as a flag of a successful growing merchant community when you have one at every entrance into the city. He restates there are a lot of self-storage facilities and he is struggling with the term first-class storage. He asks what he is bringing that is different aside from the look from the self-storage facilities that they have already. He restates they have a lot of storage facilities. He understands they do not have a lot of indoor self-storage and wonders if there is an outcry for indoor storage here. He states maybe he is travelling in different

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circles about that. He asks in the other places that they have these facilities, what has been the feedback they have received in these other areas as far as the communities and success.

Gidley responds by stating he spoke with three cities.

Richie asks what their feedback was.

Gidley states the one that is closest to Plymouth is the one in Delavan, WI as far as the size of the community and the size of the building. He states they had a grocery store retail chain building similar to that and they told him that they had to put this company through the paces in order to get what they got but they delivered and did what they promised they would do. He states now this company is getting ready to expand in that shopping center with more storage space inside.

Parrinello agrees and states they were a little resistant with the same thing as far as needing more storage facilities. He states that facility was probably their quickest fill up and what they call a "fill up" is getting over 80% capacity. He restates they filled up to 80% faster than any other facility so obviously the residents of Delavan, WI were in need of self-storage. He states they did put them through their paces as far as design but it is mainly them putting them through their paces as far as expansion because they are in dire need of expanding because the residents need more storage because their place is such a first-class facility. He lists it is safe, bright, new and they maintain it that way. He explains he can guarantee they will be the nicest looking, freshest place in Plymouth.

Richie states he may have missed this in the paperwork but as far as employees will there be someone there managing it and running it.

Parrinello responds by stating one to two people will be there at all times during the business hours.

Wendel asks if the architects have come up with any plans yet.

Parrinello responds by stating other than the rendering not yet. He states they really need to get the approval first before they start digging in on the architectural aspect. He explains the rendering is generally how it will look.

Gidley asks when they are talking about architectural that they are not just talking about exterior but the layout of the storage cubes inside the building.

Parrinello responds by stating they do not do that. He explains the company Janus who builds the units and either Cubesmart or Extra Space are the ones who design the inside so they have the disbursement of the size of units and where they go.

Gidley asks if they will paint the inside as well.

Parrinello responds by stating whatever is necessary inside to make it look nice fresh and new. He states it is a little more difficult because most of the interior is covered with the units so there is usually not a whole lot of walls that you can see. He states from the tops of the units to the underneath of the roof you can see. He states if that area is in need of painting, then they do that.

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Wendel asks if there you will be able to see inside of the units from the outside.

Parrinello responds by stating you will not.

Board Members Richie and Wendel moved and seconded to open the public hearing. The motion carried.

Michael Delp (3746 W. Shore Dr., Bremen, IN 46506):

Booker reads aloud the letter that was submitted. See attached letter below.

Dear board members,

Sorry I could not attend the meeting tonight .

I did want to give my support to the proposed project of climate controlled storage in the vacant building shell .

As a commercial and residential property owner in Plymouth it is exciting to see this decades vacant, run down property being re-purposed to something useful again .

I would ask that you approve this project .

Respectfully,
Mike Delp

Sean Surrisi (455 Liberty St., Culver, IN 46511):

Surrisi states he is the City Attorney and would like to clarify that he is not speaking on behalf of the city. He states he has worked in the city government for the last twelve years and he has been involved in a lot of city development. He would like to echo Delp's comments about seeing this investment in the area would be refreshing. He states he will be brief but he would just like to offer a different perspective on the Dollar Generals that was shared. He states being brand new to planning in any respect before coming here as he just had a regular litigation law practice but he has now been very involved with it and just recently engaged with the Comprehensive Planning process and he has found that he has seen in their current Comprehensive Plan process and the past zoning of bringing a lot more localized retail within neighborhoods and things like that. He states they have seen a lot more Planned Unit Developments that have been improved over the years that would have mixed use retail mixed in with retail and lots of those Planned Unit Developments they have seen that the retail has not come to fruition as they build out the houses and the concept of the store that could go in there has not happened and he thinks he can understand the perception of maybe a Dollar General not being the same as a local Mom and Pop Store and it is this national chain that has the name Dollar in it making it lower value. He states he would just like to share his experience of living in Culver and it is a very affluent community and he is a middle aged professional and ever since the Pandemic hit, they used to go to Walmart maybe once a month and they would use Park 'N' Shop for local grocery. He states they have a Dollar General and a Family Dollar and he almost entirely shops at Park 'N' Shop for food and Dollar General/ Family Dollar for all other supplies and he has found it really nice. He states it serves that regional neighborhood store model that he has seen in their zoning that they have tried to achieve he believes through other means over the last few decades. He states he would just like to share that and that he would like to speak in favor of this.

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Randy Longanecker (880 Baker Street, Plymouth, IN 46563):

Longanecker states he has a few different hats he can wear for his statements with this. His first is as a neighbor who only lives a few blocks away that he drives past this area all the time and it is an eyesore now but he would love to see this approved and going in here. He states as a City Council member that he would love to see not another empty building as well. He states whether it is just a few employees or whatever that it is going to bring some more focus to hopefully the city. He states he would prefer that people do not vote with their emotions but by the findings and the facts of what your job is as a Board of Zoning Appeals member.

Delp was in attendance and wished to add a little more to his prior letter. He states he does own several commercial properties here and he does own the Dollar General on the southside of the city that was built to Neighborhood Commercial standards so he was a little offended by the derogatory comments. He states as for this building he drives by it every morning coming in to get coffee at the Coffee Lodge. He states he does not know how anyone can turn it down right now compared to what they have had there for twenty years. He states they are going to move units inside, going to fix the roof and paint the outside. He states why you would rather have what they currently have there is beyond him. He states he wholeheartedly supports it as a commercial property owner. He states he owns residential property right where Longanecker lives and they are selling houses over there too. He believes this the right thing to do to get rid of a decades-long problem that has been there.

Longanecker wished to add from someone who works construction that he does have some concerns. He doesn't believe the paint is going to be able to hold up with the concrete slabs being rock and epoxy. He states he has big concerns with that part of it. He states he also does not believe it is just a fill in the pothole situation as far as the parking lot. He states he believes it would either be a mill and fill or that type of thing so he believes that should be in consideration when they lay down the lines of how they need to address moving forward. He explains he does support it but there are some current concerns that need addressed.

Kenneth Ziessler (1040 E. Jefferson Street, Plymouth, IN 46563):

Ziessler states he is the Finance Officer for the American Legion. He states he is not for or against right now. He states there are a lot of issues that they see every day. He lists the water runs off the roof, the drains drop the water on the ground and there are two puddles right now sitting in the back parking lot just because of the little bit of rain they have had. He states at the beginning of this year when he plowed, he plowed water because the snow melted and he is talking waves 3 feet deep of water getting pushed on the back side of that building. He states none of that is getting addressed and it still floods. He still has questions about the parking lot being fixed and on the back side of their building they own a strip back there. He states he is getting ready to spend a huge amount of money on their parking lot and getting it redone. He states he doesn't want their stuff being torn down and broken down. He states he knows it is in the papers that there is going to be one entrance on the front but what about all the doors on the back. He states he has done indoor storage when he was in the military and it is a pain to haul everything in and go to wherever it is. He asks if they are going to have those back doors open and utilize those which in turn affects their parking lot with more traffic through there. He states there are a lot of issues and that pit they dug didn't do anything. He states it still floods and they had a good rain last year and it overflowed and flooded the entire

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parking lot. He explains it may be great up front but it is not in the back where they are at. He states as far as it being empty and an eyesore for many years that they have tried for many years to purchase that property because they wanted to use it to add more parking and fix things but they were not allowed to. He explains the prior owner would never sell to them.

Gidley asks if he is referring to the man in Chicago.

Ziessler agrees. He states he is not for or against but there are a lot of things he would love to sit down with the gentleman in New York and be able to talk to him so he can explain to him things that he sees since they are right next door. He states they live with it. He expresses that people can drive by and say whatever but they are there everyday and it is an eyesore but he is not sure if people are going to want to haul stuff in all the time.

John Oliver (1001 E. Jefferson St., Plymouth, IN 46563):

Oliver states he is not opposed completely to the project however it has been an eyesore for a number of years. He states aesthetically it is one of the entrances into Plymouth and to drive by that he agrees Richie that aesthetically this building needs to be upkept. He states from the rendering that was sent it looks like they are trying to paint over the rock that is up on the diamonds that have been up there since he was born. He states his concern is how that is going to look 5-15 years down the line. He states the pavement around the whole entire property needs to be redone. He can agree with Ziessler that the flooding is still a concern and he believes it will continue to be a concern until there is new pavement put all the way around. He states it is not that they are opposed to progress in the city and to have a new business that it sounds like a great thing. He explains he is not sure about the location of a business like this being a neighbor across the street. He states there is a number of traffic concerns there already with busses and school. He believes the road is going to change at some point there on Jefferson Street in regards to where it connects to Lincoln Highway and the egress of this kind of a building would be a concern but the parking lot would have to be addressed. He adds the long-term aesthetics of this will also have to be addressed as well.

Board Members Wendel and Secor moved and seconded to close the public hearing. The motion carried.

Parrinello responds to the comments by stating they are going to convert the property as necessary and that the business is a viable business. He does not believe there should be any traffic concerns because of their use as they have minimal traffic at their facilities so there should not be any traffic issues and once, they are close to completing the transition of the building that they will certainly address the parking lot issue. He states he has never been there but his other team members have and they certainly agree that there is an issue with the parking lot.

Gidley asks if the overhead doors on the back of the building that the gentleman from the American Legion referred to will be used. He states there used to be a rental company in there years ago and they stored all of their power equipment and you could go around back and pick up whatever you were renting.

Parrinello responds by stating to be honest with him that he is not 100% sure whether they will use them. He states they are not going to have too many entrances into the building but they do have

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some necessary walking distances for the units where they do not want folks to be walking too far to get to their unit. He states if they are going to specifically use those that he is not 100% sure.

Gidley asks if they will be allowing anyone to back into the building.

Parrinello responds by stating not with a building this small. He states a lot of their other facilities are well over 100,000 square feet and they get a lot of drive throughs in those but he does not believe they are going to be doing any drive throughs or drive ins for this facility.

Gidley states he is aware their building in Michigan was an old Macy's store and they actually have overhead doors that open. He states he has seen those pictures. He asks what the timeframe on this is.

Parrinello responds by stating they would love to be open in 8 months but in general they usually open within a year of purchase.

Gidley asked when they purchased it.

Parrinello responds by stating he believes they purchase the property about two months ago.

Gidley asks if he believes it will take eight months to build it out.

Parrinello responds by stating minimally. He states with a facility a little bit smaller like this that they might be able to fit it in the eight-month time frame that they usually like but most of their facilities are usually running in about a year to open.

Gidley states that one of the people that spoke at the last meeting said that the alarms on that retention pond went off because either the pumps failed but they could not find anyone to respond as nobody was really certain who owned the building there.

Wendel asks if that would be the Dollar General.

Gidley responds by stating they do not own that pond though.

Wendel asks if they paid for it.

Gidley responds by stating they did but they do not own it as it is on this property. He states if this were to be approved that there will have to be some method of putting an alarm on that so it notifies someone either in your company or the city to let them know that pond is overflowing.

Parrinello asks if that is not run by the water authority.

Gidley responds by stating it is not and that it is privately operated. He states that stormwater retention is the owner's responsibility and only after it exits the basin that it becomes the cities responsibility.

Surrisi adds once it gets to the cities stormwater system.

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Gidley wished to state he is not opposed to approving this but he does think in how they word this that it needs to include everything that is in this letter and additional items they have spoke about tonight. He states maybe they have not even identified them all but he does believe that letting that building sit in its current condition is more of a detriment then putting this business in there even for those of us who do not like storage facilities. He restates he is not opposed to this one. He states if Parrinello was to do a first class like he says and we hold him to that and have it in the variance approval and put all the burden on Manuwal to enforce all of that then he would have to make sure all requirements are met prior to issuing them an occupancy permit so they can open. He states they are going to have to decide whether or not this is all they are going to do or if they are going to ask for more than what is in his letter.

Wendel believes they should put in all of the things they brought up in regards to the parking lot and water runoff issues.

Gidley states they are going to have to be sure they do not miss anything that is in this motion. He asks Parrinello when they spoke at the last meeting about the old office space on the south end of the building still being available and if that is still the case.

Parrinello responds by stating they are still determining what they can use that space for He states he knows there is the church in there and the possibility of moving the church into that area. He states they are not sure whether that can happen or not or whether the church is interested in that or not. He states there is still some determination to be made on that.

Gidley wished to caution him about putting that church on the back. He states if he is planning on putting it on old Dr. Record's facility on the back that they cannot create a situation by putting the church back there and having everyone park in the American Legion's parking lot on Sunday to go to their church so you have to be sure to have parking for those people on Sunday.

Ziessler wished to add that it is a big congregation.

Gidley states he has not been there on Sundays to see how many people are using it.

Parrinello states they will have to have a conversation with them.

Booker states for a church you are going to need one space for every three seats.

Gidley states they are still making the list currently.

Parrinello adds to not make it too long.

Richie states what they have currently is the water issue, repaving the parking lot, drainage on the back side, parking and providing parking for the relocation of the church.

Gidley asks Booker if they move the church on the back or anywhere how they are going to determine what the attendance of the church is and how many parking spots they are going to have to have. He asks how Manuwal will enforce that.

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Booker explains when he looked at the ordinance for church parking that in a general commercial district that a church has to have a special use hearing to have a church.

Gidley asks for clarification that you cannot have the church back there in the first place without having a hearing in the first place.

Parrinello asks if they have the church back there and the church wants to be back there that the church would have to come back for a public hearing.

Booker responds by stating that is correct for both.

Richie adds that church has been there for a few years.

Gidley states there have been multiple congregations there so it has not been the same church each time.

Richie states this one has been there since about 2018. He remembers assisting them with a funeral. He adds New Song Church used to be there too.

Booker adds they could put a retail establishment there without any additional approval.

Richie asks if they are painting the stone.

Gidley responds by stating he does not think it will stick. He states five years would be a long time for it to stay up there.

Richie asks Longanecker given his background in construction.

Longanecker responds by stating personally he would not allow it to be painted. He states for the building yeah but not the slabs.

Richie asks what other options would be available.

Longanecker responds by stating they could have them wrap it.

Richie asks if they would be wrapping the awning or façade.

Wendel responds by stating façade.

Feece states he does not know how you could enforce somebody to do that if their paint doesn't stick because they would do something with it. He states they are not going to have it fly off all the time. He states they wouldn't do something that is going to waste them money and they haven't had a contractor look at it yet. He is sure any contractor would say that you could not paint that so he does not see how that has anything to do with them.

Gidley asks Feece since he paints all the time, if there is some way to apply paint to that.

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Feece responds by asking if he is referring to the epoxy. He states he would not think so.

Booker responds by stating they could put it in their motion to follow the rendering and then allow them to decide how they do that.

Richie moves to make a motion to approve with BZA 2023-11 with the basis that they repave the parking lot, fix the drainage on the back side, put in sidewalks on the north and west sides, put in parking for the possibility of the relocation of the church, wrap the façade and that they make it look like the rendering that was presented.

Parrinello responds by stating he cannot promise that they will wrap the façade. He states his construction guys would kill him so he cannot promise they would wrap it.

Gidley states they would then have to come back here with a detailed explanation on how they are going to paint it.

Parrinello states he is assuming that would be for the folks for their building permit that would have to approve it.

Gidley states he is here now. He states whatever they put in this variance that he is going to have to follow these requirements when he issues the permit. He states to do his job correctly he cannot allow you to occupy the building until everything is done on the list.

Manuwal states he agrees with the previous statement that painting it is not going to work. He states he likes the fact of wrapping it and he understands it is going to be a nightmare to do but he likes that fact. He states he heard talking in the crowd about stucco. He states he is unsure if they could apply a stucco coat to the top and do something with that.

Longanecker believes they could put a drive on there and stucco it. He states Bob Evans used to be a drive-it and stucco. He states that would definitely be the cheaper alternative.

Richie moves to make a motion they approve BZA 2023-11 with the basis they fix the water issues, repave the parking lot, the drainage on the back side is taken care of, the parking situation as far as numbers of parking spaces, sidewalks on the north and west side, parking for the possible relocated church, they either wrap the façade or place on it drive-it and stucco, that it looks like the rendering that was presented to this board, upgrades to exterior lighting to new code compliant LED lighting and all conversion projects on the building are done up to first class condition. He also adds upgrades to landscaping including but not limited to removing all current dead areas, providing new areas, if necessary, and maintaining landscaping year-round to make sure the outside appearance is as good as their inside appearance. He then adds an alarm on the maintenance of the pond.

Gidley states he does not normally do this but for the people who are opposed, do they believe they covered it. He states he has two heads shaking yes.

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Ziessler states he still has a question about the back side they have a bunch of doors given they have double doors and a garage door. He asks what traffic they are going to incur back there on the American Legions property.

Gidley asks if they can drive on their property and get to their doors without driving on American Legion property.

Ziessler responds by stating they can if they stay within the ten feet from their building.

Gidley states with only ten feet back there that it cannot happen.

Wendel states they could add no rear entrances.

Gidley explains they would have to have some overhead entry for safety.

Ziessler responds by stating he is more concerned about the in and out loading of people pulling trailers in.

Gidley asks Parrinello what the largest typical storage unit is.

Parrinello responds by stating 10 x 30. He states he does not know if they will have them in this facility as they do not have them in every facility but that is the biggest one across the board at their facilities.

Gidley asks what the profile is of a typical renter in a climate-controlled indoor self-storage facility.

Parrinello responds by stating it could be retirees, small local business, college students, people moving and obviously there is a bunch of different types of people.

Gidley asks if he would be renting any outdoor business such as renting pods, U-Haul equipment or anything like that on this parking lot.

Parrinello responds by stating they will not.

Richie states that putting this list together is like shopping for his wife. He states he wants to be sure they got everything here. He lists water issues, repaving the parking lot, drainage on the back side, sidewalks, providing parking for the relocation of the potential church, wrapping of façade or drive-it and stucco, looks like rendering, no rentals of equipment in parking lot, maintaining of pond, lighting and landscaping.

Gidley references inclusion of all stated improvements in the letter that was originally provided.

Richie moves to make a motion they approve BZA 2023-11 on the grounds they fix the water issue, repave the parking lot, fix the drainage on the back side, parking in general, put in sidewalks on the north and west sides, put in parking for the possibility of the relocation of the church, wrap the façade or placing drive-it and stucco, that they make it look like the rendering that was submitted

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to the board, no rentals of equipment or outdoor based business, lighting, landscaping and the inclusion of all stated improvements in the submitted letter to the board.

Booker asks what was said about parking.

Richie responds by stating parking for the relocation of the church and fixing the parking situation out in the parking lot.

Gidley asks if he said repairing or repaving the parking lot. He states it was brought up that someone said something about milling and resurfacing it and he likes that idea.

Richie amends it to say milling & resurfacing the parking lot.

Gidley states there is no way you can patch all that.

Williams asks what was said about the inclusion of the letter.

Richie responds by stating the inclusion of all stated improvements in the submitted letter to the board.

Board Members Richie and Secor moved and seconded to approve BZA 2023-11 on the grounds they fix the water issue, mill & resurface the parking lot, fix the drainage on the back side, parking in general, put in sidewalks on the north and west sides, put in parking for the possibility of the relocation of the church, wrap the façade or placing drive-it and stucco, that they make it look like the rendering that was submitted to the board, no rentals of equipment or outdoor based business, lighting, landscaping and the inclusion of all stated improvements in the submitted letter to the board as presented. The motion passed by roll call vote.

Yes: Gidley, Richie, Secor and Wendel

No: None

Absent: Selge and Jacobs

BZA 2023-12: Irving Materials, INC., 8032 N. SR 9, Greenfield, IN 46140-9017: A Special Use request to have a gravel pit with the extraction of sand and gravel on parcel 50-32-14-000-002.000-018 on 73.63 acres at the southern corner of King and 11th Road, zoned R-1, Rural Residential District.

Plan Consultant Booker reviewed the findings of fact and the request from the applicant. He read the applicant's letter aloud. See attached letter below.

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Fred R. Jones
Ralph R. Huff
Derek R. Jones

550 E. Jefferson
P.O. Box 610
Plymouth, Indiana 46503
(874) 930-4031
Fax (874) 935-1650

May 1, 2023

The City of Plymouth
Board of Zoning Appeals
124 N. Michigan Street
Plymouth, IN 46563

In re: The Application for Special Exception of Irving Materials, Inc.
Letter of Intent

Dear Member of the City of Plymouth Board of Zoning Appeals:

Irving Materials, Inc., ("IMI") is applying for a special use for property that it owns at the South West corner of King and 11th Roads, Plymouth, Indiana. The subject property is currently vacant farm ground and woods. It consists of 73.63 acres. Attached hereto is a copy of the Corporate Warranty Deed regarding the subject property, providing the legal description of the subject property.

IMI intends to operate a gravel pit upon the subject property. This is more formally referred to as sand and gravel extraction, or mining (except oil and gas). This property is currently zoned Rural Residential, or R1, and identifies mining (except oil and gas) as a special use.

Pursuant to the attached site plan, you will see that IMI intends to honor a 100 foot set back from the property boundaries. They additionally intend to erect an earthen berm, or sight buffer, along the Eastern and Northern edges of the subject property. They are anticipating a proposed access to the subject property located off of King Road, and immediately West of an existing asphalt plant.

Notably there currently exists an operational gravel pit owned by IMI which lays adjacent to the North West border of the subject property. It is anticipated by IMI that their existing gravel pit will run out of material in approximately one season.

Additionally, there are two other operational gravel pits immediately to the West of the subject property, in addition to a concrete plant and the afore mentioned asphalt plant. All of these similar uses are located within approximately ¼ of a mile or less of the subject property.

IMI is regulated by the Indiana Department of Environmental Management and the Mine Safety and Health Administration. There are specific requirements and guidelines concerning air, noise and water pollution that must be adhered to by IMI concerning their mining operations. Additionally, they are voluntary members of the Environmental Stewardship Counsel and also a part of the Indiana Mineral Aggregates Association. These organizations promote the safe and responsible extraction of natural resources and require specific reclamation plans upon termination of mining operations.

Respectfully submitted

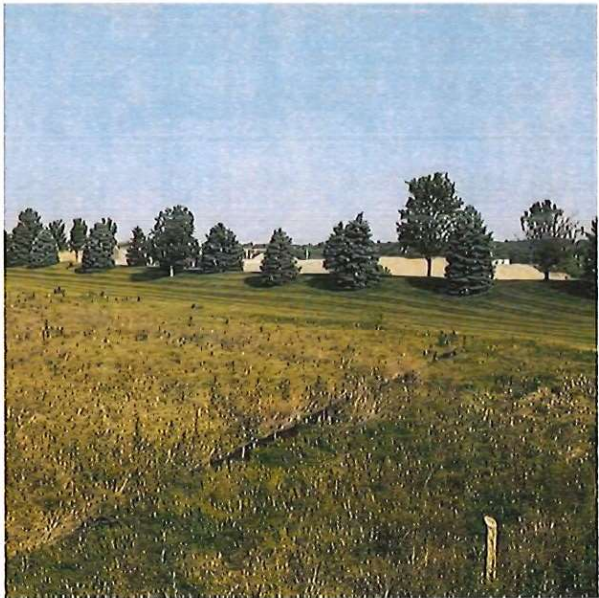
A handwritten signature in black ink, appearing to read "Derek R. Jones", is written over a circular stamp or mark.

Derek R. Jones,
attorney for Irving Materials, Inc. Applicant

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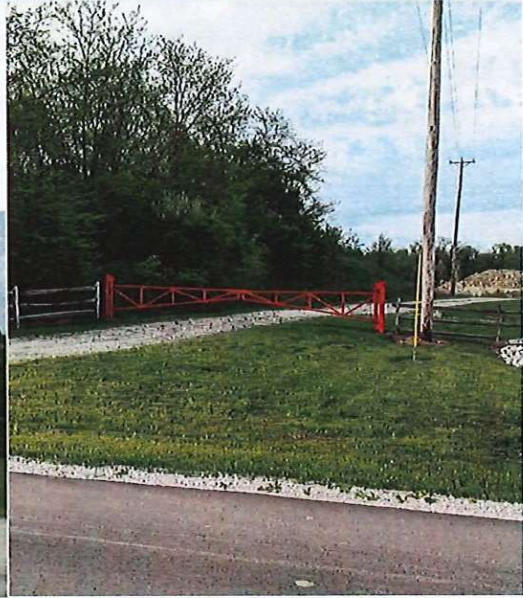
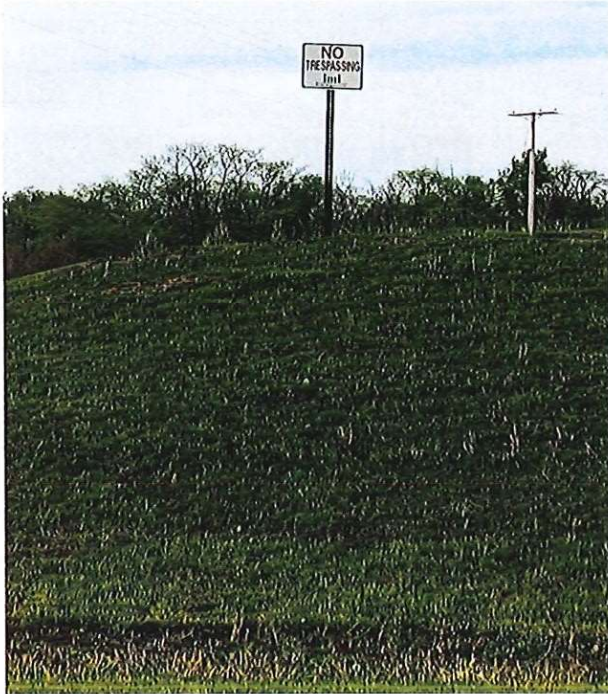


Booker provided photographs of some of their other operations. See images below.



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Gidley asks if IMI supplied those pictures.

Booker responds by stating they did.

Gidley asks where those pictures are located.

The applicant states one of the photos is from Grant County.

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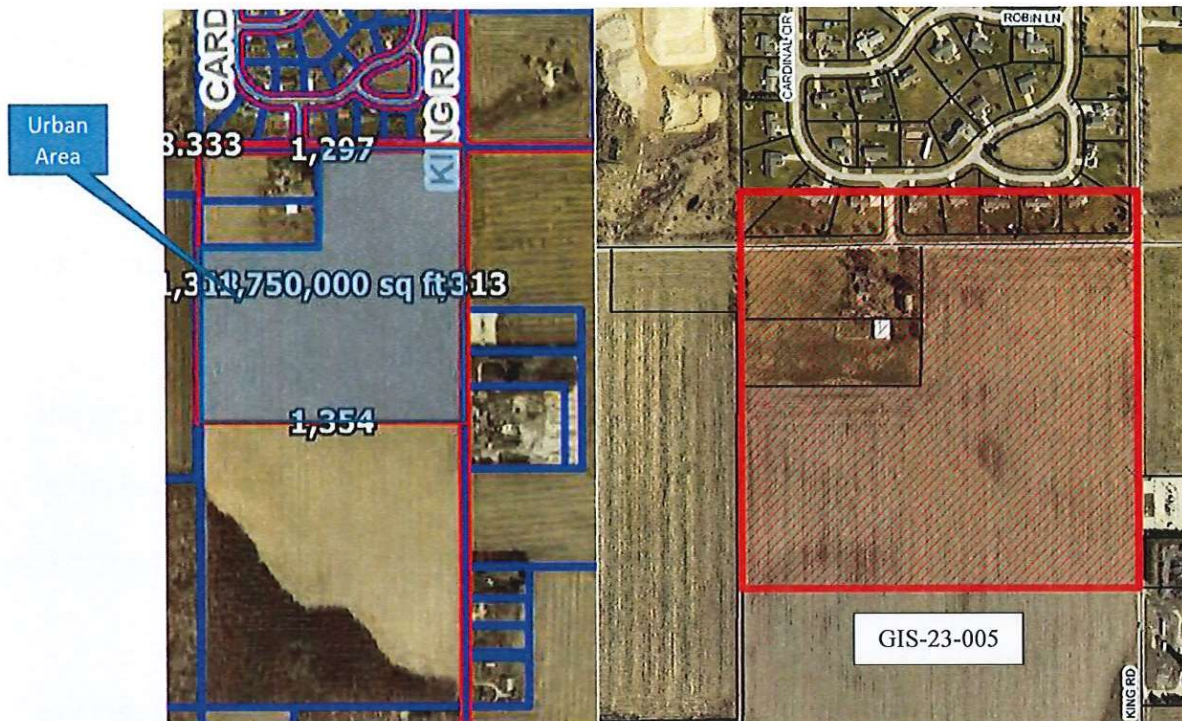
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Booker wished to address one of the issues with this that he would suspect most people wouldn't know is IC 36-7-4-1103. Attached is the report Booker presented in regards to this.

IC 36-7-4-1103 Miscellaneous provisions; use and alienation of mineral resources and forests outside urban areas

- Sec. 1103. (a) This section does not apply to a plan commission exercising jurisdiction in a county having a population of more than twenty thousand nine hundred (20,900) but less than twenty-one thousand (21,000).
- (b) ADVISORY—AREA. For purposes of this section, urban areas include all lands and lots within the corporate boundaries of a municipality, any other lands or lots used for residential purposes where there are at least eight (8) residences within any quarter mile square area, and other lands or lots that have been or are planned for residential areas contiguous to the municipality.
- (c) ADVISORY—AREA. This chapter does not authorize an ordinance or action of a plan commission that would prevent, outside of urban areas, the complete use and alienation of any mineral resources or forests by the owner or alienee of them.

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R Mining, Sand and Gravels Pits, and Other Extractive Operations

- 1. Approval
- In accordance with I.C. 36-7-4-1103 or as amended, the City may not prevent the use of any mineral resources outside any urban area. An urban area for this section is defined as any 1,320 foot square which includes at least eight (8) residential units.
- 2. Restrictions
 - a. In Urban Areas
 - Reasonable conditions may be placed on mining operations in Urban Areas as defined by this section to preserve general considerations of public health, safety, and welfare.
 - b. In Non-Urban Area
 - Any conditions or limitations may be placed upon mining operations in NonUrban Areas as defined by this section in accordance with any required review by the Commission or Board.
- 3. Setbacks
- All mining operations shall maintain a one hundred (100) foot setback from adjacent non-mining property lines.

R Mining, Sand and Gravels Pits, and Other Extractive Operations

- 4. Development Plan
- Any request for approval of a mining operation shall include a Development Plan in accordance with Article 7, Site Development Plans of this Ordinance.

- 5. Reclamation Plan
- a. The development plan shall include a plan for reclamation of the property after the conclusion of the mining operations on the property.
- b. The applicant shall furnish a bank commitment of credit, bond, certified check or an escrow account or any other means in the manner and amount
- approved by the Board of Public Works to secure the site reclamation according to the plan.

- 6. Road Maintenance Bond
- The applicant shall furnish a bank commitment of credit, bond, certified check or an escrow account or any other means in the manner and amount approved by the Board of Public Works to secure the maintenance of City streets damaged by the mining operation.

Booker states if this were to go on from this meeting that it would still need to go before the Board of Public Works and Safety for their Site Reclamation Plan. He states it would also have to go to the county for the Road Maintenance Bond as these are county roads.

Reclamation- INDR

- Indiana is home to a wide variety of mineral resources. The Division of Reclamation oversees the mining and restoration of land disturbed for the extraction of coal, clay, shale and oil shale. Another division of the IDNR, the Department of Natural Resources, Division of Oil and Gas - Home, permit and inspect oil and natural gas production facilities.

Reclamation- INDR

- In addition, sand, gravel and crushed stone are mined extensively. Dimension limestone, peat, marl, and gypsum are also found throughout Indiana. The management and oversight of these materials is usually within the jurisdiction of local entities. Typically these are overseen through local zoning criteria, local air pollution boards, County Engineers, County Commissioners, or other local offices.

End Use?

- For most gravel pits, however, no managed end use is contemplated. The goal of reclamation for these pits is to leave the site in a safe, nonpolluting condition that has future land value. Final reclamation is directed at slope stabilization, revegetation, and cleanup. This chapter presents guidelines for activities such as clearing, stripping, grading, and establishing vegetation in pits where no managed end use is planned. A typical mining plan might include:


General Reclamation Guidelines

- Clearing and disposing of vegetation.
- Stripping and reserving topsoil.
- Construction of a berm from overburden material.
- Designating a working face in the pit and directing activity at that face until depletion.
- Final grading of the pit face and other slopes to 3:1.
- Reapplication of topsoil.
- Seeding with a nurse crop of oats to stabilize the surface from erosion.
- Allowing for natural revegetation in combination with tree plantings and seeding of native grasses


Booker explains he asked the applicant to send in a reclamation plan and these are what were provided. He states he will let the applicant explain these.



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**Guiding Principles
of the
Environmental Stewardship Council**



Indiana Mineral Aggregates Association
11711 H. College Avenue, Suite 100
Cannel, IN 45302-1506
Revised January 29, 2008

Environmental Stewardship Council

similar to those followed for highway road cuts constructed for the Indiana Department of Transportation (INDOT).

The ESC will approve the design and configuration of permanent highwalls. The permanent highwall design will be evaluated by:

- Highwall design
- Depth of exposed water
- Geological factors
- Future interim land use
- Highwall stabilization methods utilized

Stabilization of Soil and Loose Rock Slope Materials

Unless unavailable on the property in its virgin state, sufficient volumes of overburden and spoil materials should be maintained on-site to complete the reclamation plan submitted to and approved by the TAC. Spoil will be placed, graded, and stabilized to minimize soil erosion, surface disturbance, and stream contamination. Sufficient water-retarding siltation control structures, diversion ditches, etc., as outlined in Chapter 4, will be utilized to control runoff and will be located as close as possible to the grading operations.

If approved by the TAC and after inspection by the SRC, environmentally safe reclamation materials may be imported to the site. Importing material for reclamation may require certain permits. The *Indiana Environmental Compliance Manual for the Aggregate Industry* summarizes the applicable rules and regulations concerning the disposal of solid waste.

Grading Slopes

Upon completion of reclamation, no vertical or near-vertical highwalls will remain in unconsolidated deposits. Ridges, peaks, and slopes created by excavation, overburden removal, or spoil

placement will be graded to a slope that provides for stability, prevents erosion, and supports vegetation. A stable final slope of unconsolidated material is generally expected to be a ratio of 3 feet, or more, horizontal to one-foot vertical (3:1).

The grading of slopes will be compatible with the surrounding topography and the proposed land use of the property. When an area undergoes reclamation, unconsolidated materials, including overburden at quarrying sites, will be graded to achieve soil stability and to control slope movement to prevent erosion and subsequent sedimentation. Final reclaimed slopes steeper than 3:1 will be approved by the ESC provided that these slopes will be stabilized by proven engineering practices as approved by the TAC. Final slopes in areas with an approved post-reclamation land use of forestland or wildlife habitat enhancement may exceed a 3:1 ratio. A reforestation plan will be provided for final slopes steeper than 3:1.

Grading Terraces

Terraces will be graded toward the slope at a grade of 3 to 10 percent. Outlopes between terrace benches will not exceed 2 feet horizontal to 1 foot vertical (2:1). Runoff will be controlled and routed to ditches at the intersection of terraces and out-slopes. The final slope of a terraced grade will not exceed 1 1/2 feet horizontal to 1 foot vertical (1 1/2:1). Ditches should be designed to prevent sedimentation, erosion, and slope movement. They should not exceed a slope of 20 feet horizontal to 1 foot vertical (20:1) unless specifically engineered for a steeper slope. Ditch slopes exceeding this measurement need specific approval by the TAC.

Post-Mining Re-vegetation

A vegetative cover will be established on all affected lands where vegetation is indigenous to the area and where re-vegetation is consistent with the approved plan. Re-vegetation should provide a

Guiding Principles

Chapter 5

RECLAMATION GRADING AND REVEGETATION

The primary purpose for the establishment of the ESC is to develop and implement industry guidelines for reclamation and beautification of industry sites. Through the use of the best environmental management practices, responsible operating techniques, and good stewardship of Indiana's mineral resources, the ESC will accomplish its goal of self-regulation.

Mineral extraction is an interim land use that temporarily interrupts the existing land use. Upon completion of mining, the land can be reclaimed for a beneficial land use.

Reclamation of a mineral extraction site is a process of planned rehabilitation of land with a final end use as a goal. The ESC believes that it is in the best interest of its members and citizens of Indiana to reclaim land affected by mineral extraction. Comprehensive, well-managed reclamation will provide an operator with a valuable real estate asset and will provide the citizens of Indiana with productive rehabilitated real estate.

The ESC recognizes that it can be difficult to predict the long-term interim land use for a property. The operator's reclamation plan should be flexible enough to be altered to allow for changing land use trends.

A map of the proposed final reclaimed landform after completion of mining will be submitted to the ESC for approval. Specifications for the map are discussed in Chapter 7.

The reclamation principles contained in this chapter are minimum guidelines for ESC members. The guidelines for setbacks and buffer zones and ingress, and egress are outlined in Chapter 3.

Stabilization of Final Highwalls

Depending on the mineral produced and the topography and the geology of the site, it may be necessary to retain bedrock highwalls as permanent features at the completion of mining and reclamation. Final mined faces will be designed and configured to minimize the possibility of rock falls and slope failure.

Final bedrock highwalls that will remain as permanent landforms upon completion of reclamation shall be stabilized by one or a combination of the following methods to ensure the safety of future users of the property:

- Controlled blasting techniques
- Mechanical stabilization of the highwall
- Benching
- Sealing of the top of the highwall

Final highwalls will be relatively smooth and uniform with loose and overhanging rock removed to the static water level. Fencing, earthen, or vegetative barriers will limit access to these highwalls. Danger signs should be installed the length of the highwall where practical.

Overburden slopes will be graded as outlined in the next section of this chapter. A safety ledge of sufficient width to prevent a person from inadvertently walking off the edge of the highwall will be left between the highwall and the toe of the overburden.

Numerous highways throughout the hilly areas of the state are routed through road cuts that have been blasted through bedrock. Final highwalls left as permanent landforms upon completion of mining and reclamation should conform to standards

Guiding Principles

diverse, effective, and permanent vegetation cover capable of self-regeneration and plant succession.

Any area disturbed by mineral extraction will be covered with an amount and type of soil material sufficient to support the growth of the proposed vegetation cover. The required soil cover will be deposited and uniformly spread over the reclaimed and graded areas. Agricultural lime and fertilizer will be applied to the soil in amounts recommended by standard agricultural soil testing procedures and soil pH tests. Re-graded reclamation areas and slopes will be prepared and seeded at the beginning of the next growing season following completion of the final grading.

Ground Cover

Soil stabilizers and/or mulch should be applied, as necessary, to promote seed germination and prevent washing away of seeds. Soil materials should be prepared utilizing appropriate standard agriculture methods. Seedbed preparation will be accomplished along the contour of all slopes and the soil material loosened to a depth sufficient to promote proper seed germination.

Quick germinating, rapid-growing vegetative species capable of stabilizing the surface soil and preventing erosion will be sown. Vegetative materials used in reclamation will consist of grasses, legumes, herbaceous or woody plants, shrubs, trees, or some mixture consistent with the approved final land use for the property. Vegetation species will be chosen based on:

- Soil test results
- Post-mining land use
- Long-term erosion control
- Growth rates
- Ability to provide permanent vegetative cover

- Self-regeneration and plant succession capabilities
- Potential soil rebuilding abilities
- Potential benefits to wildlife

At least three grass and legume species will be applied as re-vegetative ground cover. One species will be a quick-growing variety to establish cover for the other species. At least one permanent legume species and two permanent grasses will be applied. Planting rates will be determined based on the recommendations of seed manufacturers and results of soil tests. Fresh, top-quality seeds will be used and legume seed will be properly inoculated prior to planting.

A minimum of 65 percent ground cover needs to be established at the end of the first growing season. Individual bare areas due to unsuccessful re-vegetation should not exceed one-half acre for any two acres planted at the end of the first growing season. Coverage of 85 percent will be established at the end of the second growing season.

Reforestation

The following is a recommended reforestation method: a minimum of four species of trees or shrubs will be planted in areas designated as forestland. Each of the four species should constitute at least 10 percent of the total plant stocking and no single species will exceed 50 percent. At least one conifer species and one hardwood or mast-producing tree species will be planted and at least 50 percent of the woody plants will be trees.

All areas designated forestland and planted with trees and shrubs will meet the ground cover specifications outlined above. To prevent erosion and minimize sedimentation during the establishment of forest species, a minimum of 400 trees and shrubs per acre should survive the first growing

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season. At least 350 trees and shrubs per acre will be acceptable at the end of the second growing season.

Volunteer growth may be included in the survival counts, if it consists of appropriate species compatible with those stocked during reclamation. Any area larger than one-quarter acre in size that has failed to produce the required tree and shrub planting density after the second growing season will be restocked with the appropriate species.

Revised: January 31, 2005

To see the full version of this document, please visit:

<https://indmaa.org/wp-content/uploads/2019/07/Environmental-Stewardship-Council-Guiding-Principles.pdf>

Surrisi explains that the state statute that Booker listed in the presentation that it was an older version of it. He states the only item that was amended was in 2020 was the very first section that excluded counties of a certain population has been stricken.

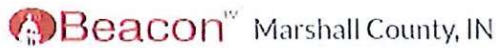
Booker states that he and Surrisi have discussed this and you do have some authority in the urban area but he is not sure how much authority you have in the non-urban area.

Derek R. Jones (550 E. Jefferson St., Plymouth, IN 46563):

Jones states he represents IMI and here with him this evening is Kevin Holcom who is an area manager with IMI. He explains that Holcom can answer questions about the particularities of the mining operation. He states that is what it is called pursuant to the zoning ordinance but we would all think of this as a gravel pit. He states what they are here to do is extract sand and gravel that is marketed and sold to various agencies, other customers, local municipalities and things of that nature. He states the thing he really wants to focus on this evening here are the four findings of fact that you need to consider when making a determination here this evening about whether to accept this application for the special use or not. He states as Booker has indicated they got 73.63 acres that is currently zoned R-1. He states mining is a special use so this is obviously something that was envisioned of something that could have been anticipated to occur in this zoning area. He explains specifically when you look at those findings of fact the first one talks about that this will not be injurious to the public health, safety, morals and general welfare of the community. He states what they have indicated in their application is that this industry is a very heavily regulated industry as far as having oversight from the Indiana Department of Environmental Management and they have oversight from a federal agency called Mine Safety and Health Administration and they have to abide by all those terms and make sure they run a very tight ship. He states the other thing that comes to mind here when you consider what you have going on here is that when you consider the other uses that are very close in proximity to this proposed use that you have what he would call a "Hot Pit of Mining and Gravel Pits." He states he has prepared a map here that he is going to circulate that he believes does a great job showing the area. See attached map below.

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Jones states what this map does is show the existing uses right around this area. He states the IMI property they are discussing this evening is at the southwest corner of King and 11th Road. He explains you will notice immediately to the north and to the west are a series of parcels that are owned by IMI and those are their current existing gravel pit operation. He states the reason they are here tonight asking for this special exception on the subject parcel is because as it indicated in that letter, they are close to running out of material. He states they would anticipate that they are going to have enough material for the end of this season and it may stretch into the next year but after that in essence they are going to be done with their existing mining operation on the property that they own. He states what is notable here is when you take a look immediately to the west there that you have property owned by Carl Stockberger and or some corporate entity but he has a sand and gravel there while also having another sand and gravel pit on the west side of US 31 there. He states that IMI also owns some real estate there at the corner of US 31 and 11th Road that is leased to Kuert Concrete so there is a concrete plant there. He states immediately to the east of the subject property is a parcel owned by E&B Paving and that is the asphalt plant you saw in the photographs that Booker presented in his report. He states what you have here is within a mile radius a fair amount of gravel and sand extraction and you have a lot of things to deal with those resources in terms of concrete and asphalt. He states Holcom could tell you that these deposits of sand and gravel don't just occur anywhere within the county. He explains these are in

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certain locations and certain spaces. He states this is obviously one of those. He states when you consider what you got here that it is basically a situation where there is a lot of use going on as it exists today. He states in other words they are not talking about this being a brand-new operation coming into town but rather this is an existing operation that is basically going to move across the street. He restates you have IMI on the northwest side of that and they are currently doing this extraction of sand and gravel and that will be done here in the next year or so. He states their intent is to move operations across the street and start digging another hole and that is how they extract their sand and gravel. He states the second findings of fact talks about the requirements and development standards for the requested use as prescribed by this ordinance will be met. He states what he thought was significant here was that this rural residential district represents the lowest density of residential development that you have in your zoning ordinances. He states that additionally there are specific requirements that are found in the zoning ordinance that are found on page 122 and 123 and that is where this reclamation plan comes into play.

He states that it is not really that there are two reclamation plans but the first one is a picture of the entire parcel within the setback areas as a pond. He states that is only to say at some point all of that ground may well be mined provided they are granted that special exception. He states when the project is completed and they have completed their mining operations and they have extracted the sand and gravel that they are able that they will be looking at a situation that is a lot more like the second reclamation plan with a pond that has a fair amount of dry land that is identified as a potential residential recreational area. He states once they are done with this area, they are done with it and basically their use has been completed with that. He states that because it goes hand and hand with the other photographs that were submitted there as well. He states these photographs are not necessarily what the reclamation area looks like but it also does identify how the site berms are developed and what those look like with the trees and the plantings. He adds it shows the height those berms and they develop signs on them to indicate "No Trespassing," and the accesses are gated and blocked so it isn't like you are going to have situational trespassers coming in and out but it is basically an attractive looking facility and operation here that they are proposing to entertain.

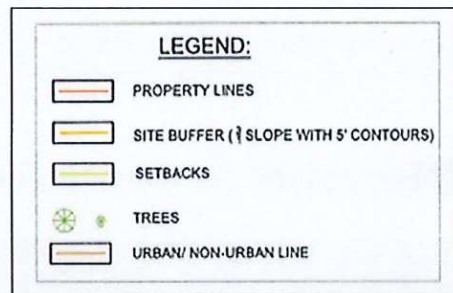
He states the other part of this goes hand in hand with the site map which was also submitted with the application and as you will see on the site map the zoning ordinance does indicate that you have to have a 100-foot setback from the roads and the property boundaries. And you will see that represented from the yellow line on the map above. He states there is also a green strip that goes around the east and the north sides of the property and that's what is called the site buckler and that is what is illustrated there on the photographs with the elevated berm with the trees planted on top of that. He states the red line is then the property boundaries. He states in essence that is how that property would be presented. He states the last two points are basically that the granting of the special exception will not be contrary to the general purposes served by this Ordinance and will not permanently injure other property or uses in the same zoning district and vicinity. He states what they have identified there is that this use and this mining operation is specifically envisioned when the zoning ordinance went into place because it was identified as a special use. He states they would not be here seeking a special use but rather seeking a variance of the zoning of the entire parcel. He states that it is something that was anticipated and envisioned and he believes that bears credence and needs consideration. He restates in regards to the injurious nature of the other properties that they would again point to the fact that this operation currently exists in

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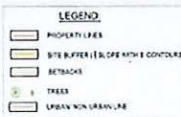
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this very locale and this is something that is not so much that there is going to be anything new or different but that it is going to be going on in a different location.

He states the last finding of fact that needs to be considered is if this complies with or interferes with the Comprehensive Plan. He states the clearest and most easy thing to think of here is that it is quite simply economic development. He believes it is also notable again that they are really on the fringe of this two-mile zoning jurisdiction and what this allows is that it is not interfering with other concepts or themes throughout the Comprehensive Plan such as the Downtown area, the Parks and Recreation and it does not interfere with public transportation or anything of that nature. He states they are really on the outskirts of this jurisdiction and this two-mile area. He states the last thing he wants to point out and talk about is the statute that Booker talked about. He agrees with Surrisi about the version that was up there not having the contingency of the size of the county. He states what that section of Indiana Code does is that it is pro mining and pro gravel pits and what it means is the Plan Commission zoning statues cannot be enacted to prohibit that outside of what is called this Urban Area. He agrees with the map that had the red line with the 1320 square feet and how it is located. He states he had Holcom prepare a map that is very similar to that and he has to say that matches up very close to what was prepared by IMI. See below for attached map.



IRVING MATERIALS, INC.
 MARSHALL COUNTY
 CENTER TOWNSHIP
 EXTRACTION AREA
 SCALE: 1"=100'

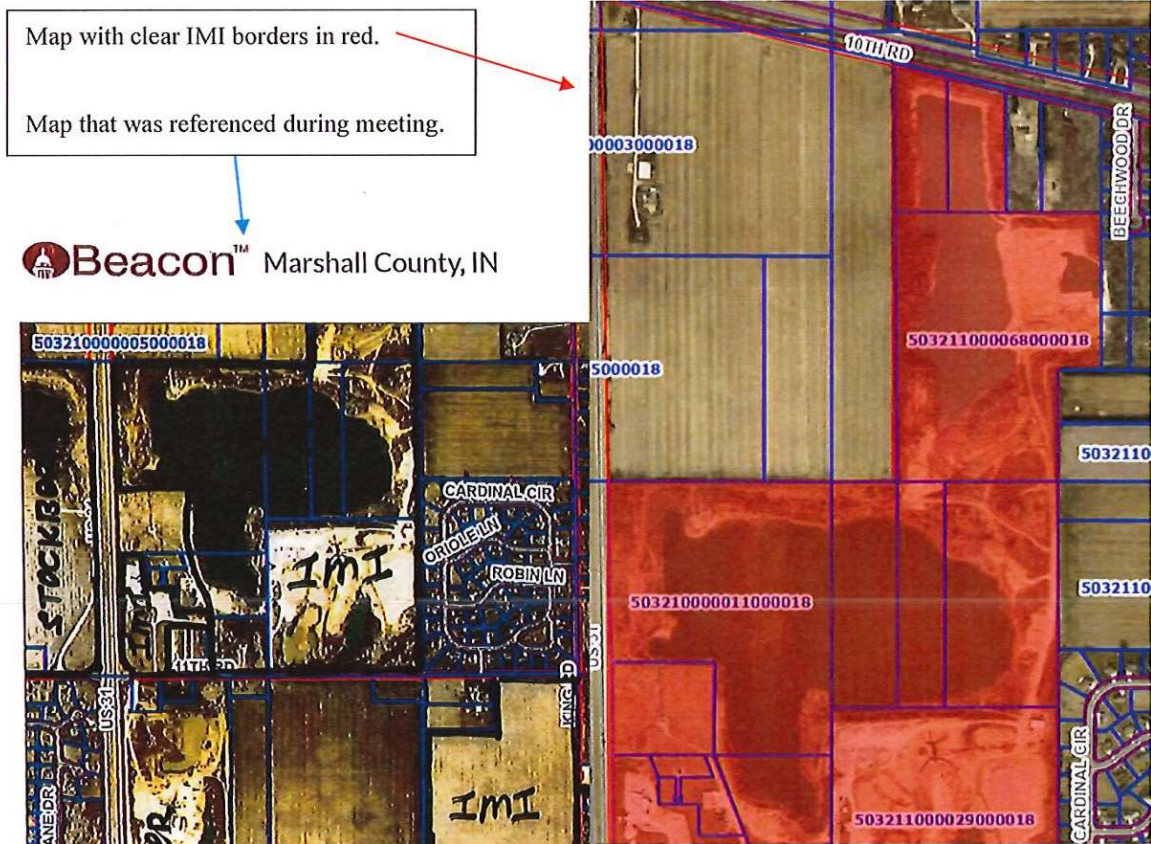


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Jones states in a nutshell what this means is that you can deny the special exception as it pertains to that property that is to the north that is within that red square but everything to the south of that can be mined and there is simply no jurisdiction or no authority here for the Board of Zoning Appeals (BZA) or any other portion of the county or the city administrative offices. He states simply that statute allows that activity. He states he heard Holcom say this once and he has heard him say it a dozen times and he says they want to be good neighbors and they want to come in here and work with the Board of Zoning Appeals and try to find a feasible solution to allow mining on not only the south parcel but also the north parcel. He states he wants the BZA to be aware they are willing to do things like the setbacks and the reclamation plans even on the south side of this parcel even though he is unaware if that can be required or enforced but they are willing to do that and that is why they are asking for your consideration in granting this special exception.

Gidley wants to start with a question in regards to their current operation. He asks about the property that goes up to 10th Road from their current operation. He states he was under the impression that they were going to continue to mine up that way and if they were going to. He states it is a panhandle that appears to go up to 10th Road. See map below for reference.



Kevin Holcom (10988 11th Rd, Plymouth, IN 46563):

Holcom responds by stating that appears to be an older map.

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Gidley states that is the map that was provided from IMI. He explains he was told a year ago that you were going to expand the operation up to 10th Road. He asks if the aerial of this is not correct.

Holcom responds by stating the photograph may be old.

Gidley asks for clarification that they are all the way up to 10th Road already and it is all already mined out. Holcom agrees.

Booker states that would be from aerial photography done by the county and they usually do that every year.

Gidley asks if in a years' time they mined all of the northern portion.

Holcom responds by stating it was probably about four years.

Gidley asks what the reclamation plan is for the facility that is going to be mined out.

Holcom responds by stating back on 10th Road they put dirt back on it and berms will be leveled off to a 3-1 slope and seeded once the ground is stabilized.

Gidley asks what about all this piece that is right next to the Southfielde Subdivision. He states it does not look very maintained along there.

Holcom responds by stating that was the current plan that was talked about earlier.

Gidley asks when the mining operation moves, what is going to happen at their old location.

Holcom responds by stating the intent is that they would truck the material from the new property to the plant.

Richie asks how long it took for their whole area to be mined.

Holcom responds by stating he is unaware of that.

Gidley states that location had a previous owner called Rock Industries.

Holcom adds he has been involved seven years here now.

Gidley asks how long they have owned the Kuert Concrete location and asks if they have leased that to them.

Holcom responds by stating he is not sure the exact date but that is a new acquisition.

Gidley asks if he purchased Kuert Concrete.

Holcom responds by stating Irving Materials did.

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Gidley asked if they owned the ground prior to them buying the operation.

Holcom responds by stating he is not familiar with that.

Jones states he believes that is the case and believes that Kuert Concrete has not been there for the last ten years.

Surrisi adds that it has been two to three years.

Wendel asks how many trucks a day they would anticipate.

Holcom responds by stating there would be 50-60 loads a day.

Wendel asks how much an average truck weigh.

Holcom responds by stating they would be around 20-22 tons depending on the truck.

Wendel states right now from the way he understands it from the help of someone from the audience who brought it to their attention that Marshall County has an ordinance that states no truck traffic can be on that area where it is posted that says, "No Thru Trucks."

Holcom states it is currently posted when you head east on 11th Road and it is posted going north on King Road.

Wendel states their weight limit is 26,000 lbs. He states it is not only you but Stockberger and everyone else who has been using those roads without being compliant with the County. He states that Stan Klotz is one of the members who signed this. He asks if he remembers that.

Klotz responds by saying he does and that they have trouble getting enforcement on it.

Wendel asks if that would be the county police. Klotz agrees.

Jones states he believes that may come into play in developmental standards but he believes that is something that is taken up with the County more so than this Board. He states part of that developmental standard is the Road Maintenance Bond that has to be addressed.

Wendel asks if he is saying 50-60 trucks a day so that will be 120/ day because you are taking sand from there, putting it in a truck and then taking it somewhere else.

Holcom responds by stating they would be hauling the sand from the proposed new site to the plant site for processing and whenever it would be sold then it would be sent out the gate.

Wendel states he is assuming they will not be keeping a big pile from where they ship it from. Holcom agrees. Wendel states you probably go through that within a day.

Gidley states he grew up across the street from Earl Jansma who had Jansma Coreseed Gravel Pit in Etna Green and they tried to sell the pit after it closed out and part of the problem with those

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pits and the so called lakes that are there was that the banks are so steep and can't be used as a recreational lake because you can't let your kid walk off and wander into the water there because it goes from 0 to 40-50 immediately so it is not a truly marketable property but you are telling them it becomes a recreational property. He states it can hardly be used for that and he does not know if Alan has ever sold the pit at Etna Green, he knows it has been listed for a couple million dollars for years. He believes part of the reason it won't sell is because it is impossible to use.

Jones states Holcom has talked to him in the past about IMI having sold previously utilized gravel pits to municipalities.

Holcom states the Geiss Reservoir was stone quarries that they mined out at nearly straight done areas and they put housing right on it but they have sold other areas for water reservoirs and such. He states in the Anderson area they took an old sand and gravel pit and made housing out of it. He states he did not bring photos of that.

Jones touches on the sale to municipalities for a water reservoir.

Gidley states fortunately they have an abundance of groundwater here so they do not need a reservoir by the community. He states you can practically poke a pipe in the ground anywhere around here and get water. He states it is not like central Indiana where the ground water is not as accessible and there is more bedrock.

Board Members Wendel and Richie moved and seconded to open the public hearing. The motion carried.

Richie asks who all is here for this.

The room was full out into the hallway.

Surrisi wished to add one thing to frame the discussion from a legal standpoint. He states he agrees with what Jones had to say in terms of the non-Urban area that is in the southern portion so mining is allowed and the only function of the board would be to meet the setbacks and grant the special use as to that. He explains in the Urban Area you could grant any restrictions up to prohibition of the mining in its entirety.

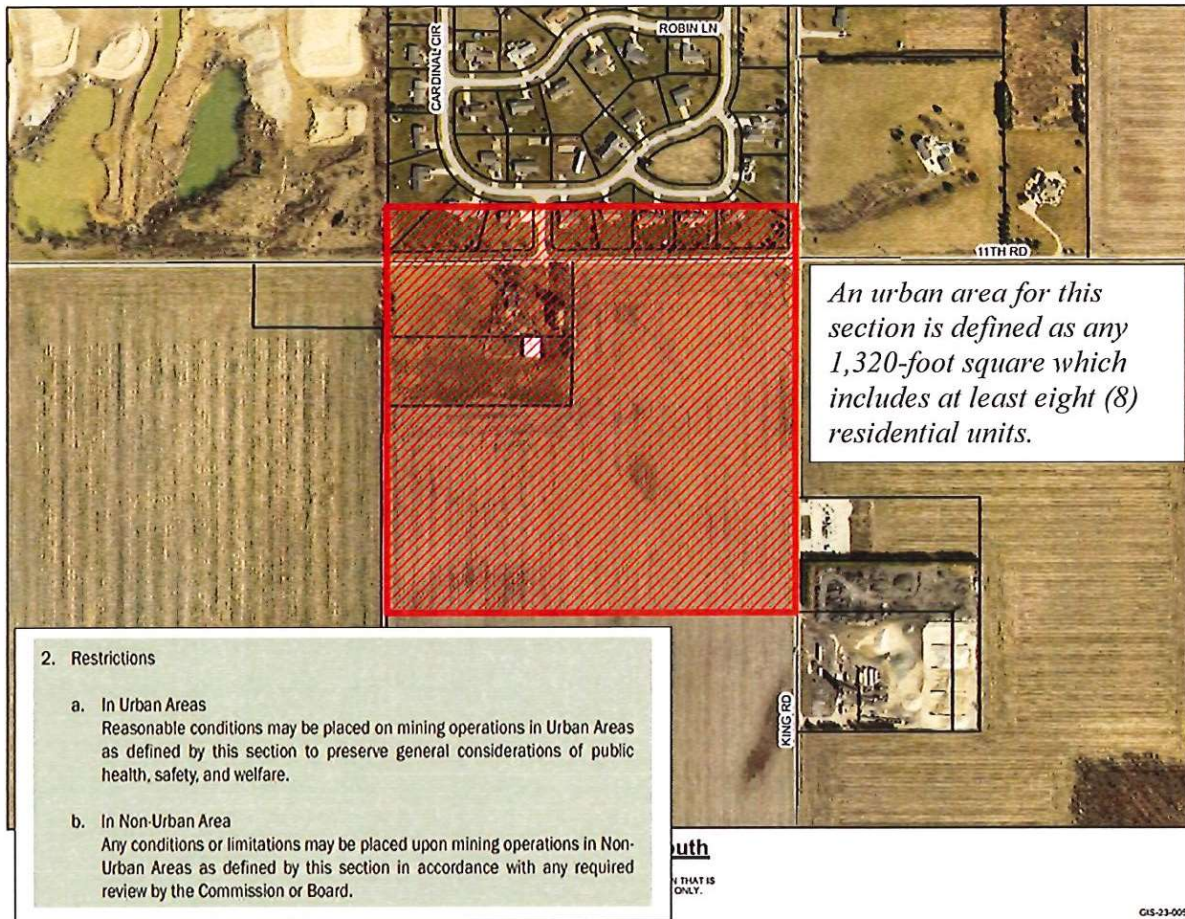
Gidley asks for clarification what they are saying is the mining ordinance or the accommodation to the mining industry overrides the two-mile zone. He states the two-mile zone is not really called the two-mile zone but rather the extra-territorial jurisdiction. He states that there to protect the future growth of the community and that is why it was implemented so Plymouth had control of what was going on in what they call the two-mile boundary. He asks if what he is saying is that this law won't let them do what they have been granted the powers to do under their jurisdiction.

Surrisi responds by stating that is correct.

For reference the map below shows the difference between the non-Urban and the Urban area.

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Gidley explains you will be given five minutes and he will start with those who are in favor of granting this request.

Stephen Pletcher (14375 Michigan RD., Argos, IN 46501):

Pletcher states he is an employee but he is not speaking on behalf of the company and this is solely his perspective as an employee. He states he has been there eight years and to be honest with everyone that it is the best job he has ever had. He states he grew up here and graduated from Plymouth High School and he was a part of the Plymouth Marching Band. He states he is a 10-year 4-H Member and his kids attend local schools. He states he has been involved in several local organizations with the Autism Resource of Marshall County and the Walk for Autism. He states he recently started a beard club and had his first beard competition out at Swan Lake and was able to raise \$4,000.00 for the DAV. He states his point is the seven people who are there are local citizens just like everyone here and they are just trying to make a living. He states this is something that could impact their futures and he would hate to think that there are certain citizens in Marshall County who would want to come down on people like themselves who work here who are involved to the community and give to the community. He states he would like to ask for you to help us keep our livelihoods going.

Gidley asks if there is anyone else in favor. He now asks for those opposed.

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Booker responds by stating that he has two letters opposed.

Gidley states those will be read into the record first.

Booker reads aloud a portion of the letter below.

Bobbi Reinhold (10814 Cardinal Circle, Plymouth, IN 46563):

Good evening. My name is Bobbi Reinhold. My husband and I live in the Southfields Subdivision located on King and 11th Roads. Our daughter, Lyndi Reinhold and her fiancé Joshua Wagers just purchased their home last June on King Road directly across from the proposed location of the new IMI mining operation. We are concerned residents of the area and I am here to represent us all and present our opposition to the approval of the IMI request.

When Lyndi and Josh purchased their home, they were aware of the asphalt plant on King Road, they didn't like the idea of living a few houses from it, but homes were hard to come by at the time and they thought it was the only downside to the location. That is until this new issue arose.

When Stan and I purchased our home in 2007 there was an operational quarry to the west of it, I believe it was called Rock Industries at that time and from the records I can find, it was not owned by IMI. They seem to have inherited the ability to continue mining the R-1 zoned area with their purchase of the property. And apparently decided that this ownership could then be turned into mining more of this residential area. This is not a "grandfathered in" piece of property. This is a field that they purchased 4 years ago with this intention. This is a new venture and should be seen solely as that and not granted because there's already others in the area.

Let me interrupt here for a minute and say that it is odd to me that R-1 would allow mining! The Plymouth Zoning Ordinance states, in part, "The Rural Residential category is intended to help preserve the rural nature of the land while allowing limited residential growth". To include the language "Mining (except Oil and Gas)" seems to be in direct conflict with that purpose. How do you preserve nature as you destroy it?

I am going to start with a few statutes. I am leaving out sections that do not apply for time's sake. First:

IC 36-7-4-918.2 Board of zoning appeals; special exceptions and certain uses; approval or denial

Sec. 918.2. A board of zoning appeals shall approve or deny all:

- (1) special exceptions;
- (2) special uses;
- (3) contingent uses; and
- (4) conditional uses;

.... The board may impose reasonable conditions as a part of its approval.

Notice it says, "or deny" and "may impose reasonable conditions". There is absolutely nothing that says you are required to just roll over and approve this application.

The following code states reasons to deny.

IC 36-7-4-918.4 Board of zoning appeals; variance of use

A board of zoning appeals shall approve or deny variances of use from the terms of the zoning ordinance. The board may impose reasonable conditions as a part of its approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; ...

In the 16 years we have been living in our home they have destroyed the habitat of many animals by taking down the forestry that stretched from 10th Road south to the edge of that original quarry. Our yards are now infested by the displaced rodent population in the form of gophers and chipmunks that undermine our yards and outside structures.

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Then we have the dust! Constantly blowing! We cannot have our windows open very often due to the dirt that leaves their property every single day. There are days you walk into our backyard and if it is windy enough you end up with a face full of dirt! Our pool in the summer always has a film of dirt floating on top and the solar cover is covered in dust.

If IMI has EPA guidelines they are to be abiding by, then they are failing at abiding by those guidelines, and nobody seems to care. They are supposed to be watering down the roadway to control dust, which they occasionally do but not as often as needed. According to regulations, no particles should be leaving their property. They had mentioned before that they would build a berm and plant trees along the boundary of the whole property. Those "berms" amount to piles of sand placed around the property, some of which are now the only view of Southfield residents from their backyards. I can't even imagine the amount of dirt those houses get if mine, that is not directly on the IMI property line, is so bad! None of these airborne materials are good for people or animals to breathe but yet we have no choice. Those particles also include the material that is falling out of the back of the trucks transporting the material and ending up on our roads.

Now Irving Materials, Inc. wants to take another piece of farmland and turn it into another hole in the earth for the sole purpose of profit. Their profit, not the City's, not the County's, not the State's! The 3 to 6 employees they talk about in their proposal will not bring in the tax revenue that the approximate 94 families that live either right next to the location or in Southfield subdivision or down 11th Road toward US 31 or down King Road toward US 30 do.

So what if there are currently 2 existing quarries, 1 concrete plant, and 1 asphalt plant! We know there are! We witness daily all the additional traffic from the trucks! The noise, the wear & tear on the roads! The trucks that speed down King & 11th sometimes not fully stopping at the stop sign! That is not an argument for more!

Conveniently I was unable to obtain photos of the road conditions and the rock that is regularly dropped from their trucks on 11th Road from US 31 or King Road because by some crazy coincidence the County Highway Department was out bright and early the morning of May 31st, 6 days before this hearing, and did a fantastic cover-up job in the form of chip & seal.

When the first quarry was allowed there were fewer homes in the area. We now have approximately 94 homes in the areas along 11th & King roads. Homes with children playing in the backyards. Homes with people who like to walk or bike down our county roads. If you want to draw people to Plymouth, why would you want to make these homes somewhere people won't want to live? Why would you allow the deterioration of our home values?

In IC 36-7-4-1103 you are not told that you cannot deny this request you are told that "for the purposes of this section, urban areas include all lands and lots within the corporate boundaries of a municipality, any other lands or lots used for residential purposes where there are at least eight (8) residences within any quarter mile square area, and other lands or lots that have been or are planned for residential areas contiguous to the municipality.

This means the area in question should be considered an "urban" area and all of our homes, beyond a quarter mile square area included, will be affected in a substantially adverse manner, not just to our property values but to our health and enjoyment. Please keep that in mind when you think of the homes that will be directly across from the proposed entrance or the homes located anywhere along King & 11th! Even though we aren't close enough to have to be noticed, we are close enough to feel the effects and will be taking a huge financial hit on our largest investment!

There are restrictions that have been established for "urban areas". No mining can take place within a quarter mile of the urban area. You should not allow this type of use within that quarter mile of the property that is within the urban area. Also, when they are transporting the materials from the property they are still in the process of mining.

Anything that facilitates the extraction is part of the mining process. That makes the whole travel route part of the mining process!

Further, this code does not reflect our local Marshall County ordinances.

Ordinance 2018-23 "An Ordinance Restricting Through Truck Traffic on County Roads". The relevant part of this ordinance is as follows:

5:00 Limit
The rest
was not
read aloud.

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SECTION 3. RESTRICTION.

Trucks that are restricted from through traffic include commercial trucks with a gross vehicle weight rating in excess of 26,000 pounds. No person shall operate a truck on county roads with posted signs that prohibit an operator to travel on said county road for either a business purpose at an address and location or as a resident living on that county road or at an address and location in Marshall County that can only be accessed by said county road. This restriction does not apply to school buses or firetrucks.

I have never weighed one of these trucks, but they must fall into the restricted category when loaded with materials. Therefore, they should not be using King Road from 11th Road since the adoption of Ordinance 2018-23 on January 22, 2019. This means the only access they would have to remove materials from the property would be 11th Road outside of the urban area west to US 31 or King Road south to 12th Road out to US 31. On this ordinance alone the plan should be denied. IMI is responsible for the companies transporting their materials path of travel and cannot claim that it isn't their fault if the trucks do not take the route they tell them to. That would be like a bar saying they are not responsible for the individual they over-served who then killed someone while driving drunk after leaving their establishment. Wrong, they too could be held responsible for serving the individual who caused the accident.

And then we have the proposed "closed access" changes to US 31. How can they operate a quarry when their only route to transport materials is via King Road, a "No Thru Road". At some point the state will be closing many of the crossroads along US 31 including 11th Road and we will have to deal with this business traveling roads they should not be on.

If after all the reasons why a new quarry in this area would be "injurious to the public health, safety, morals, and general welfare of the community" and affect us all in a substantially adverse manner you choose to vote to allow this special exception, I would hope that you at a minimum, put restrictions and timelines on IMI.

1. The proposed berm needs to be built, not just hills of sand but an actual land berm with trees at both their existing quarry on 11th Road and at the new proposed location on the corner of King and 11th. These berms should be totally completed before any digging occurs at the new site.
2. They should be required to have a traffic plan, with funding by them, whereby any transportation of materials not be allowed to use King Road due to its "No Through" status and any trucks visiting the facility have to abide by this rule.
3. The entrance/exit to the proposed facility should not be within the "urban" area and preferably not in the areas near the urban area.
4. The facility should not be allowed to mine the area that is considered urban by statute and should not be allowed within a certain distance of the other homes near the site based on the injury to public health, safety & welfare of these residents.
5. And a reclamation plan needs to be presented for both of their quarries! You cannot allow them to just take all from the earth & not do anything to help it recover.

Please do not let anyone tell you that you cannot deny this request. If that were the case, then there would be no need for your board to even be involved in the review of this proposal. Please take all our comments to heart in your considerations and ask yourselves what you would want if this were proposed near your homes! We, the residents of King, 11th and Southfielde DO NOT WANT A NEW QUARRY in our area, it is injurious to our health, safety, and general welfare and the use and value of the area adjacent to the property, OUR HOMES, will be affected in a substantially adverse manner contrary to statements otherwise.

Thank you for your time and consideration.



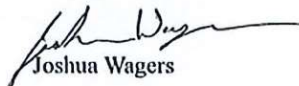
Bobbi Reinhold



Stanley Reinhold



Lyndi Reinhold



Joshua Wagers

PLYMOUTH BOARD OF ZONING APPEALS
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MARSHALL COUNTY ORDINANCE 2018-23
AN ORDINANCE RESTRICTING THROUGH TRUCK TRAFFIC ON COUNTY ROADS

WHEREAS, it is the statutory policy of the State of Indiana to grant to the counties of the State, all powers needed for the effective operation of government as to local affairs unless such exercise of powers are limited by the Indiana Constitution or by State Statute; and

WHEREAS, the Board of Commissioners of Marshall County, Indiana, and the Marshall County Highway Department are required to maintain county roads in Marshall County, Indiana, and have investigated and determined that heavy large commercial truck traffic has caused excessive wear and tear on numerous county roads which roads were not designed or constructed for such heavy large commercial truck traffic and it is in the best interest of the health and safety and general welfare of the public traveling over certain county roads to restrict truck traffic;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Marshall County, Indiana as follows:

SECTION 1. AUTHORITY TO REGULATE.

Marshall County, Indiana exercises its authority to regulate and restrict heavy large truck commercial traffic on local county roads;

SECTION 2. CONFORMITY WITH SIGNS.

No person shall operate a vehicle in Marshall County except in conformity with the requirements or directives of traffic signs posted on county roads, especially for signs that prohibit no through truck traffic on county roads.

SECTION 3. RESTRICTION.

Trucks that are restricted from through traffic include commercial trucks with a gross vehicle weight rating in excess of 26,000 pounds. No person shall operate a truck on county roads with posted signs that prohibit an operator to travel on said county road for other a business purpose at an address and location or as a resident living on that county road or at an address and location in Marshall County that can only be accessed by said county road. This restriction does not apply to school buses or firetrucks.

SECTION 4. WAIVER.

The Board of Commissioners, in extraordinary circumstances, may grant permission to an applicant who applies in writing to permit deviation from this ordinance when there are unique circumstances, alternate routes are unreasonable, and the use of the restricted road is in the public interest. The Board of Commissioners may attach conditions to such permit as the Board deems necessary.

SECTION 5. PENALTY.

Failure of an operator to adhere to this ordinance shall be a violation of the ordinance. A violation shall have a fine of Three Hundred Dollars (\$300.00).

SECTION 6. EFFECTIVE DATE.

This ordinance shall be effective thirty (30) days after publication after passage.

Passed and adopted by the Marshall County Board of Commissioners on

January 22, 2019.

MARSHALL COUNTY COMMISSIONERS

Kevin Overmyer
Kevin Overmyer, President

Michael A. Delp
Michael A. Delp, Vice-President

Stanley Klotz
Stanley Klotz, Member

ATTEST:

Julie A. Fox
Julie A. Fox, Auditor

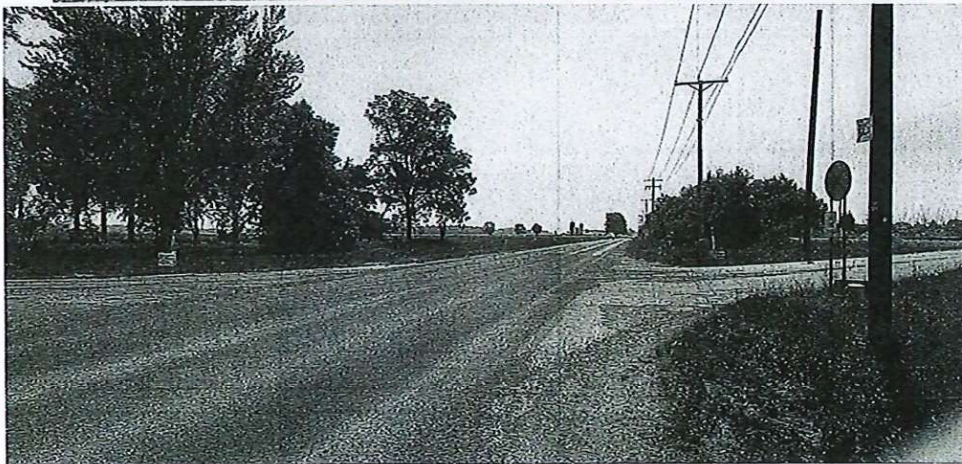
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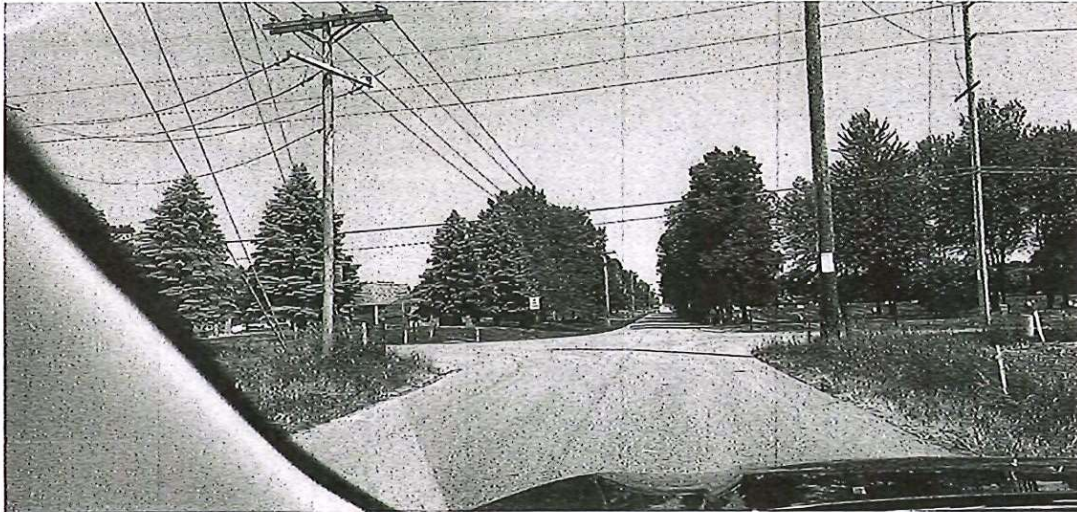


Sign posted at King Road and Lincoln Highway showing this road is "No Thru Trucks".



Intersection of Lincoln Hwy. and King Road. Signage visible from all directions.

PLYMOUTH BOARD OF ZONING APPEALS
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View traveling North on King Road of 11th Road intersection and "No Thru Trucks" signage.



View traveling North on King Road of 11th Road intersection and "No Thru Trucks" signage.

Booker read aloud the signature page for the board. He then went on to read the second letter aloud.

Nicole Ferguson (11535 King RD., Plymouth, IN 46563):

PLYMOUTH BOARD OF ZONING APPEALS

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11535 King Rd.
Plymouth, IN 46563

June 6, 2023

Plymouth Board of Zoning
124 N. Michigan St.
Plymouth, IN 46563

To Whom It May Concern:


We are writing with our concerns related to the zoning request to allow a gravel pit to operate at the intersection of 11th Road and King Road in Plymouth. Our home is located next to this location, and we are opposed to this proposition for the following reasons-

- Air Pollution from the mining activities that put Silica Dust in the air. The risks are outlined by the CDC, and include the potential for permanent lung damage.
- Air Pollution from the increased truck traffic, putting more exhaust into the air.
- Noise Pollution from operations of the gravel pit. We currently experience this with the current one, putting one directly next door would increase the noise even more.
- Noise Pollution from the trucks driving on the roads and accessing the gravel pit next door.
- Decreased Property Values and decreased chances to sell in the future with an industry so closeby
- Water Quality, risks outlined in a scientific journal released by MDPI, stating that exposing the aquifer to the atmosphere causes an increase the vulnerability to contamination.
- Poor Road Conditions caused by increased heavy truck traffic, causing more potholes and the break down of road surfaces.
- Stability of the roads and ground due to disruption
- No benefits to the neighborhood or community

According to a US Department of the Interior, and US Geological Survey- operating a gravel pit and this conversion of land use leads to changes to the landscape, loss of habitat, noise, dust, blasting effects, erosion, and sedimentation. Our neighborhood is already surrounded by multiple gravel pits and an asphalt plant, which create disruption, dust, exhaust, and noise. Adding an additional one when so many homes and families would be directly affected, has no benefit.

We ask that you vote NO to this zoning request, on behalf of ourselves, our family, and our neighbors.

Thank you,



Nicole Ferguson- Homeowner
fergison.nicole@gmail.com
574-780-1182

Ferguson was in attendance and wished to state that her twelve-year-old daughter also wished for her to add that she does want extra traffic so she is not late to school. She states that she promised her that she would add that.

Reinhold wished to read just a touch of what did not get read if that is okay.

Wendel states it did already reach the five minutes.

Reinhold wished to just give her finishing statement. She reads aloud her closing statement as seen below.

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Please do not let anyone tell you that you cannot deny this request. If that were the case, then there would be no need for your board to even be involved in the review of this proposal. Please take all our comments to heart in your considerations and ask yourselves what you would want if this were proposed near your homes! We, the residents of King, 11th and Southfield DO NOT WANT A NEW QUARRY in our area, it is injurious to our health, safety, and general welfare and the use and value of the area adjacent to the property, OUR HOMES, will be affected in a substantially adverse manner contrary to statements otherwise.

Reinhold then providing a listing of the cancerous dusts from IMI's own page.

Gidley asked this to be entered into the record.



Sand or Gravel

1. Product & Company Identification

Other means of identification
Synonyms Natural Sand, Gravel, Sand & Construction Aggregate
Recommended use Sand and Gravel aggregate may be used in the manufacture of bricks, mortar, cement, concrete, plasters, paving materials, and other construction materials. Sand and Gravel aggregate may be distributed in bags, totes, and bulk shipments. *Applies to all gradations.*

Recommended restrictions None known.

Manufacturer information/Supplier/Distributor information:
Company imi Aggregates
 Division of Irving Materials, Inc.
Address 8032 N State Road 9, Greenfield, IN 46140
Telephone (317) 325-3101
Website www.irmi.com
Normal Hours of Operation 8:00 AM to 5:00 PM Monday thru Friday

2. Hazard(s) Identification

Physical hazards Not classified.
Health hazards Carcinogenicity Category 1A
 Specific Target Organ Toxicity, Category 2 repeated exposure
OSHA defined hazards Not classified.
Label elements



Signal word Danger
Hazard statement May cause cancer. May cause damage to organs (lung) through prolonged or repeated exposure.
Precautionary statements
Prevention Obtain special instruction before use. Do not handle until all safety precautions have been read and understood. Wear protective gloves/protective clothing/eye protection/face protection. If exposed or concerned, Get medical advice/attention.
Response
Storage Restrict or control access to stockpile areas. Engulfment hazard: to prevent burial or suffocation, do not enter a confined space, such as a silo, bulk truck or other storage container or vessel that stores or contains aggregates without an effective procedure for assuring safety.
Disposal Dispose of contents/container in accordance with local/region/national/international regulations.

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Hazard(s) not otherwise classified Supplemental information

None known.
 Respirable Crystalline Silica (RCS) may cause cancer. Sand & gravel is a naturally occurring mineral complex that contains varying quantities of quartz (crystalline silica). In its natural bulk state, sand & gravel is not a known health hazard. Sand & gravel may be subjected to various natural or mechanical forces that produce small particles (dust) which may contain respirable crystalline silica (particles less than 10 micrometers in aerodynamic diameter). Repeated inhalation of respirable crystalline silica may cause lung cancer according to IARC and NTP and ACGIH states that it is a suspected cause of cancer. Other forms of RCS (a.g. stibionite and cristobalite) may also be present or formed under certain industrial processes.

3. Composition/information on ingredients

Mixtures	Chemical name	CAS number	%
	Sand and Gravel	None	>99
	Crystalline Silica (Quartz)	14808-60-7	>1

4. First-aid measures

Inhalation Sand & Gravel dust: Move to fresh air. Call a physician if symptoms develop or persist.
Skin contact Sand & Gravel dust: Wash off with soap and water. Get medical attention if irritation develops and persists.
Eye contact Sand & Gravel dust: Immediately flush with plenty of water for at least 15 minutes. Hold eyelids apart. Occasionally lift the eyelid(s) to ensure thorough rinsing. Beyond flushing, do not attempt to remove material from the eye(s). Get medical attention if irritation develops or persists.
Ingestion Sand & Gravel dust: Rinse mouth and drink plenty of water. Never give anything by mouth to an unconscious person. Get medical attention.
Most important symptoms/effects Inhaling dust may cause discomfort in the chest, shortness of breath, and coughing.
Acute and delayed Prolonged inhalation may cause chronic health effects. This product contains crystalline silica. Prolonged or repeated inhalation of respirable crystalline silica liberated from this product can cause silicosis, and may cause cancer.
Indication of immediate medical attention and special treatment needed Provide general supportive measures and treat symptomatically. Keep victim under observation. Symptoms may be delayed.
General information Ensure that medical personnel are aware of the material(s) involved, and take precautions to protect themselves. Pre-existing medical conditions that may be aggravated by exposure include disorders of the eye, skin and lung (including asthma and other breathing disorders). If addicted to tobacco, smoking will impair the ability of the lungs to clear themselves of dust.

5. Fire-fighting measures

Suitable extinguishing media Sand & Gravel is not flammable. Use free extinguishing media appropriate for surrounding materials.
Unsuitable extinguishing media None known.
Specific chemical hazards No unusual fire or explosion hazards noted. Not a combustible dust.
Special protective equipment and precautions for firefighters Use protective equipment appropriate for surrounding materials.
Firefighting equipment/instructions No specific precautions.

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Specific methods Contact with powerful oxidizing agents may cause fire and/or explosions (see section 10 of SDS).
General fire hazards No unusual fire or explosion hazards noted.

6. Accidental release measures

Personal precautions, and emergency procedures Wear appropriate protective equipment and clothing during clean-up of materials that contain or may liberate sand & gravel dust.
Methods and materials for containment and cleaning up Spilled material, where dusts generated, may overexpose clean-up personnel to respirable crystalline silica containing dust. Do not dry sweep or use compressed air for clean-up. Wetting of spilled material and/or use of respiratory protective equipment may be necessary.
Environmental precautions Avoid discharge of fine particulate matter into drains or water courses.

7. Handling and storage

Precautions for safe handling Do not handle until all safety precautions have been read and understood. Keep formation of airborne dust to a minimum. Provide appropriate exhaust ventilation at places where dust is formed. Do not breathe dust. Avoid prolonged exposure. Provide adequate ventilation. Wear appropriate personal protective equipment. Observe good industrial hygiene practices.
Conditions for safe storage Avoid dust formation or accumulation.

8. Exposure Controls/Personal protection

Occupational exposure limits
 1 - Value equivalent to OSHA formulas (29 CFR 1910.1000; 29 CFR 1917; 29 CFR 1918)
 2 - Value also applies to MSHA Metal/Non-Metal (1973 TLVs at 30 CFR 6617.5001)
 3 - OSHA enforces 0.250 mg/m³ in construction and shipyards (CPL-03-00-007)
 4 - Value also applies to OSHA construction (29 CFR 1926.55 Appendix A) and shipyards (29 CFR 1915.1000, Table Z)
 5 - MSHA limit = 10 mg/m³

U.S. OSHA Table Z-1 Limits for Air Contaminants (29 CFR 1910.1000)

Components	Type	Value	Form
Particulates not otherwise classified (CAS SEQ250)	PEL	5 mg/m ³	Respirable fraction
		15 mg/m ³	Total dust (4)

U.S. OSHA Table Z-3 (29 CFR 1910.1000)

Components	Type	Value	Form
Crystalline Silica (Quartz) (CAS 14808-60-7)	TWA	0.3 mg/m ³	Total dust (1,2)
		0.1 mg/m ³	Respirable (1,2,3)
Tridymite and Cristobalite (other forms of crystalline silica) (CAS Mixture)	TWA	0.15 mg/m ³	Total dust (1)
		0.05 mg/m ³	Respirable (1,2)
Particulates not otherwise classified (CAS SEQ250)	TWA	5 mg/m ³	Respirable fraction (1)
		15 mg/m ³	Total dust (1,4,5)

U.S. ACGIH Threshold Limit Values®

Components	Type	Value	Form
Crystalline Silica (all forms; CAS mixture)	TWA	0.025 mg/m ³	Respirable fraction
		3 mg/m ³	Respirable particles (2)
Particulates not otherwise classified (CAS SEQ 250)	TWA	3 mg/m ³	Respirable particles (2)
		10 mg/m ³	Inhalable particles (2)

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Vapor pressure Not applicable.
Vapor density Not applicable.
Relative density Varies from 85 lbm/ft³ to 115 lbm/ft³
Solubility(ies) (water) Insoluble.
Partition coefficient (n-octanol/water) Not applicable.
Auto-ignition temperature Not applicable.
Decomposition temperature Not applicable.
Viscosity Not applicable.
Other information
Explosive properties Not applicable.
Flammability Not applicable.

10. Stability and reactivity

Reactivity The product is stable and non-reactive under normal conditions of use, storage and transport.
Chemical stability Material is stable under normal conditions.
Possibility of hazardous reactions No dangerous reaction known under conditions of normal use.

11. Toxicological information

Information on likely routes of exposure

Inhalation Repeated inhalation of respirable crystalline silica (quartz) may cause silicosis, a fibrosis (scarring) of the lungs. Silicosis is irreversible and may be fatal. Silicosis increases the risk of contracting pulmonary tuberculosis. Some studies suggest that repeated inhalation of respirable crystalline silica may cause other adverse health effects including lung and kidney cancer.
Skin contact Sand & gravel dust may cause irritation through mechanical abrasion.
Eye contact Sand & gravel dust causes irritation through mechanical abrasion.
Ingestion Not likely due to the form of the product. However, accidental ingestion of sand & gravel may cause discomfort.
Symptoms related to the physical, chemical and toxicological characteristics Sand & gravel dust; discomfort in the chest. Shortness of breath, coughing.

Information on toxicological effects

Acute toxicity Not expected to be acutely toxic.
Skin corrosion/irritation This product is not expected to be a skin hazard.
Serious eye damage/irritation Direct contact with eyes may cause temporary irritation.

Respiratory or skin sensitization

Respiratory sensitization No respiratory sensitizing effects known.
Skin sensitization Not known to be a dermal irritant or sensitizer.

Germ cell mutagenicity

No data available to indicate product or any components present at greater than 0.1% are mutagenic or genotoxic.
 Respirable crystalline silica has been classified by IARC and NTP as known human carcinogen, and classified by ACGIH as a suspected human carcinogen.

IARC Monographs - Overall Evaluation of Carcinogenicity

Crystalline Silica (Quartz) (CAS 14808-60-7) 1 Carcinogenic to humans.
 Respirable Tridymite and Cristobalite 1 Carcinogenic to humans.
 (other forms of Crystalline)

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U.S. HIOSH: Pocket Guide to Chemical Hazards

Components	Type	Value	Form
Crystalline Silica (all forms; CAS mixture)	TWA	0.05mg/m ³	Respirable dust
Biological limit value	No biological exposure limits noted for the ingredient(s).		
Exposure guidelines	OSHA PELs, MSHA PELs, and ACGIH TLVs are 8-hr TWA values. NIOSH RELs are for TWA exposures up to 10-hr/day and 40-hr/week. Occupational exposure to nuisance dust (total and respirable) and respirable crystalline silica should be monitored and controlled. Terms including "Particulates Not Otherwise Classified", "Particulates Not Otherwise Regulated", "Particulates Not Otherwise Specified", and "Inert or Nuisance Dust" are often used interchangeably; however, the user should review each agency's terminology for differences in meanings.		
Appropriate engineering controls	Good general ventilation (typically 10 air changes per hour indoors) should be used. Ventilation rates should be matched to conditions. If applicable, use process enclosures, local exhaust ventilation, or other engineering controls to maintain airborne levels below recommended exposure limits. If exposure limits have not been established, maintain airborne levels to an acceptable level.		
Individual protection measures, such as personal protective equipment	Wear safety glasses with side shields (or goggles).		
Eye/face protection	Use personal protective equipment as required.		
Skin protection	Use personal protective equipment as required.		
Hand Protection	When handling or performing work with sand & gravel that produces dust or respirable crystalline silica in excess of applicable exposure limits, wear a NIOSH-approved respirator that is properly fitted and is in good condition. Respirators must be used in accordance with all applicable workplace regulations.		
Other	Not applicable.		
Respiratory protection	Not applicable. Wear appropriate thermal protective clothing, when necessary.		
Thermal hazards	Always observe good personal hygiene measures, such as washing after handling the material and before eating, drinking, and/or smoking. Routinely wash work clothing and protective equipment to remove contaminants.		
General hygiene considerations			

9. Physical and chemical properties

Appearance	Physical state	Form
Physical state	Solid.	
Form	Solid, particles.	
Color	Gray, brown and variations of gray and brown.	
Odor	Not applicable.	
Odor threshold	Not applicable.	
pH	Varies between 7.0 to 8.0	
Melting point/freezing point	Not applicable.	
Initial boiling point and boiling range	Not applicable.	
Flash point	Non-combustible.	
Evaporation rate	Not applicable.	
Flammability	Not applicable.	
Upper/lower flammability or explosive limits	Not applicable.	
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NTP Report of Carcinogens

Crystalline Silica (Quartz) (CAS 14808-60-7) Known to be human carcinogen.

OSHA Specifically Regulated Substances (29 CFR 1910.1000-1050)

None listed.
Reproductive toxicity Not expected to be a reproductive hazard.
Specific target organ toxicity - single exposure Not classified.
Specific target organ toxicity - repeated exposure Respirable crystalline silica may cause damage to organs (lung) through prolonged or repeated exposure.
Aspiration hazard Due to the physical form of the product it is not an aspiration hazard.
Chronic effects Prolonged inhalation of respirable crystalline silica may be harmful as it may cause damage to organs (lung) through prolonged or repeated exposure. There are reports in the literature suggesting that excessive crystalline silica exposure may be associated with autoimmune disorders and other adverse health effects involving the kidney. In particular, the incidence of scleroderma (thickening of the skin caused by swelling and thickening of fibrous tissue) appears to be higher in silicotic individuals. To date, the evidence does not conclusively determine a causal relationship between silica exposure and these adverse health effects.

12. Ecological information

Ecotoxicity Not expected to be harmful to aquatic organisms. Discharging sand and gravel dust and fines into water may increase total suspended particulate (TSP) levels that can be harmful to certain aquatic organisms.
Persistence and degradability Not applicable.
Bioaccumulative potential Not applicable.
Mobility in soil Not applicable.
Other adverse effects No other adverse environmental effects are expected from this material.

13. Disposal considerations

Disposal instructions Do not allow fine particulate matter to drain into sewers/water supplies. Do not contaminate ponds, waterways or ditches with fine particulates. Dispose of contents in accordance with local/regional/national/international regulations.
Hazardous waste code Not regulated.
Waste from residue/unused products Dispose of in accordance with local regulations. Empty containers or liners may retain some product residues. This material and its container must be disposed of in a safe manner (see: Disposal instructions).
Contaminated packaging Since empty containers may retain product residue, follow label warnings even after container is emptied. Empty packaging materials should be recycled or disposed of in accordance with applicable regulations and practices.

14. Transport information

DOT Not regulated as dangerous goods.
IATA Not regulated as dangerous goods.
Transport in bulk according to Annex II of MARPOL 73/78 and IBC Code Not applicable.

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15. Regulatory information

U.S. federal regulations			This product is a "Hazardous Chemical" as defined by the OSHA Hazard Communication Standard 29 CFR 1910.1200.	<p>Notice to reader: To the best of our knowledge, the information contained herein is accurate. However, Imi Aggregate Division of Irving Materials, Inc., nor any of its subsidiaries, assumes any liability whatsoever for the accuracy or completeness of the information contained herein. Final determination of suitability of any material is the sole responsibility of the user. All materials may present unknown hazards and should be used with caution. Although certain hazards are described herein we cannot guarantee that these are the only hazards that exist.</p> <p>This Safety Data Sheet represents ingredients and values typical for sand & gravel aggregates. The information contained in this Safety Data Sheet relates only to the specific material designated herein and does not relate to use in combination with any other material or in any process. The information set forth herein is intended for use by persons having technical skill and at their own discretion and risk. Since condition of use are outside the sand & gravel products producer's control, the producer makes no warranties, expressed or implied, and assumes no liability in connection with any use of this information.</p> <p>The provision of the information contained herein is not intended to be and should not be construed as legal advice or as ensuring compliance with any Federal, State, or Local laws and regulations. Any party using this product should review all such laws, rules, and/or regulations prior to use.</p> <p>NO WARRANTY IS MADE, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE.</p>
TSCA Section 12(b) Export Notification (40 CFR 707, subpart D)		Not regulated.		
OSHA Specifically Regulated Substances (29 CFR 1910.1000.1001-1050)		Not listed.		
CERCLA Hazardous Substance List (40 CFR 302.4)		Not listed.		
Superfund Amendments and Reauthorization Act of 1986 (SRAR)				
Hazard categories				
	Immediate hazard - No			
	Delayed hazard - Yes.			
	Fire hazard - No			
	Pressure hazard - No.			
	Reactivity hazard - No.			
SARA 302 Extremely hazardous substance		Not listed.		
SARA 311/312 Hazardous chemical		Yes.		
SARA 313 (TRI reporting)		Not regulated.		
Other federal regulations				
Clean Air Act (CAA) Section 112 Hazardous Air Pollutants (HAPs) List		Not regulated.		
Clean Air Act Section 112r Accidental Release Prevention (40 CFR 68.130)		Not regulated.		
Safe Drinking Water Act (SDWA)B		Not regulated.		
U.S. State regulations				
Massachusetts RTK - Substance List				
	Crystalline Silica (Quartz) (CAS 14808-60-7)			
	Respirable Tridymite and Cristobalite (other forms of crystalline silica) (CAS Mixture)			
U.S. New Jersey Worker and Community Right-to-Know Act				
	Crystalline Silica (Quartz) (CAS 14808-60-7)			
	Respirable Tridymite and Cristobalite (other forms of crystalline silica) (CAS Mixture)			
U.S. Pennsylvania Worker and Community Right-to-Know Law				
	Crystalline Silica (Quartz) (CAS 14808-60-7)			
	Respirable Tridymite and Cristobalite (other forms of crystalline silica) (CAS Mixture)			
U.S. Rhode Island RTK				
	Not regulated.			
U.S. California Proposition 65				
WARNING: This product contains a chemical known to the State of California to cause cancer.				
U.S. California Proposition 65 - Carcinogens & Reproductive Toxicity (CRT):				
Listed substance: Crystalline Silica (Quartz) (CAS 14808-60-7)				
International Inventories				
Country(s) or Region	Inventories name	On inventory (yes/no)		
United States & Puerto Rico	Toxic Substance Control Act (TSCA) Inventory	Yes		
*A "Yes" indicates this product complies with the inventory requirements administered by the governing country(s). A "No" indicates one or more components of the product are not listed or exempt from listing on the inventory administered by the governing country(s).				

16. Other information, including date of preparation or last revision

Issue date	June 1, 2015
Version #	1

For Further Information Contact:

Irving Materials, Inc.
8032 N State Road 9
Greenfield, IN 46140
(317) 326-3101

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Amanda Petrucelli (10830 Cardinal Circle, Plymouth, IN 46563):

Petrucelli states her back is to the gravel pit and they have lived there for 21 years. She states when she moved in and Rock Industries was there, they were told it was going to be three years before the whole thing would be shut down and it would be turned into a nice little lake. She clarifies that was 21 years ago and about 10 years ago they sold to IMI who is here and has been a consistently terrible neighbor. She asks how many people here have had a kielbasa with sand ruining your barbeques. She provides images of her gutters that were just cleaned out a few days ago. She states the last time they were cleaned prior to that was March. She clarifies that is the sand they have gotten just since March. She provides images of her pitted back windows from sand blasts. She states unfortunately she does not have a picture of their Christmas Eve snow which turned beige. She states maybe someone else has a picture of that so instead of crystal white snow on Christmas we had beige. See attached images below. She states she will try not to repeat anything but she does agree with everything so far. She states she has also got to listen to them dump buckets of sand, tons of sand, on Spring Peepers. She asked if you have ever heard 1,000 Spring Peepers silenced in 30 seconds.

Wendel asks if that is a bird.

Petrucelli responds by stating that is a frog. She states the track record of this company is extremely poor. She states when they ran out of space they then tried to put in the asphalt and the concrete plant and they were able to defeat that. She states that was approximately 7-8 years ago. She states they put in a temporary moveable concrete plant. She states she did not even know they owned Kuert Concrete so she wonders how temporary that is.

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Gidley states they recently just purchased Kuert Concrete.

Petrucelli states it is there and it isn't temporary.

Gidley explains they did not put it there to start with.



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Petrucelli states what they are doing is either bullying, intimidating or waiting out land owners that surround the area and are offering them whatever they are offering them to buy the land. She states you guys are granting them that ability to mine it. She states you do have a choice tonight. She states they have an attorney to cite certain codes and they have attorney's that can site different codes. She states you know it is the wrong thing to do to people and she would assume you are here because you represent the people and the future of this community so do the right thing because nobody wants this. She states Plymouth should not be a town of holes and if you look at an aerial of that entire area that it is holes. She states she lost her sunset because they put a giant pile of sand behind her house. She states the berm that was promised is certainly not planted, certainly does not have trees and that it isn't a berm but rather a giant pile which is fine if you look at it on satellite. She states that the 73 acres they want to do here and it surrounds a Mennonite home.

The crowd states they are Amish.

Petrucelli assumes they are not here tonight because they do not involve themselves in these things. She states they have an absolutely bucolic fenced in horse area with frolicking palominos, tall grass and a vegetable garden. She states she is speaking up for them as she knows they do not want this in their back yard.

Gidley asks who the family is.

The crowd says Allen and Elaine Miller.

Petrucelli states this town should not be beholden to out-of-town corporations who come in. She states there is probably \$3 million worth of sand in that lot and they want the \$3 million dollars. She adds that Plymouth will not get that \$3 million. She states her Southfielde Subdivision which is the circle subdivision, so she is not counting all the other people that are in that area, so her subdivision is 61 homes they pay an average of \$1,500 in tax each year per home. She states if you have an average of four people per house then that is 244 people just in that little circle that are going to be affected. She states in the meantime she has looked at the tax records on IMI behind her house and it is a \$600,000 value property and you are receiving \$9,500 in property taxes from them and that is all you are getting. She explains meanwhile we are paying you \$100,000 in property taxes. She asks how many minutes she has left.

Longanecker responds by stating she has about 30 seconds left.

Petrucelli states miles for the jurisdiction is garbage. She states your vote is what counts and you are appointed by the people we elected and they vote for. She states as Abraham Lincoln said, "This is a government by the people, for the people and of the people." She expresses that they do the right thing because the people do not want this crap.

Teresa Cornelius (10838 Cardinal Circle, Plymouth, IN 46563):

Cornelius states every truck that leaves that plant and goes around that corner is going to go right past her back yard. She states she already put up a privacy fence around part of her yard because of all the trucks. She explains she cannot take four times as many and her house is going to lose value. She states nobody is going to want to buy her house when she goes to sell it when there are fifty

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trucks going by 35 feet away from her house every day. She states they start early in the morning and they go until night. She states she can't take a nap as she works night shift at the hospital. She states she has had to get sound barriers and blackouts because those trucks do not slow down and they go fast and they are very loud. She states as for the pollution and the dust that she has the same problem and agrees with everyone on that. She states as for the water, she does not feel anyone has mentioned it. She asks the applicant what they are going to do about all the holes they have already made. She states if you can't fill in and take care of the holes you already made then why do we want to let you make another one. She states if you show them, they can take care of the hole you already made then maybe we will talk to you again in 10 years.

Lonnie Nicholl (10685 Oriole Lane, Plymouth, IN 46563):

Nicholl states he has a visual that came out of 35 foot of his gutter this year. He states he took one out last year and another one out the year before that. He states he has another one that he would have brought but his bucket broke on that. See attached image below.



He states they have been out there just short of the Petrucelli's and they had brown snow the last time they had snow too. He states there is a lot of dust as you can see. He states what he is really concerned about is there is 61 homes out there and the average price of those homes is right around \$200,000 and he is very concerned if dig another hole that deep what it is going to do about all their wells. He states if they lose their water that someone is going to have buy 61 homes at \$200,000/home. He explains it is really simple and it is not hard arithmetic. He states he knows they would file a class action lawsuit and it would get really ugly but they do not want to do that. He states every one of those homes has a well and when they start letting the water out of the ground across the road then what is going to happen to all their wells. He states they do not know and he does not believe anyone has really ever done the aquifer study as to what will happen to them. He states that is why they were so concerned about the asphalt plant coming in eight years ago just west of them.

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He asks what happens when the oil and things like that permeate the ground and pollute the aquifer. He states then you have a whole bunch of homes that mean nothing. He states he say that in Milford, IN just north of Milford on US 6 there was a company, that was not IMI, that pumped a bunch of junk into the ground and the state ended up buying all the homes north of US 6 for a couple of miles and destroying them because the aquifer was poisoned. He clarifies this does happen, it can happen and he can't say it will happen.

Gidley asks if it was a gravel pit.

Nicholl responds by stating it was not, it was a manufacturing facility. He clarifies the idea is still the same as they pollute into the aquifer. He understands that is what happens and they have one west of them and one southwest of them and they are full of water and nothing has happened yet. He asks them how many times do they have to do this before it fails them.

Angela Rice (11492 King Road, Plymouth, IN 46563):

Rice states she has lived there for almost 23 years and she is going to try not to get emotional. She explains in her mind she is a recent widow and she owns almost two acres on the south side of where they want to do this. She states she has already purchased and is already going to be closing on a smaller place here in town because she cannot take care of her current property. She states she has potential buyers that want to buy it that are now here who may potentially not go through with the purchase because of this. She asks how she is going to sell her home for all the money they put into it and the land. She states if you bring it down even farther out of that red area (urban area) that it is going to affect those four homes right there. She states they were all ready to sign papers and do an offer but she could not consciencely do it having receiving that letter in the mail so she shared that with them because she is an honest person and she wants you guys to do the honest right thing for this community because she can't do this. She clarifies she is alone and she needs you guys to help her.

Sarah Miller (10842 Cardinal Circle, Plymouth, IN 46563):

Miller states she is here with a lot of her family tonight and part of the reason they moved back to Indiana was for her father. She states her family had a farm in Grovertown and they moved back home to get out of the city of Chicago. She states you all know what is happening up there. She states she came her to be in a sanctuary, a safe place, a beautiful place that has farmland right behind them so that it was quiet for her daughter who just graduated High School today and will be going to IU. She states her father is not with them tonight because he is sick. She clarifies he has lung cancer and Chronis Obstructive Pulmonary Disease (COPD) and they moved out here for clean fresh air. She states obviously the dust is a concern and it has been a concern that is currently going on. She states when she first heard about this that it made her shake. She states her family is here to take care of each other and this is not going to take care of her father, his health or any of us. She states she is an avid walker and she believes everybody has seen her walk a time or two about 5-10 miles a day. She states that the trucks do not abide by the speed limit and they wake them up at crazy hours of the day. She describes watching her mother on a John Deere tractor mowing the back yard waiting for dump trucks to go flying past her. She states she has her future step kids coming out from Colorado to visit and she is worrying about their safety on that road. She states it is not just one issue and there is more to what they are saying. She states they are not insignificant as there

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are 61 homes out here. She lists there are health issues, the water table and a lot of other issues that need to be addressed and we need you guys to help us here. She states they came out here looking at a farm with the beautiful Amish scene with the horses. She states they back up to that and are smack dab center of this red line. She states what they came out here for and what they bought into Plymouth for is being strict with this. She states there is absolutely no way you can take a farm and replace it with a berm with trees. She states she grew up in the city of Chicago and she knows the difference between a line of trees and a farm. She states there is so much that can be mentioned about the wildlife and the things that people love out here. She states they do not want to be Plymouth Center and that is why they bought out here. She states they have their small knit community and they have children in the streets everyday out there rocking with her riding bikes. She states they cannot have that when there are even more trucks out there on the road with the dust and everything else. She states if anyone goes to dust their house any day even if it is sealed up tight that you end up with a pile of dust every single day. She states they are not even close to the main plant out there and she cannot imagine what the homes close to IMI are dealing with. She states she isn't here to say anything bad about mining as her future husband works in a mine in Colorado so she isn't here to say anything bad about them. She states what she is saying is out there they do it right and respect the people around them and they are not close to people's farms, their land or ranches and what they are doing here is right smack dab in a community. She pleads that you take this into consideration as they bought into this and the property value, her dad's health and everyone else's health in the neighborhood need to be considered.

Kevin Warren (210 S. Michigan St. #500, South Bend, IN 46601):

Warren states he is an attorney out of South Bend and he is here to represent Russell Wilson who resides at 11390 King Road. He states in respect to the traffic, dust and environmental concerns that those are certainly things Mr. Wilson agrees with. He states he is more here to speak in terms of the standards of the petition and the full requirements. He explains we have seen those laid out there and he thinks they need to pay special attention to the fact that these standards have to be met with specific facts. He states these standards cannot be simply met with recitation of what the standard is and saying it complies with the Comprehensive Plan or it complies with the Zoning Standards. He explains you have to look at specifically how it does or doesn't do that. He states the fact that they are regulated is not a special finding that they are somehow not injurious. He explains being regulated simply means if you did one thing less you would be illegal so there are still significant concerns here with this particular site, these particular properties and the need for specific findings on how those impacts are. He states a blanket statement of saying we are regulated is not enough. He states the fact there are other sites in the area that do this sort of work does not speak to the fact that there is a cumulative effect of adding yet more of these is not being addressed in the petition. He states it is not clear how a 70-acre mining operation in a R-1 zone is somehow consistent with the zoning ordinance. He states the R-1 Zone is an agricultural low density scattered residential use and similarly the Comprehensive Plan speaks to this area in a number of ways. He states this is a gateway area and that was talked about a little bit earlier with the other petition. He states that is an area that is identified in the Comprehensive Plan as something that is supposed to announce the arrival into Plymouth as you come up US 30. He states the Comprehensive Plan focuses on Plymouth's goal of sustainable development. He states this is not a sustainable development practices and the Comprehensive Plan speaks like the zoning ordinance does in terms of this area being primarily agricultural with scattered home sites. He clarifies these are all inconsistent uses with what is being proposed here today. He states the notion that finally that this

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is somehow consistent with the economic development goals of the Comprehensive Plan is also a generalized statement that is not specifically tailored to what is actually in the Comprehensive Plan. He states to believe this is consistent with that section of plans means anything that earns money is somehow consistent with the plans or it employs a few people. He explains that a landfill would fit into that category. He explains if you really look at what the Comprehensive Plan identified as it's economic development goals it is identifying redevelopment zones, Brownfields redevelopment, shovel ready development sites, expanding broadband and fiber access, creating business park master plans and this does not speak to any of those concerns so he does not think you can conclude that this is somehow consistent with the zoning standards or the Comprehensive Plan. He states on Mr. Wilson's behalf he would request that you deny this petition.

John & Ruth VanVactor (11410 King RD., Plymouth, IN 46563):

Mrs. VanVactor states their property is located immediately east and adjacent to the property that is subject to the application. She states they purchased their home in May of 1985 because they wanted to live in the rural area and at that time it was zoned agriculture. She states until May of 2008 it was the agriculture zoning which is obviously the zoning that was in existence when they purchased their home. She states she wants to mention from the Rural Residential that it does say it is intended to preserve the rural nature of the land and that is what they are trying to do here. She states they obviously agree with the air quality and noise pollution impact as well as the safety issues. She states she wanted to address the moral issue. She explains they have attended several hearings regarding IMI's use of property in the area and most recently they had attended and voiced their concerns to the County BZA when IMI requested running the asphalt plant 24 hours a day. She states thankfully the County BZA denied the request which she realizes this does not pertain to this property but it definitely goes to show that they have no respect or consideration for the residents in the area as neighbors. She restates their property is directly east and from their front door to the edge of the property is 100 feet.

Gidley asks for her to show him where her property is. Mr. VanVactor shows them on a map where their home is located.

Mrs. VanVactor restates from their front door to the property line is 100 feet. She states with that prevailing west wind all that dirt and dust is going to be coming directly into their homes.

Mr. VanVactor comments on the picture with the red box that they agree with that as far as the advisory area and it states eight (8) residents within a quarter mile square area but it also says, "and other lands or lots that have been or are planned for residential areas." He states this whole area is R-1 Rural Residential so to him that it is planned as a residential area so that puts it in this advisory area as an urban area which you have control over. He states also along the rural issues it is interesting that the pictures they submitted for this application are not for the IMI plant here in Plymouth but instead of another location. He states that is what the gentleman said. He asks why they didn't submit to you pictures of this current plant to show you that there are still buffers and they come right up to the property lines with their road that goes back to their new mining operations. He states with all of that they would respectfully request that you deny their application.

Thomas Stull (10818 Cardinal Circle, Plymouth, IN 46563):

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Stull states he is not going to repeat what has already been said about the concern of traffic and the value of their homes decreasing but what he is going to present to them is a data sheet that came in directly from IMI and it has to do with their hazardous material. He states this can create lung cancer and it is their data sheet. He states the dust they are experiencing can cause cancer and he has enough copies for all of you.

Richie asks if that was the same one that was provided earlier.

Reinhold responds by stating he provided that to her.

Stull states there has been a lot of traffic that has went to 10th Road area and a lot of dust. He states he did make a phone call and he is not sure if he talked with this gentleman or not but it was a foreman. He states they told him they would water the road down and they did for a while and it does happen occasionally but not all the time. He states they have a great big pile of sand and when they get a wind that dust is not going to just affect those eight houses but it affects the whole subdivision. He states with the bucket that was brought up here, you can see what kind of dust they are talking about. He would like to ask that you be concerned about the health and safety of us residents as well when you make your decision.

Connie Nicholl (10685 Oriole Lane, Plymouth, IN 46563):

Nicholl states she will try not to repeat herself but the traffic, health and value of their homes are concerns. She states the last time she went to a meeting somebody here made a comment asking why did we buy there knowing it was there. She states they bought the house twenty years ago and they were told the asphalt plant was permanently closed and they were told the gravel pit was closing down so they didn't have to worry about it. She states on the other hand of it, how can they sell their home now if it is there. She states she does not want to move as it is one of the greatest places she has ever lived. She states the people are really nice and it is a clean safe neighborhood and IMI is ruining it.

James Hartung (10852 Cardinal Circle, Plymouth, IN 46563):

Hartung states he and his wife own the silo, both retention ponds, the lot and their house is right near the top of the red area (urban area). He states his biggest concern is not only about the carcinogenic and when you look up what crystalized silica actually does to the human body. He states his big thing is when you look at Grant County, if there are any houses next to that. He asks if it is next to a development like this. He asks what happens for US 31, whatever they are going to do at 11th and US 31, that it is going to be a problem. He states if the state closes that down then all of that traffic is going to go right down 11th Road and right down King Road and he does not believe that road can handle that and it won't be a good thing.

Michael Krieg (10819 Cardinal Circle, Plymouth, IN 46563):

Krieg states they moved from Indianapolis three years ago and they came to this property in January when they didn't see any activity over at the quarry. He explains they then bought the house in February but then all hell broke loose come Spring. He states in the three years they have lived at this property his wife has developed Acute Asthma and she is seeing a specialist in Warsaw. He

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states they might have to move only because of that giant hill. He states there is a big mound taller than the houses. See attached image below. He states when the wind blows primarily from the southwest that it looks like a scene out of The Grapes of Wrath. He states there is a cloud of dirt that blocks sight from one end of the complex to the other. He clarifies it is that bad and he really does not want to leave but her health now has become a big issue. He states that means they may have to sell the home they got when they moved from Indianapolis to retire from the military and her from the school corporation. He explains they came back home to Marshall County for the very good reasons he is sure you all agree are the reasons we should be here. He states all of the people on here have some really good reasons why this whole thing should be forgotten and flushed. He states it is not good for any of us, not good for the county, the city and it is surely not good for his wife's health. He states he is sure she is not alone in this demise. He states it angers him they had to go through all this trouble as all of these people out here have only to come across something that this that is absolutely worthless. He states it is worthless to the citizenry, the county and to you all. He asks them to pardon his anger but thanks everyone for listening.



Gidley asks if there is no one else who wished to speak that he would like a show of hands who is opposed to this proposition.

In the audience, all but three hands went up. There were hands coming in from out in the hallway as the room was filled to capacity.

Gidley asks how many people are out in the hallway.

The audience responds by stating 13.

Board Members Wendel and Richie moved and seconded to close the public hearing. The motion carried.

Richie states he has a question for IMI and Mr. Pletcher. He asks when the employees are working in this and you guys are digging or excavating and you are in the midst of it, are you all wearing respirators.

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Pletcher responds by stating they do not.

Richie asks for clarification that nobody wears respirators in this dust.

Gidley asks for clarification as it is on their own material handler data sheet but you are not taking any precaution handling that.

Holcom responds by stating what they are digging right now is a wet process and they are taking it out of the water. He states they in the plant as well it is a wet process.

Gidley asks about the area near where the sand is. He asks about the people who work near the sand pile.

Holcom responds by asking if he is referring to where the stockpile is.

Gidley asks if they are wearing respirators or taking any precautions since that product is on their material data handling sheets.

Holcom responds by stating he does not have the information that they test for that. He states that is for their safety director.

Richie states he is just asking because from your own data sheet it lists, "may cause cancer, may cause damage to organs from prolonged or repeated exposure."

Pletcher states all he can say is they are tested regularly and it is required by federal law. He states they all go above and beyond to do it on their own also. He states their guys wear chest monitors for all shifts and they have never failed one of those tests for silicas.

Richie asks for clarification they wear chest monitors when they are there.

Pletcher responds by stating at times and not every day.

Richie asks because of the dangers of it.

Pletcher responds by stating because we want to be sure there is no danger.

Richie states there is a danger to it because that is why they are wearing the monitor. He asks if there was no danger then they wouldn't be wearing a monitor.

Pletcher responds by stating there would be danger if it failed.

Gidley states he doesn't mean to drag county officials into this, but he finds it ironic that they can ban solar farms because they are worried about farm ground. He states if you build a solar farm on 73 acres of farm ground that you can take the solar panels out some day and you would be left with farm ground but yet in this case, they are going to dig a hole and the farm ground is going to disappear and it is not going to be replaced. He states it is unbelievable to him that they can protect one corner of the county but the people of Plymouth can supposedly not protect itself. He states he

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is an appointee and he states this will be his five minutes. He states he is an appointee of the County Commissioners and he lives in the two-mile zone. He states he is the two-mile representative to the Plan Commission and through the Plan Commission to the Board of Zoning Appeals. He states the other two-mile representative is Doug Feece and he represents all of you on the Plymouth Plan Commission if you live in the two-mile zone. He states he is unsure how long Feece has done this and believes it may be around 20-25 years. Gidley states he has done this for 16 years. He states everyone of us, even these new people, take this very seriously. He states he does not believe this is the right thing for Plymouth and he has never lived in the city limits but he is more of a Plymouth boy than a Marshall County boy. He states he has always thought of himself as a Plymouth resident even though he has always lived just outside the edge. He states his parents used to live just outside the city limits and he moved a little farther out. He states if gravel is so easy to find in this county, and he knows it is not everywhere, then why did it have to be here. He states you could go somewhere else and do it. He states one other thing why they are on the topic. He states the county is building a gravel pit right next to his house but they did not come before this board at the County Highway garage. He asks why they didn't come here and he asked that question. He states he never did get a straight answer why they didn't come here. He states next time he is up for reappoint that he guesses he won't be reappointed at this board. He states he is fed up of the double standard.

Richie states this is for the IMI people. He states he is a capitalist at heart and he loves big business but people bought their homes and are raising children and grandchildren here. He states the health concerns for this come from your own data sheet and it is concerning that you can stand up here and plead knowing people are living there and raising children there. He states they have to approve based on if it is injurious to the public health, safety, morals and general welfare and he does not believe this passes any one of those tests. He lists the general welfare of the people, the morals of the people and definitely not of the safety. He motions to deny this.

Surrisi wishes to clarify that the denial can only be with respect to the red area or better known as the urbanized zone.

Richie clarifies he motions to deny whatever they can deny based on it being injurious to the public health, safety, morals and general welfare of the people.

Wendel clarifies his second based on the eight houses that are in the top there in red along with the 86 other houses there in red. He states this will injure their house, cause them to lose money on their houses when they try to sell it. He states they all have lives and they live in Plymouth. He states they do not need another gravel pit in that area as these people have put up with it long enough.

Someone from the audience asks what about the southern houses.

Wendel responds by stating there are only five houses down there.

Someone from the audience asks if five people matter.

Wendel responds by stating he is told this has to be based off the red zone.

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Surrisi states the nature of municipal government authority within the State comes from the State. He explains the State has passed a law called the home-rule act that says if the state hasn't regulated how or what they can do as a municipal government that they would in turn be free to regulate as they see fit. He states if they do regulate then they only have power because the State Legislature chose to give them power as a city or county. He states they have regulated how we can exercise that power with respect to mining in areas that are outside the urban area. He states with respect to the board saying the public hearing is closed to keep that in mind. He states he will entertain this one question but that does not open it up to a bunch of questions.

Petrucci asks if this can be appealed if they hire an attorney for the rest of that section down State. She asks if that portion could include a stay on anything else being done to that property.

Surrisi responds by stating they are the decision makers but that would be over his recommendation to the contrary as it would foster litigations certainly. He states his opinion legally is they do not have the authority to regulate in that area outside the red.

Someone from the audience asks if the State does.

Surrisi responds by stating that the State does but that would take talking to your legislators and getting them to change the law. He states that would not affect this situation now as it is operating under the existing laws.

Someone from the audience asks if they could regulate the roads that someone is going up and down.

Surrisi responds by stating that is a matter for the County government and they already have that authority since they have passed an ordinance. He states that is an enforcement matter that the city does not have any process in. He states that Booker did talk about that their ordinance does mention a highway maintenance bond and as the way it is written it references the Board of Public Works and Safety because they hold jurisdiction over roads within the city. He states he would interpret that as they would talk with them and say maybe they give it a stamp of approval but it goes to the County Commissioners to figure out that. He states he is open to discussions with Mr. Jones on his interpretation of that as they move forward with dealing with that in respect to the part in their ordinance about bonds. He states he is not entirely certain if that would apply because they would be denying under this scenario any mining within the area, they have jurisdiction over and perhaps they do not even have authority in this non-urbanized area to impose that restriction. He states that would probably be up for discussion after whatever action is taken here.

Booker states it goes back to the zoning ordinance where it authorizes mining operations. He states for himself that he wishes this was not in the ordinance but it has to be there per State Law. He states you could deny the whole thing but it says in here, "This chapter does not authorize an ordinance or action of a plan commission that would prevent, outside of urban areas, the complete use and alienation of any mineral resources or forests by the owner or alienee of them."

Someone from the audience states a plan commission but not a board of zoning appeals.

Booker states the plan commission made the ordinance in which they are applying.

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Richie asks for clarification that they are denying their request for a variance and that is all they are doing right now.

Booker responds by stating they are denying their special use.

Wendel does not believe we have to accept this. He states there is eight houses up there on the northern edge.

Surrisi responds by stating they have examined this and worked with their GIS personnel to create this map. He states that Booker and himself have both looked in the surrounding areas and as far as they can tell this is the only quarter mile square that touches the proposed gravel pit property that contains at least eight residences. He states in regards to the discussions about the homes to the east and south that none of that would fit eight residences within a quarter mile square and still touch any of the gravel pit.

Richie asks since they owe it to these homeowners that are here and concerned to table this until they get a better understanding of all of this and what their capability is in this.

Surrisi responds by asking what legal understanding they have questions about. He states he is 100% confident that...

Gidley interjects and asks why did they have to go through all of this if they have no authority.

Surrisi responds by stating they have authority...

Gidley interjects and states only for those eight residences.

Surrisi states you can decide to only allow them to mine only in that red or it seems the pleasure of the board is to not allow them and that is why they have done this.

Someone from the audience asks if they can't mine in the red if they will even want to mine in the lower part.

Surrisi responds by stating he is not sure and that is up to their business model if it makes sense to them.

Booker states you could allow in the red area with certain conditions.

Someone from the audience asks why the red area can't go further.

Surrisi responds by stating he will say it once more. He states himself, Booker and the GIS staff internally in the city experimented with drawing a quarter mile square and the way the State Statute reads that this board only has authority to regulate mining within any quarter mile square that has these eight residences in it.

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Someone from the audience asks if something is zoned residential that it assumes it is owned by a resident but this is owned by a corporation. She states you could obviously sell your property to a foreign company, Walmart or IMI. She asks if it matters that it is not a human being or resident who owns that legally.

Surrisi responds by stating Mr. Jones ended on this in his opening presentation. He states under our zoning ordinance this property that the proposed gravel pit is zoned Rural Residential and so that in that zoning in our ordinance it lists uses of that property that are permitted that would take no additional review to do then there are a whole list of other things that are called special uses and those are things that are contemplated of being a permissible use for that land with that zoning character but in order to determine if that is specifically appropriate to this specific property that it requires this special use application. He states it requires the person who wants to use the land in that manner to come before this board and for them to look at all the facts in regards to neighboring properties. He states it does not have to be a person but it has to be in respect to how the city council would determine it to be a proper use of this land.

Booker adds that it goes by use and not the person.

The room became inaudible.

Booker states if they were right across the line in the east that it is the same language in the county like how it is in the city ordinance. He states if they were by the asphalt plant then they would be having to go to the county in the same procedure.

Richie proposes we deny IMI going into the red area that they are asking for based on public health, morals, general welfare to that community.

Wendel adds property taxes.

Richie states he amends his proposal. Wendel seconds.

Gidley asks if they have that red square laid over that whole 73.68 acres.

Surrisi responds by stating their estimated line lines up where with that second parcel on the east. He would assume that is roughly 40-50% of the property that it covers.

Gidley asks what the dark part of the map is near the bottom.

The audience responds by stating it is a tree line. The room then becomes inaudible.

Feece asks if they can deny them from going thru that red portion to haul their gravel out from the southern portion.

Surrisi responds by stating it is rather landlocked and they would have to have a necessity to access that part of their property.

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Longanecker asks if that is the case if you can mandate that to be a paved drive. He explains you can set standards.

Surrisi responds by stating you can technically regulate within the red.

Wendel suggests putting in the motion that you cannot dig down no more than two feet. The room becomes inaudible.

Surrisi states what he would recommend on a case like this as they have done this in the past with cases that have drawn a lot of attention as they could have future appeals or challenges is that the statutes on Boards of Zoning Appeals say you have to make specific findings of fact in conclusion with law. He states case law has interpreted that you don't have to make those on the spot at this meeting and they will have the benefit of the minutes of this and what he would propose that after he has had the chance after working with Mr. Williams to review the minutes or at least the draft minutes before they are approved that he can work on drafting up some more substantial findings of fact in conclusions to law that draw upon the facts that were discussed by the members that meet all the standards for your action. He states those will be presented to you at your next meeting even if an appeal had been initiated in the meantime. He states once those findings of fact in conclusion of law are approved by you will be provided to the interested parties.

Wendel states they can basically put it on hold.

Surrisi states you can make your decision but he would recommend that they...

Wendel interjects by stating they table it.

Surrisi states you do not need to table it but the case law states you are not required to enter your exact findings of fact in conclusion to law at this meeting and you can approve those at a later date.

Richie asks for clarification that they can deny it but they do not have to say what they are denying it for.

Booker responds by stating you do have to eventually.

Richie asks for clarification on eventually but not right now.

Surrisi responds by stating as Warren explained you are required to not just generically say they are denying it because it doesn't meet the Comprehensive Plan. He explains you have to put a little more meat on the bone with an explanation. He states by reviewing the minutes of what your actual discussion was and drawing out some of those things and reviewing the applicable standards that he can help craft some minutes that highlight what you talked about in this very long meeting that puts those facts toward the standards in a manner that makes your ultimate decision more defensible should there be a challenge in court. He clarifies that he is not just going to find them out of thin air but rather what has been discussed at this meeting.

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Booker explains that it shows the court that they have to protect it on what you say. He states each side has thirty days to go to circuit court to appeal this. He states if you go past thirty days then it is a fact.

Richie states a glaring fact would be from their own website with the safety issues.

Wendel adds property values.

Longanecker asks if they deny it without any restrictions on it, can they still drive thru it.

Surrisi responds by stating that is not something that they can just later tack on. He clarifies he is just talking about the rationale of whatever you do decide tonight and tying it onto the specific standards they can flesh it out more.

Longanecker and Surrisi discuss more in regards a roadway in the red square.

Surrisi states if you want to do anything additional then just denying it in the red that it would have to be said now. He states at a later time they can make a more detailed findings of fact based on the discussion that was had tonight. He states the only thing he is suggesting is that they do not enter into a ruling that denies the special use with the entirety of the property because he is telling you for certain that you do not have the authority to regulate in any respect the southern portion of the property.

Richie asks all they have is denial for the use in the red. Surrisi agrees.

Board Members Richie and Wendel moved and seconded to deny any use in the urban area based on public health, safety, morals and general welfare.

Booker responds by stating those will have to be delineated out.

The room becomes inaudible.

Board Members Richie and Wendel moved and seconded to take the current motion off the floor. The motion carried.

Richie asks if the only authority they have is over the red zone (urban area). Surrisi agrees.

Gidley asks if the county can deny the south part or if they do not have authority.

Surrisi responds by stating it is in our jurisdiction but if it was across the street or somewhere else within a quarter mile square with eight houses on it then they would have the same power you can exercise but his interpretation is no because everything within this parcel is within out two-mile zone so it falls to you and the State has removed your authority to regulate that bottom part so he does not believe the county can do anything with respect to mining.

Richie states he would like to apologize to everyone here because this is where government fails you with legal loopholes.

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Board Members Richie and Wendel moved and seconded to deny BZA 2023-12 for the use of mining in the urban area based on public health, safety, morals and general welfare. The motion passed by roll call vote.

Yes: Gidley, Richie, Secor and Wendel

No: None

There being no other business, Board Members Wendel and Richie moved and seconded to adjourn the meeting. The motion carried and the meeting adjourned at 10:26 p.m.



Kyle Williams – Recording Secretary