

Unapproved Minutes
Grass Lake Charter Township Planning Commission Meeting
November 8, 2018 @ 7:00 PM

CALL TO ORDER: Chairperson Hinkle called the meeting to order at 7:04 pm at the auditorium of Grass Lake High School. The location of the meeting was changed from the Township Hall to the Grass Lake High School auditorium to accommodate an expected large attendance.

ROLL CALL: Members present: Jere Hinkle, Ken Elliott, Lacey O'Quinn, Rob Doerr, Tom Brennan and Roger Memmer. Members absent: Jim Warbritton.

ALSO PRESENT: Approximately 95 people attended the meeting including Township officials and representatives; applicant and applicant representatives; representatives of the Friends of Grass Lake Township and concerned citizens.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA:

Moved by Brennan and supported by O'Quinn to approve the agenda. All ayes. One absent. Motion carried.

APPROVAL OF MINUTES:

Moved by Elliott and supported by Doerr to approve the October 11, 2018 meeting minutes. All ayes. One absent. Motion carried.

PUBLIC HEARING, Case #18-09-0010 Renewal of Special Land Use request by L&L Development for Aggregate Mining at Norvell Road parcel #000-15-09-200-002-00:

Chairperson Hinkle, closed the public meeting and opened the Public Hearing for Case #18-09-0010, Renewal of Special Land Use request by L&L Development for Aggregate Mining at Norvell Road parcel #000-15-09-200-002-00, at 7:09 pm.

At Chairperson Hinkle's request, Township Attorney, Stephen Delie, gave a brief overview regarding the basis for considering a renewal request and a summary of the various actions that could be taken by the Planning Commission. The actions available to the Planning Commission include the denial or approval of the renewal request. It was also noted that the decision could be tabled, however such non-action would leave the project in limbo until such time that a denial or approval decision is made.

a. Applicant's Request:

The applicant's representative, Geoffrey Snyder, requested that the October 12, 2017, conditionally approved special use permit for L&L Development for the Novell Road site be renewed. Mr. Snyder indicated that L&L Development is awaiting a decision from the Michigan Department of Environmental Quality (MDEQ) with respect to the project and that the delay inherent in obtaining approvals from various state agencies and the ongoing Circuit Court Appeal of the October 12, 2017 Planning Commission's decision, have contributed significantly to the delayed commencement of activities at the site and the need to request a renewal of the special use permit. Mr. Snyder indicated that renewal of the special use permit would allow for the ongoing litigation to be resolved and for L&L Development to have the opportunity to receive a definitive answer from MDEQ. A copy of the Geoffrey Snyder October 3, 2018 letter requesting that the special use permit be renewed is appended to these minutes.

Mr. Snyder indicated that L&L Development has made significant progress toward complying with the Planning Commission's October 12, 2017 pre-conditions and provided a chronological list of activities/agency submittals that L&L Development has made in the past year relative to achieving compliance with the pre-conditions. A copy of this list is appended to these minutes.

b. Public Comments

Approximately 95 people attended the meeting. This included Township officials and representatives; applicant and applicant representatives; representatives of the Friends of Grass Lake Township and concerned citizens.

Chairperson Hinkle requested that those persons wishing to address the Planning Commission put their name on the provided index cards so that they can be recognized by the chairperson for making their comments. Chairperson Hinkle also requested that comments be limited to three minutes for those individuals representing themselves and five minutes for those individuals representing a group.

It was noted that approximately 15 letters and notes were received by the Township. Copies of these letters and notes were provided to all Planning Commission members. Copies of received letters and notes are appended to these minutes.

It was also agreed that the Planning Commission incorporate all prior comments, letters, and submissions associated with L&L Development's original special use permit as part of the Public Hearing.

Sixteen people, including citizens and members and representatives of the Friends of Grass Lake Township addressed the Planning Commission. A copy of the list of people that addressed the Planning Commission is attached to these minutes. Two of the people addressing the Commission indicated support of the project while the remainder of those addressing the Commission expressed numerous concerns and serious consequences if the applicant proceeds with the project. Those expressing concerns and serious consequences urged that the project be denied or at least tabled.

Mr. Robert O'Reilly of Conlin, McKenney & Philbrick, P.C. representing Friends of Grass Lake Township, indicated that there is no stay in place that would prevent L&L Development from proceeding with the project upon satisfying the pre-conditions previously required. Mr. O'Reilly requested denial of the application or as an alternative, the request be tabled, based on numerous previously voiced concerns and potential impacts including impacts on property values, air quality, noise and traffic.

Specific citizen comments or concerns voiced included the following:

1. Proposed mining operation is out of character with the area.
2. Negative impact on quality of life.
3. Not consistent with Township Master Plan.
4. Potential disaster if Consumers Energy gas pipelines impacted by project.
5. Negative impact on property values in vicinity of site and over a much larger area.
6. Truck and traffic impact on road and safety.
7. Truck traffic impact on safety of high school students entering and leaving the high school via Warrior Trail.
8. Impacts on groundwater, surface water and wetlands.
9. Contamination of groundwater.
10. Noise from trucks and equipment operation.
11. Dust including severe negative impact on health from Silica in the dust. Specific studies and reports concerning potential health impacts of Silica were cited.
12. Impacts from contaminants from dust and equipment.
13. Need to determine if endangered species are on the site, particularly the Indiana bat.
14. Need for surety bonds for the restoration of the site and to insure that proper pre-construction background testing of ground and surface waters is accomplished.
15. Lack of adequate means to monitor and enforce operation.

Many details and supporting references relative to the voiced concerns are included in the previously submitted reports, studies and correspondence received by the Township and in new information submitted to the Township prior to the public hearing. Copies of new information that has been submitted to the Township are appended to these minutes.

Being no further comments, it was moved by Brennan and supported by Elliott to close the Public Hearing at 8:28 pm. All ayes. One absent. Motion carried.

Chairperson Hinkle reopened the public meeting at 8:43 pm.

NEW BUSINESS

a. Case #18-09-0010 Renewal of Special Land Use request by L&L Development for Aggregate Mining at Norvell Road parcel #000-15-09-200-002-00.

There was discussion about the reasons for the failure of the applicant to complete the required pre-conditions in the allotted time frame that resulted in the need for the applicant to request a renewal. There was discussion of the actions available to the Planning Commission, i.e. denial, approval or table; and the consequences of those actions.

It was noted that renewal of the special use permit is not a final approval. If the renewal is approved, additional information and or conditions could be requested after the Planning Commission receives and reviews information submitted in response to the previously issued conditional approval. Also, a final site plan must be submitted, reviewed and approved prior to any construction.

Motion by Elliott to approve the one year extension to L&L Development for aggregate mining at Norvell Road, (case #18-09-0010, parcel #000-15-09-200-002-00), with previous conditions, including 12 pre-conditions, that need to be satisfied prior to the commencement of operation. These conditions and pre-conditions revert back to the preliminary approval given by the Planning Commission on October 12, 2017. Motion supported by Commissioner Brennan.

Being no additional discussion, Chairperson Hinkle called for a roll call vote:

Roll Call Vote:	Commissioner Elliott	yes
	Commissioner Brennan	yes
	Chair Hinkle	yes
	Commissioner Memmer	yes
	Commissioner O'Quinn	yes
	Commissioner Doerr	no

Motion carried.

TOWNSHIP BOARD REPORT:

Tom Brennan reported on the status of the Township tennis courts.

OLD BUSINESS:

- a. Zoning Ordinance, Section for LI/HC: Item was tabled.

GENERAL DISCUSSION: None

PROPOSED BUSINESS FOR NEXT MEETING:

The next regular meeting was tentatively established for Thursday, December 13, 2018. (Meeting date subject to confirmation by Zoning Administrator, Lammers). Zoning Administrator, Lammers has received a request to present a site plan to the Planning Commission at their December 20, 2018 meeting and he will need to confirm that a revised meeting date is acceptable to the applicant.

ADJOURNMENT:

Moved by Brennan and supported by O'Quinn to adjourn meeting at 9:15 pm. All ayes. One absent. Motion carried.

Respectively submitted,

Roger Memmer, Secretary
Grass Lake Charter Township Planning Commission

Attachments:

1. Copy of Geoffrey Snyder October 3, 2018 letter requesting renewal of special use permit.
2. List provided by Geoffrey Snyder of activities/agency submittals that L&L Development has made in the past year relative to achieving compliance with the pre-conditions.
3. Copies of correspondence received by the Township from concerned Citizens and their representatives
4. List of people that addressed the Planning Commission at the Public Hearing.

GEOFFREY W. SNYDER
ATTORNEY AT LAW
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JACKSON, MI 49204
(517) 740-5234

October 3, 2018

Grass Lake Charter Township
Attn: Planning Commission
373 Lakeside Drive
PO Box 216
Grass Lake, MI 49240

Dear Planning Commission:

Re: Renewal of Conditional SUP for L&L Development

As you know, I represent L&L Development in connection with its extraction operations at 1180 Norvell Road, Grass Lake, Michigan 49240 (the "Project"). On October 12, 2017, the Planning Commission voted to conditionally approve L&L's application for a special use permit (the "Permit"). That Permit was issued with a number of conditions, including twelve (12) pre-conditions that needed to be satisfied prior to the commencement of operations.

At this time, L&L is still awaiting a decision from the Michigan Department of Environmental Quality ("MDEQ") with respect to the Project. It is unclear when that decision will be issued, and my client is concerned that Section 14.07(E)(1) of the Zoning Ordinance would result in the voiding of the Permit for failure to commence activities within a one-year period. The delay inherent in obtaining approvals from various state agencies, and the ongoing Circuit Court Appeal of the Planning Commission's decision to issue the Permit, have contributed significantly to the delayed commencement of activities.

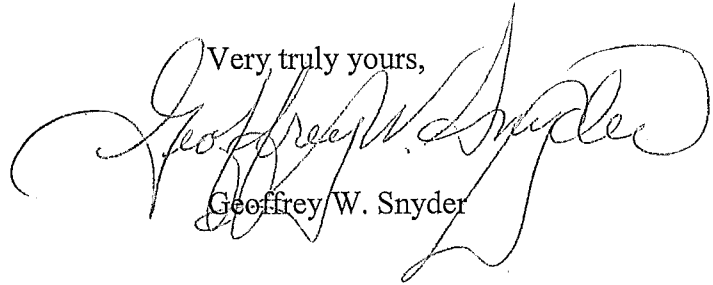
Thus, L&L Development hereby requests that the Permit be renewed. Given that circumstances are substantively identical to they were on October 12, 2017, I do not anticipate the need to submit any additional information. I recognize, however, that the Planning Commission must follow the same procedures for a renewal as would apply for a new application. *Lorencz v Brookfield Twp*, 2015 WL 1931967. Thus, I ask for this matter to be scheduled for a public hearing at the Planning Commission's next meeting.

Renewal of the Permit would allow for the ongoing litigation to be resolved, and for L&L to have the opportunity to receive a definitive answer from MDEQ. Given that Section 14.01 of the Zoning Ordinance specifically recognizes the importance of providing "practical latitude for

the applicant,” and that Section 14.07(HH)(15) explicitly contemplates a renewal of the Permit, it would seem this is an appropriate means for dealing with this issue.

Please contact me to let me know if you will be holding a public hearing on the renewal. Although L&L will not be submitting any new information in connection with this request, it would be happy to re-submit the materials it has already provided the Planning Commission if deemed necessary. Please let me know if that is the case.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Geoffrey W. Snyder". The signature is written in black ink and is positioned above the typed name.

Geoffrey W. Snyder

Cc Via e-mail only: L&L Development
Stephen A. Delie, Esq.

Noxzell Roads TIMELINE

OCT 22, 2017 WASH. CO. D.C. INSPECTED SITE

OCT 24, 2017 - JCDOT TRUCK ROUTE &
DRIVE PERMIT

DEC. 19, 2017 - CONTRACTOR'S W/ WELL DRILLER

MARCH 19 THROUGH 22, 2018

DRILLER MONITORING WELLS

MAY 21, RECEIVED WASH. CO. D.C. LETTER APPROV.

SITE PLAN & STORM WATER MANAGEMENT
PLAN

MAY 29 A-1-A GROUND WATER DISCHARGE PERMIT
SUBMITTED TO MDEQ

JUNE 14, CONSUMERS ENERGY APPROVED

SITE PLAN & EASEMENT

JUNE 25 - 3RD PARTY REVIEW OF AST 1

ENVIR. & ATWELL REPORT PREPARED
BY WOOD ENVIRONMENTAL

JUNE 15TH A-1-A GROUND WATER DISCHARGE

PERMIT APPROVED BY MDEQ

JULY 6 - ^{INITIAL} HYDRO GEO STUDY SUBMITTED TO

MDEQ FOR 301 LAKE PERMIT

SEPT 14 - SOIL EROSION SEDIMENTATION

CONTROL PERMIT RECEIVED FROM
COUNTY AGENT

SEPT 27 MDEQ PUBLIC HEAR. ON LAKE

PERMIT

NOV. 7 FINAL HYDRO GEOLOGIC STUDY SUBMITTED
TO MDEQ

NOV 30 MDEQ WILL MAKE FINAL

DECISION ON LAKE PERMIT

W/IN LAST FEW WEEKS A NEW JUDGE

WAS APPOINTED TO

PLANNING COMMISSION NOVEMBER 8, 2018 PUBLIC HEARING
LIST OF PEOPLE ADDRESSING THE PLANNING COMMISSION

1. Geoffrey Snyder
2. Robert O'Reilly
3. Richard Murphy
4. Brent Koors
5. Sally Hoskins
6. Mark Foeller
7. Peter Harper
8. Melissa Mercer-Tachick
9. Gary Van Sickle
10. Bob Kraft
11. Mayra Ballina
12. Susan Stewart
13. Bob Peoples
14. Bobbie Harper
15. Carl Wells
16. Chris Clausen
17. Dale Fisher