

Approved Minutes
Grass Lake Charter Township Planning Commission Meeting
October 12, 2017 @ 7:00 PM

CALL TO ORDER: Chairperson Hinkle called the meeting to order at 7:11 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. The meeting start time was delayed approximately 10 minutes due to the change in meeting location.

ROLL CALL: Members present: Jere Hinkle, Ken Elliott, Lacey O'Quinn, Jim Warbritton, Todd Raetz and Roger Memmer. Members absent: None
It is noted that John Lesinski had resigned from the Planning Commission and his replacement had not been appointed at this time.

ALSO PRESENT: Approximately 275 people attended the meeting including Township officials and representatives; applicant and applicant representatives; agents of various firms involved in the review of the proposed Special Land Use request, representatives of the Friends of Grass Lake Township and concerned citizens. A sign in sheet with names of those attending the meeting is attached to these minutes.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA:

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

APPROVAL OF MINUTES:

Moved by O'Quinn and supported by Warbritton to approve the September 14, 2017 meeting minutes. All ayes. Motion carried.

NEW BUSINESS: No new business was on the agenda.

CITIZENS WISHING TO ADDRESS THE COMMISSION:

Presentations:

Prior to receiving public comments, Township planner, John Enos, gave a brief overview of the project and related activities that have preceded this meeting. Mr. Enos, representing Carlisle/Wortman Associates, indicated that their firm has been retained by the Township to assist in

the review of the application. Mr. Enos indicated that the parcel is in a District zoned Single Family Residential, R-1. The proposed use is considered a Special Use and is required to be reviewed under the requirements for the "Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources". This proposed use is regulated under Section 14.06 and Section 14.07.HH of the Township Zoning Ordinance. Mr. Enos summarized some of the review process that has taken place since the application was received by the Township and indicated that the Planning Commission will consider all information received, including the input from tonight's meeting, before making a decision. Mr. Enos indicated that the Planning Commission has three options before them, i.e. denial, approval or approval with conditions.

Township Attorney, Stephen Delie, indicated that he was attending the meeting to oversee and listen and was available to answer Planning Commission member questions.

Public Comments:

Approximately 275 people attended the meeting. This included Township representatives; applicant and applicant representatives; agents of various firms involved in the review of the proposed Special Land Use request, representatives of the Friends of Grass Lake Township and concerned citizens. The Friends of Grass Lake provided a list of people that desired to present pertinent information to the Commission and it was noted, by show of hands, that many citizens also wished to address the Planning Commission.

Chairperson Hinkle requested that those persons attending the meeting that have not previously addressed the Planning Commission, at the two previous Public Hearings, be allowed to address the Commission first, followed by Friends of Grass Lake representatives followed by other citizens.

Chairperson Hinkle noted that approximately 50 letters, emails and notes were received by the Township. Copies of these letters, emails were provided to all Planning Commission members. Copies of received letters, emails and notes are appended to these minutes.

Over 40 people, including citizens and members and representatives of the Friends of Grass Lake Township addressed the Commission. Approximately three 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 continued to urge that the project be denied or at least tabled. 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. Need for material mined from site not demonstrated.
7. Truck and traffic impact on road and safety.
8. Truck traffic impact on safety of high school students entering and leaving the high school via Warrior Trail.
9. Impact of trucks lining up on Norvell Road waiting for site to open for business.
10. Impacts on groundwater, surface water and wetlands.
11. Contamination of groundwater.
12. Noise from trucks and equipment operation.
13. Dust including severe negative impact on health from Silica in the dust.
14. Impacts from contaminants from dust and equipment.
15. Need for detailed hydrogeological study.
16. Previously mentioned surety bond for the restoration of the site in the amount of \$4,000 per acre not adequate.
17. Approval will open door to other similar applicants.
18. Need for financial impact study.

Mr. Trevor Woollatt of Atwell, LLC, presented findings of an Atwell, LLC review of the Environmental Assessment, Norvell Road Quarry dated August 10, 2017 prepared by ASTI Environmental and supplemental information provided by Pepper Hamilton in their letter dated August 21, 2017. The review was commissioned by the Friends of Grass Lake Township. The Atwell, LLC review takes issue with several of the conclusions from the environmental assessment and recommends that soil borings and a pump test be conducted. The findings of the Atwell, LLC review are enumerated in a letter dated October 10, 2017 and a copy of this letter is appended to these minutes.

Mr. Robert O'Reilly of Conlin, McKenney & Philbrick, P.C. representing Friends of Grass Lake Township, summarized a letter to the Planning Commission dated October 11, 2017 requesting denial of the application or as an alternative, the request be tabled so that

independent environmental and economic assessments can be conducted. A copy of the letter is appended to these minutes.

Many details and reports relative to the voiced concerns are included in the correspondence received by the Township which is appended to these minutes.

OLD BUSINESS:

a. CASE #17-04-0007 Special Land Use request by L&L Development

Sean McNally of Pepper Hamilton LLP, representing L&L Development, briefly reviewed their letter to the Planning Commission dated October 9, 2017. The letter suggests several potential conditions for consideration. A copy of the October 9, 2017 letter is attached to these minutes.

Planning Commission members acknowledged and thanked those attending for their time and input. It was noted that many hurdles need to be crossed before the project can receive final site plan approval, many of which involve other agencies.

Township attorney, Stephen Delie, outlined the procedure for review of the application and the options available to the Planning Commission, i.e. denial, approval or approval with conditions. It was pointed out that if approval with conditions is granted, there cannot be final site plan approval until all conditions are met including numerous outside agency approvals.

One Planning Commission member expressed that the Commission is facing a difficult decision and there are serious consequences associated with this project as voiced by many at the meeting.

Planning Commission members asked if the applicant had met with The Friends of Grass Lake Township to see if an acceptable compromise could be reached, and more specifically if the applicant would consider development of a subdivision on the site without removing sand and gravel from the site. After a short recess, the applicant indicated that

this is not feasible and that sand and gravel extraction from the site is a necessary component of the project.

A decision regarding the proposed L&L Development Special Use Permit was presented. The decision was prepared for consideration by the Planning Commission and includes general information, specific review relative to Sections 14.06 and 14.07(HH) of the Zoning Ordinance and proposed detailed Pre-Conditions and Operating Conditions. Chairperson Hinkle and Commissioner Elliott read the decision.

Motion by Elliott to approve applicant L & L Development for a Special Use Permit (parcel ID 000-15-19-200-002-00), application #17-04-007 subject to pre-conditions and operating conditions. (Commissioner Elliott read the Pre-conditions (1.a through 1.i) and the Operating Conditions (2.a through 2.i) as enumerated in the “Grass Lake Charter Township Planning Commission Decision Regarding L & L Development Special Use Application” which is appended to these minutes.) Motion supported by Commissioner O’Quinn. After discussion related to concerns and consequences, Chairperson Hinkle called for a roll call vote:

Roll Call Vote:	Commissioner Elliott	yes
	Commissioner Raehtz	no
	Chair Hinkle	yes
	Commissioner Memmer	yes
	Commissioner O’Quinn	yes
	Commissioner Warbritton	no

Motion carried. A complete copy of the “Grass Lake Charter Township Planning Commission Decision Regarding L & L Development Special Use Application” is appended to these minutes.

TOWNSHIP BOARD REPORT: None

OLD BUSINESS:

- a. Zoning Ordinance Text, R-1 District, Farming as a permitted use: Item was tabled.
- b. Zoning Ordinance, Section for LI/HC: Item was tabled.

GENERAL DISCUSSION: None

PROPOSED BUSINESS FOR NEXT MEETING:

The next regular meeting was established for Thursday, November 16, 2017.

ADJOURNMENT:

Moved by Memmer, supported by O'Quinn to adjourn meeting at 12:05 am. All ayes.
Motion carried.

Respectively submitted,

Roger Memmer, Secretary
Grass Lake Charter Township Planning Commission

Attachments:

1. Attendee Sign In List
2. Copies of correspondence received by the Township from concerned Citizens and their representatives
3. Atwell, LLC Hydrogeological Review letter dated October 10, 2017
4. Conlin, McKenney & Philbrick, P.C. letter dated October 11, 2017
5. Pepper Hamilton LLP letter dated October 9, 2017
6. Grass Lake Charter Township Planning Commission Decision Regarding L & L Development Special Use Permit











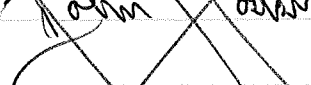
Printed Name	Signature	Address
Debbie & Del Herrick		12111 Harvest Dr.
Daniel McHugh	McHugh	11253 Phal Rd
LIUDMILA ANDERSON	liudmila's hand	410 N. Postage Rd
Floyd Gore Jr		2550 Norvell
Jim Stormont		9632 16th St NW
Bill Lester		448 F St NW
Jimmie Lester		400 Town Center, Suite 1000 Spartanburg, SC 29201
SEAN McNALLY	LTL Dev Co	6274 Through rd Jackson, MS 39201
Billy Lester		3800 Norvell Rd.
Bess Ohlgren Miller	Bess Miller	2140 NORVELL RD
SHARVE CACKINS	Shane Cackins	1916 Norvell
Joanne Ackerman	Joanne Ackerman	1916 Norvell
Dale Fisher	Dale Fisher	1254 Deer Run
Sandy Howe	Sandy Howe	Spring Arbor
Becky Barnes	Becky Barnes	Grass Lake
Jean Riehmiller	Jean Riehmiller	11301 BELMONT G.L.
Gordon BERGUM	Gordon Bergum	— — — — —
Monica BERGUM	Monica C Bergum	643 Church St G.L.
Jane Lape	Jane Lape	5994 Norvell Rd, G.L.
Roger Southwell	Roger Southwell	5890 Norvell Rd.
BENNY DANIELS	Benny Daniels	10990 Phal GRASS LAKE
Sally Hoskins	Sally Hoskins	12205 Old Farm Ln.
Brandon Czernik	Brandon Czernik	1451 Hayball Rd
Stephan Howe		1451 Hayball Rd Jackson
Tickene Zenz	Tickene Zenz	400 PORTAGE ST.
ERIC ELLGARD	Eric Ellgard	3436 Betrashe Ln Grass Lake
Peter Hawes	Peter Hawes	12228 OLD FARM LN. 49240 -
Paula Maki	Paula Maki	

(27)

Printed Name	Signature	Address
Lu Ann Adams	Lu Ann Adams	2590 BARBER RD G.L.
Carol Wells	Carol Wells	2284 Mt Hope Road
Elizabeth Tomkin	E. Tomkin	1018 Fishville Rd
James Tullin	James Tullin	same as above
Pamela Mosener	Pamela Mosener	2295 N Portage Rd
David Adams	David Adams	10330 Phal Rd
Sue Hasbrouck	Sue Hasbrouck	10501 Old Farm Ln
Frank Hasbrouck	Frank Hasbrouck	10201 Old Farm Ln
Melanie Dovers	Melanie Dovers	12119 Harvest Dr
Robert Taylor	Robert Taylor	12253 old farm Ln.
MARK FOELLER	Mark Foeller	2538 NORVELL RD.
Shannon Pelham	Shannon Pelham	6014 Trist Rd.
Minda Penhallegon	Melinda Penhallegon	10440 Pauline DR.
Doane Penhallegon	Doane Penhallegon	10440 Pauline DR
FRANK BLOEKWOOD	Frank Bloekwood	11528 WARRIOR TR.
MARYANN B WILSON	Mary Ann B Wilson	1595 Willis Rd
Judy Bolin	Judy BAKER	5510 WOLF LK
Kristine Squiers	Kristine Squiers	5018 Huggins Rd
Preston Gillum	Preston Gillum	5018 Huggins Rd.
SHAWN DeMay	Shawn DeMay	1152 Norvell Rd.
Alysha Gillison	Alysha Gillison	" "
Kathleen Johnson	Kathleen Johnson	12123 Harvest Dr.
ROBERT A. KRAFT	Robert A Kraft	12118 HARVEST PRIVE
X JONNE & RANDY HOYT	Jonne & Randy Hoyt	1060 E. Kimmel Dr.
Dana Rose	Dana Rose	10302 Phal Rd
LILL DEAN	L. P.	1161 ROWENA
Sandra Dean	Sandra J. Dean	1161 Rowena

Printed Name	Signature	Address
Lindy Russoy	Cindy L. Russoy	2050 BARBER Rd GL
Rick Russoy	Rick Russoy	2050 BARBER Rd GL
MAE MONTGOMERY	Mae Montgomery	1185 Shrewsbury Rd GL
TREVOR MOUNTST	Trevor Mountst	921 ALPINE CT, BRIGHTON
Patricia Embury	Patricia Embury	11532 Warrior Trail, GL
Jordan Allen	Jordan Allen	11550 Phal Rd
ROBERT O'REILLY	Robert O'Reilly	350 S. MAIN, ANN ARBOR
PAMELA SAERWOOD	Pamela Saerwood	12446 E MICHIGAN AVE
Joseph Shankey	Joseph Shankey	10977 phal Rd G.L.
David Phillips	David Phillips	9701 Poplar Ave Jackson
Robert Peoples	Robert Peoples	1900 South Francisco G.L.
JONATHAN CROSSLAND	Jonathan Crossland	11373 Sun Hill Dr.
Tammy Claussen	Tammy A Claussen	11373 Sand Hill Dr.
Carrie Cramer	Carrie Cramer	10990 Bellman Rd.
M. Sabman Test	M. Sabman Test	13712 Grass Lake Rd.
John Elliott	John Elliott	2972 Sarossy Lake Rd.
Tom Loveland	Thomas L. Loveland	915 S. Warren St.
Julie Dye	Julie Dye	8862 Bellemeare Ct.
Mart DYE	Mart Dye	8862 Bellemeare Ct.
Doug Picken	Doug Picken	4100 NORVELL
Dan Wynn	Dan Wynn	3400 MacM I-lan
Scott Hutchison	Scott Hutchison	6940 Norvell Rd.
KARL HONNICK	Karl Honnick	2454 BURTCH RD
Jim YARGGAN	Jim Yarggan	1815 BURTCH RD
Clara Bowen	Clara Bowen	11503 Phal Rd
WENDA LINCOLN	Brenda Lincoln	12265 Old Farm Lane
BUSSEY ELIZABETH	Elizabeth Bussey	6516 Island
Michelle Schwartz	Michelle Schwartz	11925 Cadiz Rd

Printed Name	Signature	Address &c.
Larry Anderson - Dingeldey	Mary Anderson - Dingeldey	12254 Old Farm Lane,
Richard Dingeldey	Richard Dingeldey	12254 Old Farm Lane G.L. Mi.
Long Lester		527 3 Rosewood
Brittany Bradshaw		41496 Mitchell Rd.
TOM PIERCE	Thomas Pierce	215 WOLF LAKE RD
Bruce Brandon		18449 Columbia
Doug Miller		3800 Norvell Rd.
WINDY HINKLE		10222 Irish Lake Blvd
RICHARD MURPHY	Richard Murphy	11033 BELLMAN
Mike French	Mike French	12115 Harvest Dr GENESEE
Cory French	Cory French	12115 Harvest Dr GL
MAF FISHER	MAF FISHER	2104 Norvell Rd.
STAR CROWDIS	Star Crowdis	3120 Helmreich Ad.
MYRA Southwell	Myra Southwell	5994 NORVELL RD GENESEE
Kim Seyfried	Kim Seyfried	1920 Norvell W.V.
BERNARD KLAPATCH	Bernard Klapatch	13202 CURTIS RD
Bobbi Harper	Bobbi Harper	3436 Betraska Lane G.L.
Kelly Leonard	Kelly Leonard	11820 Urban Rd
Cynthia Fields	Cynthia O. Fields	13190 Curtis Rd
PAT Fields	PAT FIELDS	13190 CURTIS RD.
MAT PICKMAN	MAT PICKMAN	12114 Harvest Dr G.L.
Penny Smith	Penny Smith	12102 Harvest Dr G.L.
Marilyn O'Leary	Marilyn O'Leary	#37 11496 Phal Rd G.L.
Ron Kurylo	Ron Kurylo	2490 SAROSSY LK GL
Mike Stein	Mike Stein	2660 NORVELL RD GL
JOE F DIME DEBUE	Joe F Dime DeBue	495 Sunnyside

Printed Name	Signature	Address
REDBIRD ANDERSON		4750 Fishville Rd. → 1206 S. FRANCISCO
CHRIS PAYNE	Chris Payne	
Cheryl Laimon	Cheryl Laimon	2515 NORVELL Gf.
Todd Fodor	Todd Fodor	3750 Burtch Rd
John Riedeman	John Riedeman	10556 Keane Drive
Olivia Hayden		8317 Clear Lake Rd
Steven Kern	Stu Kern	8317 Clear Lake Rd
JOSEPH J. STOLARUK	Joseph J. Stolaruk	4200 BURTECH RD
Robert Beckie	Robert Beckie	11503 Phal/val
MARK LINCOLN	Mark Lincoln	12205 OLD FARM LANE
Lisa O'Connor	Lisa O'Connor	10905 ORBAN RD
PABOT SCHWARTZ		11923 CROY RD
CHRIS CLAUSEN		11700 ORBAN RD
KATIE CLAUSEN		11700 ORBAN RD
COLETTE CLAUSEN	Collette Clausen	11700 ORBAN RD
Jon Trudeau		12166 Harvest Pr.
Stu Strahan		2100 Barber Rd
JAMES DOSS		11343 Phal
Lindzy Jackson		10977 Phal
Jason Ferguson		1605 Norvell
John Hoskin		10990 Phal Rd

(25)

Printed Name
my Outbring
Scott Bray
Jacob Bray
George Gogol
Steven Powagai
Kim VanOrden
Joan VanOrden
JERRY MARSHALL
Dana Sullivan
Jennifer Sullivan
DANNY SHEPHERD
Shane Herrell
ALPH H KIM
Bet Murphy
Michelle Maat
Kellie Clark
RODCAMPBELL
Brittany Lester
RALPH CHILDS

Signature
Jenny Outing
Scott Bray
Jacob Bray
Gogol
Steven Powagai
Kim VanOrden
Joan VanOrden
Jerry Marshall
Dana Sullivan
Jennifer Sullivan
Danny Shepherd
Shane Herrell
Alph Kim
Bet Murphy
Michelle Maat
Kellie Clark
Rod Campbell
Brittany Lester
Ralph Childs

Address
Grass Lake
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10504 Keave Dr
10504 Keave Dr
2645 Burtch Rd.
1209 Breezy Lane
6940 Norvell Rd
6940 Norvell Rd
2551 Fishwell Rd
12250 Old Farm Lane
12250 Old Farm Lane
1217 NORVELL RD.
13551 Phai Rd
195 BROWN ST
1900 Mt. Hope Rd
12245 Old Farm Lane
P.O. Box 129 G.L. 49240
3122 NORVELL
524 S. ROSEWOOD
11500 BOHNE RD.

Tony Niemiec
Rita Marshall
Steve Simon
Barb Fullerton
Blair Fullerton
Nyle Kiser

RITA MARSHALL
S J L
Blair Fullerton
Blair Fullerton
Nyle Kiser

1860 Wolf Lake
731 E. MICHIGAN
12270 Old Farm Ln, 49240
501 South St
501 South St
290 Highland Dr 49201

(26)

Printed Name	Signature	Address
Jerry Rosemeyer	Jerry Rosemeyer	4109 Norvell Rd ^{Grass Lake}
Bellie Walcott	Bellie Walcott	12259 Old Farm Ln
KENT WALCOTT	Kent Walcott	12257 Old Farm Ln.
Doug Walcott	Doug Walcott	350 S. Main St
Mira White	Mira White	AA
ROBERT HOFFMAN	ROBERT HOFFMAN	13712 Grass Lake Rd
Anna Leland	Anna Leland	13435 Phal Road
Patrick Brown	Patrick Brown	1304 Willow Creek Ln
Vicki Casey	Vicki Casey	11552 Warrior Trail
Jillie Pickell	Jillie Pickell	465 Morris Dr ^{Grass Lake}
Amy Gogol	Amy Gogol	4100 Norvell Rd
Jillie Thompson	Jillie Thompson	2645 Burtch Rd.
Robert Laimon	Robert W Laimon	2201 SASSY Lk
WARREN ROBERT OCHS	Warren Robert Ochs	2515 Norvell Rd
Judy Hornick	Judy Hornick	1147 GRANDVIEW DR
Herbert Kohn	Herbert Kohn	2451 Burtch Rd
Rene Shepherd	Rene Shepherd	1168 Norvell Rd
Ty Fanta	Ty Fanta	1217 Norvell Rd
Rebecca D. Herrell	Rebecca D. Herrell	Orban Rd
Parlene Lawrence	Parlene Lawrence	13551 Phal Rd
Glen Purini	Glen Purini	Trist Rd
Brent Koers	Brent Koers	3709 Burtch Rd.
Annie Laverone	Annie Laverone	10907 Phal Rd GC
Kathy Towneville	Kathy Towneville	1877 Wheelock Dr.
Lathan C. Contreras	L.C. Contreras	2230 Kalmbach Rd.
Mickelle Whitley	Mickelle Whitley	1181 Browena

Printed Name	Signature	Address 2A
Julie Mollitz		11528 Warrior Trail
John Howe		11550 Phal road
Jeffery J Wilson		1595 WILLIS ROAD
DONALD L BAKER		5510 WOLF LAKE RD
Lauren Shackley		10977 Phal Rd.
GALE Phillips		9701 Page Ave - Jackson
Michelle Brown		1115 Grosvenor
Cheryl Kraft		12118 HARVEST DR. ^{GRASS} LAKE
Jo Lund		3633 Seymour Rd
Justin Burnett		1020 Fishville Rd
Eric Sherwood		11450 ORBAN RD
Kim Sherwood		11450 ORBAN RD
Carl Loveland		915 S. Union St
Ang Bron		11552 Warrior Trail
PAM BALYENT		13875 SHADON VLY RD.
Coltan Fodar		3360 Butler Rd
Kelly Taurianen		11833 ORBAN RD
Stephanie Willette		11845 Orban Rd
MATT POWAGA		11100 PHAL RD
Christina Breed		857 E Michigan Ave
Brad Blackwell		
Chuck maat		12245 OLD Farm Lane
Archelle maat		12245 OLD Farm Lane
Cynthia Lester		10521 Keane Dr.
Bachel Spencer		10203 We Rd

Printed Name	Signature	Address
John Lazarz	John Lazarz	1170 Nelson St.
David Adams	David Adams	2540 Barber
Bill Lockwood	Bill Lockwood	8449 Lee Rd Jackson, Mi
Geoff Snyder	Geoff Snyder	2535 Spring River Rd
Jack L Ryster	Jack Ryster	2304 S. Blyett Gb
Jim Pensdorf	Jim Pensdorf	240 Norvell Rd
Denise Calkins	Denise Calkins	3901 Wolf Lake Rd
Carol Butterfield	Carol Butterfield	3901 Wolf Lake Rd
Barry Butterfield	Barry Butterfield	10100 Page Ave
Debra Riethmiller	Debra Riethmiller	5890 Norvell Rd G.L.
Virginia Daniels	Virginia Daniels	12102 Harvest Dr, Okla
Scott Smith	Scott Smith	13202 Curt's Rd
Sharon Klapatch	Sharon Klapatch	3643 Waterway Ct
Edythe Tarno	Edythe Tarno	615 BROWN ST
William N Stanley	William N Stanley	4170 Norvell Rd
Michelle Woodward	Michelle Woodward	21223 HARVEST DR 12130
Dove Margenau	Dove Margenau	12130 HARVEST DRIVE
Roy Margenau	Roy Margenau	4145 SYLVAN RD G.L.
Wm Lewis	Wm Lewis	2490 SWISSY OK.
Pat Kurylo	Pat Kurylo	1102 STILLHOUSE SPRING ROUND ROCK TX
Robert Ruiz	Robert Ruiz	10946 Phal Rd
Marie Ellsworth	Marie Ellsworth	GL 49240
Ed Ellsworth	Ed Ellsworth	12119 Harvest Dr
Robert Doerr	Robert Doerr	17253 Old Farm Ln
Rose Taylor	Rose Taylor	1185 Grass Lake Rd
Carson Montgomery	Carson Montgomery	13171 Phal Rd
Ann Karen Carter	Ann Karen Carter	

Signature

Address

Address

Printed Name

DAVE CRAMER

Mike Pauli

Thomas O. Brunlar

Michael Colwell

BRIAN Wiley

Wendy Hutchison

Ruth Riedeman

PATRICIA BAILEY

Kevin Fishes

Heather McDougall

Joe McDougall

Josh Kusbdorn

ROXANNE PETRIE

Brandi Warming

Caleb Allen

KAT OLIVER

Susan Stewart

Susan Stewart

Tim Lawrence

Ron Black

Janet Johnson

Melissa Meyer-Tachik

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10990 Bellman Road

41946 Fishville

10419 Phal

12224 Old Farm Lane

3260 Wolf Lake Rd.

6940 Norvell Rd Norvell

10556 Klane An

247 N. FRANCISCO Rd

3701 Kalmbach Rd Gort

3701 Karmaster Rd Gt

10864 Phal Rd

3505 Kalmbach

11576 Wacker Ln

10901 Nyker Dr GL

1773 Rugh-Ruvow Wg

754 Meadows Ct Gg

2660 Norvell Rd

11430 Cady Rd

230 Lake Hills

230 Lake Heights GL

11555 Phal Rd



ONE COMPANY.
INFINITE SOLUTIONS.

October 10, 2017

Friends of Grass Lake
c/o Mr. Doug McClure
Conlin, McKenney & Philbrick, P.C.
350 S. Main Street
Ann Arbor, Michigan 48104

**Re: Hydrogeologic Review
Proposed Norvell Road Quarry
Grass Lake, MI
Atwell LLC Project No.: 17002715**

Dear Mr. McClure:

Atwell, LLC (Atwell) was retained by the Friends of Grass Lake to review the "Environmental Assessment, Norvell Road Quarry" (EA) prepared by ASTI Environmental dated August 10, 2017 in regard to potential impacts to local groundwater associated with the proposed mining operation (site). As part of our review Atwell also reviewed the supplemental information provided by Pepper Hamilton in their letter dated August 21, 2017.

The surface elevations in the proposed mining area range from approximately 992' to 1016' based on Jackson County GIS, which derived the elevation data from LIDAR surveys and has an accuracy of +/- 2 feet. The proposed mining operation plans to remove unconsolidated material to a proposed bottom elevation of 956'. According to the EA, the mining method will not include pumping and therefore will not cause an impact to drinking water supplies.

The report does not provide any specific data to support the conclusion that drinking water supply wells will not be effected, nor does it address the potential impact to the shallow unconfined aquifer other than to state that the stream and wetland on the western portion of the site will not be impacted. The report draws on broad assumptions about the stratigraphy of the site and existing groundwater elevations. It is not known how the approximate water table elevations depicted in Figure 2 were determined. While the intention is to mine to an elevation of 956', there is no indication that minable material extends to this depth.

Atwell obtained the water well logs for the surrounding area including the logs of properties that adjoin or closely adjoin the proposed site. A review of the logs indicates that the site likely consists of 25' to 30' of sand with trace gravel and some clays. This sand is underlain by a brown clay that grades to a grey clay that extends to approximately 60' to 65'. Underlying this clay is shale, limestone, and sandstone of varying thicknesses with the majority of water wells being completed at between 100' and 150' in sandstone. The upper confining clay acts as an impermeable barrier isolating the upper unconfined aquifer from a lower bedrock aquifer, which is the source of drinking water in the area.

Based on our review of the water well logs and elevation data of surface features, Atwell believes that the site lithology most likely consists of 30 feet of sand with trace (5-10%) gravel to an elevation of approximately 980'. Underlying the sand is a brown to grey clay that extends up to 30 to 35 feet in thickness or an elevation of between 945' to 950'. It is unlikely that mining activity will be able to occur below 980' given the presence of the underlying clay.

Atwell believes that the upper unconfined aquifer is perched above the regional clay and that creating a lake and mining in close proximity to both the wetland and stream will cause an impact to the shallow aquifer. Given the estimated high value of the hydraulic conductivity (K_{sat}) as noted in the "Custom Soil Resource Report for Jackson County, MI" included as Appendix E of the EA, the area of influence for a lake with an area of 14 acres could extend over 200'. The EA indicates that the likely elevation of the proposed lake is 980', which is approximately the same elevation of the wetland to the west. If the wetland is a discharge point for groundwater, then the lake will certainly have an effect on the wetland. Additionally, the overburden soil will hold water in pore spaces and the more likely elevation of the lake is 990'. If the excavation extends to 956' and if the clay varies in thickness the mining operation could disrupt the lower confining layer which could impact the water quality in the lower aquifer as well as causing a greater effect in the upper unconfined aquifer.

Atwell's review of the EA is based on reasonable assumptions about the local geology determined from a review of over 100 water well logs for the surrounding area. The EA also draws heavily on assumptions about the local geology and the hydrogeologic conditions. Without actual site data it is not possible to accurately determine the potential effect on the upper unconfined aquifer. This data would include multiple borings to determine the site specific characteristics of the lithology including the presence of a lower confining layer such as the suspected clay in the area. A pump test using a fully penetrating well and a minimum of two observation wells. The results of the pump test will be necessary in completing a lake permit for mining.

In regard to the requirements of the Planning Commission to issue a permit in accordance with Section 14.07HH of the Township Zoning Ordinance, without a pump test it is not possible to make the following statement in regard to item 9 in the letter drafted by Pepper Hamilton that the mining activity will not "alter the drainage pattern of surface or subsurface waters on adjacent property." In fact the EA states on page 5 in the second paragraph that "one mine did alter the direction of groundwater flow by opening differential pathways". This statement in the report was used to argue that because the mining did not include pumping there would not be an effect in the surrounding area. The Pepper Hamilton letter in regard to the Special Use Permit on page 5, Number 5 indicates that there will not be any impact to the quality or quantity of nearby residential wells or adverse impacts to surface water resources and that additional information is included in the EA, however no specific information regarding groundwater impact is included in the EA as no site specific testing has been conducted.

Based on a review of the EA, the letter from Pepper Hamilton, and the requirements for issuing conditional use permits, Atwell concludes the following:

- The mining operation likely will not be able to proceed as indicated given the anticipated lithology, including the presence of clay at approximately 980'. Disruption of this lower confining layer could pose an impact to both the upper unconfined groundwater aquifer as well as the lower confined aquifer.

- Insufficient data is included in the EA to support the statement that no impact to groundwater or surface water will occur as the applicant has not conducted any Hydrogeologic testing to support this claim. In fact the EA offers an example of this type of impact at another mine.

Atwell recommends that borings be conducted to determine the nature and extent of the sand deposit along with the underlying clay confining layer. In addition, a pump test should be conducted to determine actual hydrogeologic conditions at the property including the hydraulic conductivity of the aquifer, the groundwater gradient, the size of the cone of depression, and a calculation of the radius of influence of the proposed 14-acre lake. The pump test should include a pumping well that is fully penetrating and set near the bottom of the upper unconfined aquifer and two to three observation wells.

Please feel free to contact me if you have any concerns or questions.

Sincerely,
ATWELL, LLC



Trevor I. Woollatt
Project Manager
Atwell, LLC

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October 11, 2017

Grass Lake Charter Township Planning Commission
373 Lakeside Drive
Grass Lake, Michigan 49240

VIA HAND-DELIVERY

Re: Special Land Use Application #17-04-0007
1180 Norvell Road
Parcel # 000-15-09-200-002-00
Written comments for October 12, 2017 Public Hearing

Dear Planning Commission:

Our firm represents Friends of Grass Lake Township, a Michigan nonprofit corporation, in connection with Special Land Use Application #17-04-0007 by L&L Development for the removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources from a portion of an 80 acre site in section 9 on Norvell Road.)

Atwell, LLC was retained by Friends of Grass Lake Township to review the "Environmental Assessment, Norvell Road Quarry" prepared by ASTI Environmental dated August 10, 2017 in regard to potential impacts to local groundwater associated with the proposed mining operation. Enclosed is a copy of Atwell's hydrogeologic review dated October 10, 2017.

Based on Atwell's review, L&L Development's Special Land Use Application is insufficient and incomplete on its face under Section 14.07HH of the Township Zoning Ordinance and must be denied. Section 14.07HH, paragraph 9 provides that *removal, processing or storage shall not be conducted as to alter the drainage pattern of surface or subsurface waters on adjacent property*. Without further tests, it is not possible for L&L Development to state that the proposed mining operations will not result in such alterations.

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OCT 11 2017

4:25 pm *gh*

CONLIN, MCKENNEY & PHILBRICK, P.C.

October 11, 2017

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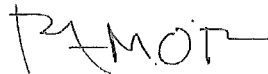
In the alternative, we request that the decision on the Application be tabled to provide adequate time for Friends of Grass Lake Township to:

- (1) Conduct an independent environmental assessment of the proposed mining operation, including site-specific hydrogeologic tests recommended by Atwell; and
- (2) Conduct an independent assessment of the economic impact of the proposed mine on Grass Lake Charter Township.

It would be appropriate for the Township to require the Applicant to fund the reasonable cost of these independent assessments, using consultants reasonably acceptable to all parties.

Thank you for your attention in this matter.

Very truly yours,



Robert M. O'Reilly

cc w/ enclosure via email: John Enos, Carlisle & Wortman
Sean P. McNally, Pepper & Hamilton

Suite 1800
4000 Town Center
Southfield, MI 48075-1505
248.359.7300
Fax 248.359.7700

RECEIVED

OCT 10 2017

8:40am gh

Sean P. McNally
direct dial: (248) 359-7317
mcnallys@pepperlaw.com

October 9, 2017

Via Hand Delivery

Grass Lake Township Planning Commission
373 Lakeside Dr.
Grass Lake, MI 49240

Re: Conditions of Approval on L&L Development's Application for Conditional Use Permit (Parcel ID 000-15-19-200-002-00)

Dear Planning Commission:

This Firm represents L&L Development, Ltd ("L&L" or the "Applicant") in connection with its Application for Site Plan Approval. As you know, L&L previously submitted an application to Grass Lake Charter Township (the "Township") seeking approval for an aggregate mining operation on Norvell Road (Parcel ID 000-15-19-200-002-00) (the "Site"). At its September 14, 2017 meeting, the Planning Commission indicated that L&L's application could be approved subject to certain conditions. L&L would like to suggest the following potential conditions for the Township's consideration in light of the discussion during the September 14 meeting:

- I. Applicant is required to obtain all third party consents, approvals and permits required for Applicant's use of the Site.
- II. There will be no outside dumping of foreign material on the Site by any third party.
- III. To alleviate truck traffic on Norvell Rd., the gates to the Site will open one (1) hour prior to loading time to allow any trucks that may be parked on Norvell Rd. to enter the Site.
- IV. During the school year for Grass Lake High School, as such period is determined based on the school calendar published by the Grass Lake Community School District, no trucks will be permitted to enter or exit the

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Philadelphia	Boston	Washington, D.C.	Los Angeles	New York	Pittsburgh	
Detroit	Berwyn	Harrisburg	Orange County	Princeton	Silicon Valley	Wilmington

Grass Lake Township Planning Commission

Page 2

October 9, 2017

Site during the half hour prior to the regular scheduled start time for Grass Lake High School or a half hour after the regular scheduled dismissal time for Grass Lake High School.

- V. Per county and state guidelines, weight limits of 13,000lbs per axle will be observed for trucks entering and leaving the Site.
- VI. Norvell Rd. will be swept on an as needed basis.
- VII. Dust control will be conducted on an as needed basis at the Site.
- VIII. No operations will be permitted to take place on the Site on Saturdays during a scheduled event at Dale Fisher Galleries, provided that Dale Fisher provides the Applicant with written notice and evidence of such event at least two weeks in advance of the date of the event.
- IX. No operations will be permitted to take place on the Site on Sundays.

Aside from these suggested conditions, there was some discussion during the September 14 meeting regarding an additional hydrological study of the Site in connection with consideration of L&L's application. As a starting point, ASTI already performed a comprehensive and environmental site assessment, which went over and above the customary standards for evaluation of a site in consideration of the proposed use in this instance. Furthermore, L&L will be required to obtain a lake permit under Section 301 of the Natural Resources and Environmental Protection Act ("NREPA") from the Michigan Department of Environmental Quality ("MDEQ"). As part of its evaluation for the issuance of a permit under Section 301 of the NREPA (specifically MCL 324.30106), the MDEQ will engage in an independent hydrological evaluation of the subject Site. As such, it is unnecessary to perform a further hydrological evaluation of the Site at this juncture. In addition, a study of that type would be uncommon and not required for approval of this type of use.

The excavation on the Site will provide sand, gravel and other materials necessary for construction in the Township, however, as briefly discussed during the September 14 meeting, the ultimate purpose for the excavation on this Site is to develop a subdivision on the Site. The Lester family (through the Lester Brothers) have been offering excavation and gravel delivery services since 1978. In that time, they have also been responsible for the successful development of several subdivisions, both in the Township and central Michigan. L&L is committed to the development of a subdivision on the Site and is willing to file a performance guarantee as security for such restoration plan. L&L also believes that they may be able to complete the

Grass Lake Township Planning Commission

Page 3

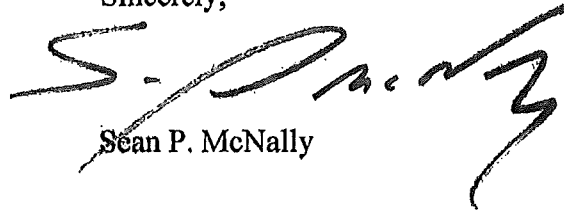
October 9, 2017

project in less than the ten (10) year conservative estimate. L&L will strive to complete the excavation on the Site within five (5) years and then develop the Site into a subdivision that is in first class condition and is consistent with Township ordinances.

We believe Applicant's proposed use meets the applicable factors of the Township Zoning Ordinance to be considered by the Planning Commission in considering L&L's Special Land Use application. Further, the above conditions address concerns commonly raised among the Planning Commission members.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "S. P. McNally", written over a printed name.

Sean P. McNally

SPM/BLB

cc: L&L Development, Ltd. (via Email)

#45632446 v1 (145508.2)

GRASS LAKE CHARTER TOWNSHIP PLANNING COMMISSION
DECISION REGARDING L & L DEVELOPMENT SUP APPLICATION

Applicant: L & L Development, LTD, 5405 East Michigan Avenue, Jackson, Michigan, 49201 (“Applicant”).

Subject Property: 1180 Norvell Road, Grass Lake, Michigan, 49240, Parcel ID No: 000-15-09-200-002-00 (the “Property”).

Reason(s) for Application: Application for a special use permit (“SUP”) for an extraction operation on the Property under Chapter 14 of the Grass Lake Charter Township Zoning Ordinance (the “Ordinance”).

May 18, 2017 Public Hearing: The Planning Commission opened a public hearing at 7:07 p.m. to evaluate the application. Approximately 70 people attended this hearing. The Planning Commission heard presentations from Applicant, Consumers Energy, Carlisle Wortman Associates (“CWA”) (on behalf of the Township), and members of the public. After consideration, the Planning Commission tabled the matter pending further review of supplemental information to be provided by Applicant.

September 14, 2017 Public Hearing: The Planning Commission opened a public hearing at 7:07 p.m. to evaluate the application and supplemental information. Approximately 90 people attended this hearing. The Planning Commission heard presentations and reviewed documents provided by Applicant, professional planning and environmental groups representing both Applicant and the Township, The Friends of Grass Lake Township (the “Friends”), and members of the public. After consideration, the Planning Commission again tabled the matter for additional review by the Township’s attorney and CWA.

October 12, 2017 Public Meeting: The Planning Commission held a duly scheduled meeting at approximately 7:00 p.m. to evaluate the application. The Planning Commission reviewed documents provided by Applicant, the Township Attorney, professional planning and environmental groups representing Applicant, the Township, the Friends, and heard presentations from members of the public. The Planning Commission then issued this decision.

Findings of Fact:

- 1) The Property is zoned R-1, Single Family Residential.
- 2) Applicant has requested a SUP to conduct an extraction operation on the Property, which is a special use in the R-1 District. Ordinance, §6.03(K).
- 3) Extraction Operations are governed by the regulations of §14.06 and §14.07(HH) of the Ordinance.
- 4) Applicant intends to conduct mineral extraction activities on the Property, and to then restore it by developing site condominiums and single-family dwellings, with the mined area to be converted into a private lake.
- 5) Consumers Energy Company has two adjacent natural gas pipelines on the Property.

Additional findings of fact are discussed in the relevant portions of the Planning Commission’s detailed review below.

DETAILED APPLICATION REVIEW

1. **General Standards for an SUP.** To receive a SUP, an applicant must satisfy both the general standards of §14.06 and the use-specific standards of §14.07. §14.06 requires a special land use:
 - a. Be harmonious with and in accordance with the Purposes of this Ordinance.
 - b. Be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity.
 - c. Be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for those services.
 - d. Not be hazardous or disturbing to existing or future neighboring uses.
 - e. Not create excessive additional requirements for public facilities and services at the public's cost.
 - f. Satisfy the Special Land Use Specific Requirements under §14.07.

In addition to these general standards, an extraction operation must satisfy the standards of §14.07(HH). These requirements are addressed below.

2. **Special Use Requirements of §14.06.**

a. ***Extraction Operation Harmonious and in Accordance with Purposes of the Ordinance.*** Applicant's extraction operation is consistent with the purposes of the Ordinance, as it will provide the Township with natural mineral resources. It is located in an appropriately-zoned district, will not have adverse effects on traffic, and will eventually be converted into a residential development. This, in turn, provides the Township with additional housing; and the lake that will be created as part of the restoration plan will provide a place of recreation for future residents. Both the extraction and proposed reclamation activities are harmonious with the Ordinance.

b. ***Extraction Operation Designed, Constructed, Operated, Maintained and Managed to be Harmonious and Appropriate in Appearance with Existing or Intended Character of General Vicinity.*** The Property is located in the R-1 District. Nearby land uses include agriculture, site condominiums and single-family residences. Applicant's intent is to extract minerals and eventually convert the Property into a residential site condominium development. The extraction operation is similar in nature to agricultural operations, and site condominiums and single-family residences are already located nearby. Applicant's extraction operation and proposed restoration plan are harmonious with surrounding uses. The Planning Commission finds that it should also impose several additional conditions, as stated below, to further assure this required harmony.

c. ***Extraction Operation Adequately Served by Essential Public Facilities and Services.*** Extraction operations do not require the use of additional public services. The public facilities that will be primarily affected by Applicant's activities are the Township's roadways. Applicant's proposed truck route is acceptable to the Township, and is subject to further approval by the Jackson County Department of Transportation ("JCDOT"). Applicant has provided a dust control plan designed to address concerns regarding excess dust, mud and debris. In addition, the Planning Commission finds

that it should impose several conditions, as stated below, to protect roadways. With these conditions, the Planning Commission concludes this requirement has been met.

d. ***Extraction Operation not Hazardous or Disturbing to Existing or Future Neighboring Uses.*** Extraction operations can create a risk of disturbance to neighboring properties. This means that appropriate conditions must be imposed to ensure that a disturbance does not occur. Such operations are appropriate as long as the requirements of the Ordinance and any required conditions are satisfied. In addition to the requirements of the Ordinance, the Planning Commission finds that it is necessary to impose additional conditions, stated below, which are designed to protect the environment, prevent disturbances of the peace, and promote harmony with surrounding uses.

e. ***Extraction Operation will not Create Excessive Additional Requirements for Public Facilities and Services at the Public's Cost.*** In addition to the conditions imposed below, further review by JCDOT, JDC, JSESC, and MDEQ is anticipated to assure compliance with this requirement. These reviews are required prior to final site plan approval for the extraction operation. Subject to any additional finding of conditions imposed by those agencies, the Planning Commission concludes that this requirement has been met.

Applicant has met the burden of establishing that each of the general standards applicable to special uses have been met, or can be met through appropriate conditions, which are addressed below.

3. **Use Requirements of §14.07(HH).**

a. ***Extraction Operation Takes Place on a Lot Greater Than 10 Acres.*** This requirement has been met, as the Property is approximately 80 acres.

b. ***Only One Entrance to Extraction Operation from a Public Road.*** Applicant revised its site plan to show a single access location on the eastern boundary of the Property, approximately 440 feet south of the Property's northern boundary. No other access locations are proposed, so this requirement is met.

c. ***Removal, Processing, Transportation and Activities Related to Storage Will not take Place before Sunrise or after Sunset.*** Although Applicant proposed that extraction operations would run from 6am to 6pm weekdays and 7am through 1pm Saturdays, the Planning Commission finds it is necessary to restrict these hours in the conditions stated below, which are designed to help minimize potential concerns regarding dust, noise and traffic. No activities will occur prior to sunrise or after sunset.

d. ***All Fixed Equipment and Machinery to be located at Least 100 feet from any Lot Line, 500 feet from any Residence and Outside of Other Required Setbacks.*** Applicant's site plan shows a 100-foot setback along all boundaries of the Property. The truck scale on the property is located 500 feet from Norvell Road, 700 feet from the northern boundary of the Property and 600 feet from the southern boundary. Applicant has satisfied this requirement.

e. ***All Interior Roads, Driveways, Parking Lots and Loading - Unloading Areas within 100 Feet of Any Lot Line Will be Adequately Treated to Prevent Windborne Dust.*** Applicant has proposed to pave the drive from the entrance at the western edge of Norvell Road extending 100 feet into the Property.

f. ***Proposed Route to be Followed by Truck Traffic will Ensure Minimal Interference with Other Traffic and Applicant has Provided for the Removal of Material from Public Streets.*** Applicant has proposed the following truck route:

Trucks will head north on Norvell Road to Michigan Ave. Once the trucks reach Michigan Ave., 80% to 90% of the truck traffic will head east and the remainder will head west.

Applicant's proposed truck route is acceptable to the Planning Commission. Applicant must obtain approval for this truck route from JCDOT prior to commencing extraction operations, and demonstrate such approval to the Planning Commission. The Planning Commission has also required specific conditions below to meet this requirement.

g. ***Measures to Prevent Odors, Smoke, Fumes and Dust Caused by the Extraction Operation from Leaving the Property and Causing a Nuisance.*** Applicant has provided an environmental assessment by ATSI Environmental addressing these concerns. In addition, the Planning Commission finds that it is necessary to require a number of additional conditions designed to address these concerns, including the conditions stated below. Based on ATSI's report and the additional conditions imposed by this decision, the Planning Commission finds that Applicant has satisfied this requirement.

h. ***Extraction Operation Will not Cause Pollution, Erosion or Alter the Drainage Patterns of Water on Adjacent Properties.*** Applicant's environmental study satisfies this requirement. The Planning Commission has also required that Applicant provide supplemental information as a condition of this SUP. These facts, and the additional approvals that are required from JCDOT, JDC, JSESC, and the MDEQ, ensure that this requirement has been met. Nonetheless, the Planning Commission recognizes that the Friends have presented a study from Atwell, LLC ("Atwell") that suggests numerous deficiencies with the ATSI environmental assessment. As a result, Applicant shall be required to obtain an independent third-party review of the ATSI environmental assessment, which shall, in addition to overall review of that assessment, specifically address the concerns raised by Atwell's report.

i. ***Applicant Shall Accept the Continuing Responsibility to Ensure that No Erosion or Alteration of Drainage Patterns is Permitted.*** Applicant's environmental site plan addresses concerns relating to erosion and drainage patterns. In addition, JSESC, JDC and MDEQ each have additional standards that must be met that will further ensure this requirement is met. The Planning Commission finds that additional conditions are necessary to ensure compliance with this requirement, as specified below.

j. ***Applicant Will Construct an Appropriate Fence.*** Applicant will install a 6-foot tall, 14-gauge woven wire fence around the 31-acre area proposed for mining. Applicant has satisfied this requirement on its site plan.

k. ***Applicant has Provided a Detailed and Satisfactory Restoration Plan.*** Applicant plans to restore the mined area by creating a lake, with the perimeter developed into 18 single-family site condominium units to be served with on-site septic and well facilities. Applicant's plan also shows the development of 3 single-family lots fronting Norvell Road in the southeast corner of the property, with a park also shown in that area. Applicant is proposing a restoration plan that develops the Property for residential purposes, rather than to its pre-extraction condition. This is acceptable to the Planning Commission, although this additional development of the Property is a separate activity from the extraction operation, and will require additional approval and site plan review. Given the connection between these two activities, Applicant will be required to apply for the appropriate approvals for the residential development or restoration to vacant property prior to completion of extraction activities. Applicant must also progressively rehabilitate the Property during the extraction operation, as required by §14.07(HH)(12).

1. **Required Performance Guarantee.** Applicant estimates that it will cost \$4,000.00 per mined acre to restore the Property. The Planning Commission finds that this estimate is low, and therefore concludes that an independent review of this estimate is necessary. Once an independent review is received and accepted by the Planning Commission, and Applicant gives the Township a performance guarantee in that amount and in a form approved by the Township Attorney, this requirement will be satisfied.

m. **Applicant's SUP Will not Exceed a 5 Year Term.** Applicant states that the extraction operation may take up to 10 years to complete. A SUP cannot exceed 5 years in duration, so this SUP shall expire 5 years after the date of this decision. Applicant will be required to apply for renewal of this SUP if additional time is needed to complete extraction operations.

Applicant has met the burden of establishing that each of the above use requirements have been met, or can be met through appropriate conditions, which are addressed below.

4. **"Very Serious Consequences" Claim.** The Friends have raised a number of concerns about the proposed extraction operation. The Planning Commission has considered each of the concerns, including the argument that the SUP must be rejected based on the "very serious consequences" doctrine of MCL 125.3205. Although these factors assisted the Planning Commission's review of this Application, the Friends apparently misapprehend the scope and applicability of this doctrine. MCL 125.3205(3) states that an Ordinance *shall not prevent* extraction activities *unless* "very serious consequences would result from the extraction of those natural resources." In other words, MCL 125.3205 prohibits the Township from preventing extraction operations unless it is clearly established that one or more of the factors found in MCL 125.3205(5) have been met. The Planning Commission finds that none of these factors have been satisfied to prevent Applicant's extraction operation under the "very serious consequences" doctrine.

Planning Commission Decision: Based upon the above discussion and findings, the Planning Commission approves Applicant's request for a SUP, subject to the following conditions. Applicant must satisfy conditions prior to the commencement of operations ("Pre-conditions") and conditions that must be satisfied while the extraction operation is in progress ("Operating Conditions"). These conditions are as follows:

1. **Pre-conditions:**

- a. Applicant must receive final site plan approval of the extraction operation before beginning any construction, grading, clearing or extraction activities on the Property.
- b. Applicant shall obtain and submit an independent third-party expert's opinion on the appropriate amount of a performance guarantee for restoration of the Property. This guarantee must be sufficient to allow the Township to restore the Property at no cost to the Township, in the event Applicant chooses to discontinue operations on the Property or does not construct the proposed residences and lake on the Property as currently proposed. This review shall evaluate Applicant's proposed \$4,000.00 per mined acre proposal, conduct a review of comparable activities elsewhere in the Township or the County, and propose a performance guarantee that is sufficient to ensure restoration of the Property. Applicant is required to post a performance guarantee in that amount and in a form approved by the Township Attorney in order to obtain final site plan approval of the proposed extraction activities. If the Planning Commission does not approve this independent review, it may hire its own expert at the cost of Applicant to determine restoration

costs, which shall be binding on Applicant.

- c. Applicant shall accept continuing responsibility, via a notarized and sworn statement, to ensure that no erosion or alteration of existing drainage patterns will occur due to the proposed extraction operations, and agreeing to be solely responsible for remedying these issues if they occur.
- d. Applicant shall obtain and submit an independent third-party expert review of the ATSI environmental report submitted to the Planning Commission. If this review reveals additional concerns, the Planning Commission may either terminate this SUP or require additional conditions. The Planning Commission must approve of the independent third-party expert's review prior to the approval of any site plan. This independent third-party review must address the specific concerns identified by Atwell's review of the ATSI environmental assessment.
- e. Applicant must demonstrate that its extraction operations do not pose a risk to the two existing and adjacent Consumers Energy natural gas pipelines on the Property, and shall submit survey drawings indicating the actual position of the pipelines and easement and a statement by Consumers Energy that it does not believe that the location and extent of the proposed extraction activities will have a negative effect on its existing pipelines.
- f. Applicant shall obtain approval from Jackson County Department of Transportation ("JCDOT") for its proposed truck route(s) for access to and from the Property. Any changes to the route(s) specified in the application must be reviewed and approved by the Planning Commission, regardless of whether those changes have been approved by JCDOT.
- g. Applicant shall submit additional documentation specifically addressing environmental concerns about the day-to-day operation of the site (including non-mining activities), including findings on whether those activities will cause pollution, erosion, altered drainage patterns of water, odors, smoke, fumes or dust.
- h. Applicant shall obtain all necessary approvals from JCDOT, Jackson County Drain Commissioner ("JDC"), Jackson County Soil Erosion and Settlement Control ("JSESC") and Michigan Department of Environmental Quality ("MDEQ"). It is understood that the MDEQ will require a hydrogeological study as part of its review, and Applicant shall also provide such hydrogeological study to the Planning Commission for its review and approval.
- i. Applicant shall submit topographical maps of the entire Property.
- j. Applicant shall submit a plan indicating how topsoil will be preserved, the proposed landscaping to be used in the restoration/development phase of the project, and the activities Applicant intends to use to progressively rehabilitate the Property as extraction operations occur.
- k. Applicant shall install evergreen trees no less than 6-feet tall at the top of the earthen berm that is currently planned for the site, with a separation distance no wider than 25 feet measured trunk-to-trunk.
- l. Applicant must submit any documentation necessary to demonstrate compliance with these Pre-conditions. The Planning Commission must certify, in writing, that each of these Pre-conditions have been satisfied prior to final site plan approval of the extraction activities.

2. *Operating Conditions:*

- a. Extraction operations (including, but not limited to, parking or staging trucks outside the Property, warming up equipment, etc.) shall not occur prior to 7 am nor after 6 pm on any weekday. In order to alleviate traffic conditions, the gates into the site may be opened not more than one hour prior to 7 am in order to allow trucks to enter the facility, but trucks shall not run their engines nor be loaded until 7 am. No extraction operations shall occur on weekends or on the following holidays: New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day and Christmas Day.
- b. Applicant must take measures to ensure that the extracted material and dust are not spread to nearby properties or the Township's roads. Applicant must control and minimize the dispersion of dust from any areas on the Property where material is extracted, processed, stored or loaded. Such dust-control activities shall occur on an as-needed basis, but no less than daily. Measures shall include, but are not limited to, spraying down excavation areas and storage piles, sweeping of the entrance onto Norvell Road and the washing of trucks prior to exiting the Property, each to occur at least daily. Applicant must also treat or brine on-site access roads and loading areas, although Applicant is not required to do so daily.
- c. During the school year, based on the Grass Lake Schools' schedule, no trucks shall enter or leave the site during the ½ hour immediately preceding the commencement of classes at Grass Lake High School nor in the ½ hour immediately following the dismissal of classes on any day.
- d. Extraction operations must be completed within 5 years from the date of final site plan approval, unless this SUP is renewed by the Planning Commission and additional site plan approval is granted.
- e. All trucks entering or leaving the site shall comply with all weight requirements imposed by the JCDOT.
- f. Applicant shall provide a public telephone number for citizens to make complaints, and must make reasonable efforts to address any complaints received at this number. Applicant will document all complaints, and provide quarterly reports to the Planning Commission detailing the number of complaints received, the nature of those complaints, and the efforts made to address those complaints and prevent similar complaints in the future.
- g. Approval for the final restoration of the Property, including the development of any residences, site condominium, related infrastructure or creation of the proposed lake, shall require separate site plan approval. Applicant shall obtain this site plan approval before 80% of the available materials on the Property have been extracted or upon renewal of this SUP, whichever is sooner.
- h. No material from off the site shall be deposited in or on the Property.
- i. Failure to satisfy any of the forgoing Pre-Conditions or Operating Conditions will invalidate this decision and will result in the termination and revocation of the SUP. Ordinance, § 14.05(E).

Roll Call Vote of Planning Commissioners:

(Yes) / (No) Chair Hinkle

(Yes)/(No) Commissioner Warbritton
(Yes)/(No) Commissioner Raeltz
(Yes)/(No) Commissioner Memmer
(Yes)/(No) Commissioner Elliott
(Yes)/(No) Commissioner O'Quinn

Signature of Planning Commission Chair (or authorized Planning Commissioner):

The Planning Commission Chair certifies that a majority of the entire Planning Commission membership voted to approve the above decision.



Planning Commission Chair/Authorized Commissioner

Dated: Oct 12, 2017

CERTIFICATION

I, the duly acting Secretary of the Grass Lake Charter Township Planning Commission, certify that on this date I witnessed the signature set forth above and attest to the accuracy of this Decision, which was approved by the Planning Commission at a duly scheduled meeting on October 12, 2017.



Roger G. Memmer, Planning Commission Secretary

Dated: Oct 12, 2017