

SAUGATUCK TOWNSHIP

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3461 BLUE STAR HIGHWAY
SAUGATUCK, MI 49453

PHONE (269) 857-7721
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Planning Commission Minutes 04/27/20 (approved)

The Saugatuck Township Planning Commission met April 27, 2020 via video Zoom conference.

Wells performed a brief overview of present members. She was unable to hear Lozano.

1) Call to Order at 7:03 p.m. by Chairperson Prietz.

2) Roll call

Present: J. Helmrich, D. Ihle, R. Israels, C. Lozano, B. Rowe, A. Prietz

Absent: E. Welk

Also present: N. Curcio, esq., L. Wells, Zoning Administrator

3) Approval of Agenda-

A Motion was made by Rowe to conduct the meeting via video conference, ratify the procedures for public participation and meeting conduct as described in the Notice of Public Meeting, and to approve the agenda as written. Seconded by Helmrich. The Motion passed by unanimous roll call vote.

4) Approval of PC Minutes: February 24, 2020

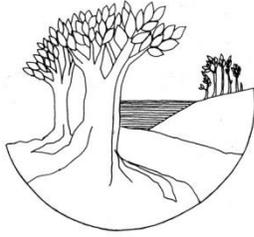
Corrections:

- Page 4: #7 add the word 'be' to described and addressed
- Page 6: correct spelling of Shuil to Shull
- Page 6: add 'ed' to 'question' under comments by R McIlwaine
- Page 7: Omit an extra l in 'McIlwaine' and add an l to willing..willing

A Motion was made by Rowe to approve the minutes of 02/24/20 as amended. Seconded by Ihle. The Motion passed by unanimous roll call vote.

5) Public Comment:

Lauri Goshorn: (Representing the Coastal Alliance in her comments) Expressed concerns with the applicants statement on page 5, and page one of the typed application. 1) referencing a memo related to water body and sand mining issued by the Attorney General. She questioned if the memo exists, and says it is not included in the application. Asks that the application be dismissed and denied if the memo cannot be produced and/or validated. 2) States EGLE is not aware of the sand mining intent or request. Asks for their review before granting the request. 3) States a water ski pond is not harmonious with the surrounding conservation area. The area is zoned residential and sand mining and water ski ponds are not harmonious with the natural conservation area. One reason there is a no



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wake zone to is decrease noise for the homes on the River. This will increase noise. The Alliance is requesting that the commission 1) Deny a permit until the AG memo is produced 2) Require a review and permit by EGLE and 3) Require non motorized use on the existing pond.

Roy McIlwaine: Read a letter from 5 residents referencing a 10 acre water ski pond on the site. States the owner benefits financially by removing the sand. Suggests the PC deny the SAU and the owner redistribute the sand around the area. (Reference letter included in the meeting Agenda packet from 5 homeowners in the area).

7) Old Business:

Special Approval Use:

Consideration for a Special Approval Use application from Chad VanHorn for a Mineral Extraction, Sand Mine in the R-1 district.

- Parcel Numbers – 20-003-063-07, 20-003-063-06, 20-003-063-05, 20-003-063-04, 20-003-063-17, 20-003-063- 16, 20-003-063-15, 20-003-063-14, 20-003-065-05, 20-003-065-04, 20-003-065-03, 20-003-065-02, 20-003-063-13, 20-003-063-11, 20-003-063-09, 20-003-063-08, 20-003-063-18

Mr. VanHorn thanked the Board for their efforts in holding the meeting. He reviewed the draft resolution proposed by our Attorney and felt it reasonable. He hopes the Board finds it reasonable as well.

Wells reviewed the requirements for an SAU as outlined in a memo dated April 21, 2020 to the Planning Commission *RE: Special Approval Use for Sand Mining (updated)*

She explained the commission reviewed this item in February and conducted a public hearing with public comments at that time.

She further explained it is a 47 acre site and the special land use we are reviewing this evening is “ for sand mining and the removal of sand from the property”.

She reviewed the SAU standards and the updated information to those standards.

See attachment A

Summary from Wells:

All uses shall be established and maintained in accordance with State regulations. The attorney and staff have prepared a resolution which includes that the site and all operational use shall be in accordance with State, Local and Federal standards.

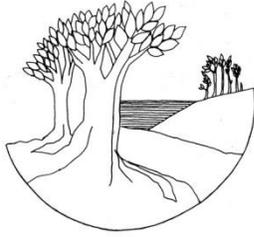
Blue Star Highway will be used as the haul route; confirmed by the Allegan road commission.

If the excavation exceeds 5 acres all State and Federal permits must be furnished to the Township.

No fixed machinery or excavation shall be maintained within 50’ of the property line.

No new private road is permitted.

If the use is considered to be a public hazard a security fence will be required in the area of hazard to discourage trespassing.



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A gate will be installed at the Blue Star access and the applicant has offered signage for trucks and trail users. It is also included as an added condition.

The PC can establish routes and the Blue Star highway will be the haul route. There are dust control measures outlined. The area shall be maintained in a neat and orderly condition.

A bond amount (\$100,000.00) was established to include any repairs to the Blue Star Trail and site resolution.

Practices shall include minimizing dust, and rock and stock piling excavated material.

The site buffer shall be maintained for dust control. The gradient shall not be steeper than 3:1 slope and top soil shall be spread over the area to 4", seeded and maintained.

The restoration plan includes a 36 month completion time frame.

Also it will conform to the general land use SAU section 40:693'

Summary from Wells:

The Planning Commission can set a time frame for the operation and the operation shall be harmonious to the area.

The mining operation is temporary.

The health, safety and welfare of the area have been addressed and standards are included to assure conformity to State, Local and Federal laws.

The Allegan Co. Road Commission has provided a letter of support. No trespassing signs are posted and they do not anticipate additional land use accommodation from providers.

Discussion:

Helmrich questioned the 36 month time frame. Curcio explained that the time frame took into consideration probable issues with the Covid-19 virus and also a period of time for reclamation once the sand is removed. VanHorn confirmed that the initial request was for 48 months but it is now 36 months.

Helmrich questioned the gate on Blue Star and VanHorn explained the fence has been ordered from Fence Consultants but they are currently figuring out if they are able to work due to the State virus restrictions. In the meantime there is a locked cable across the property.

Helmrich questioned 'additional demand use' and the wording of such. Lynee explained that she was referencing use in comparison to other sand mining and not the overall use of the property.

Helmrich also questioned a reference from VanHorn regarding a communication from the AG office in 2018 regarding this project and asked for clarification on the reference and if it could be reviewed by the commission. VanHorn explained that the AG reference at this time is now a mute point as he is now working and fully committed to working with the Township and planning commission. Curcio confirmed that the applicant is here for sand mining only and it has been built into the resolution that the applicant will have to obtain any State permit if required. He also explained that it is often customary for the AG to take



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position on legal issues by letter, verbally or memo but it is not necessary for this application. The proposed resolution is clear that a permit from EGLE will be obtained for the mining. If an inland in-land lake is proposed at some point in time, a permit from EGLE will be necessary.

Lozano questioned the bike path crossing. Prietz explained the bike path signs are part of the resolution.

Lozano expressed concern about the number of trucks crossing the path. VanHorn explained that he has taken a further step than what is required in the resolution. He is adding an additional sign along the drive so truck will have to stop at the bike path. Ihle suggested a steel plate or something to add integrity to the path.

Ihle expressed concern over trucks leaving the site, turning left into traffic. VanHorn referenced a study done by the road commission and their determination was based on 10,000 cars per day in that area. The fire department estimates there is 7,000 cars per day at the specific area. Both indicate that the access from Blue Star is adequate.

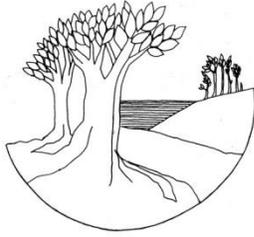
Ihle also questioned dust control and possible potential for a water truck. VanHorn explained he will be paving the first three hundred feet, beyond that he will have a cobbled strip, and he is using Southwest Michigan for dust control. He also explained that he will check on the availability of a water truck and is willing to proactively do this.

Israels questioned the time frame of 07:00 a.m. to 8:00 p.m. and suggested shortening the time frame, and also consider the holidays as a four day period. VanHorn explained that the hours of operation M-F would be difficult to change but has agreed to eliminate weekend hauling and will agree to extending all holidays to a four day period of 'no trucking'. Israels questioned what a 'few dozen trucks' mean. VanHorn explained the calculation in the proposal based on weight and traffic. Israels asked about discouraging double loaded trucks (train trucks) and VanHorn explained he will 'dis-incentivize' operators so it will not be in their interest to use train trucks.

Curcio commented on procedure and recommended that if the PC is ready to approve the application resolution one of the conditions would be that Mr. VanHorn will work with the Township staff to incorporate items agreed upon this evening into the resolution. The applicant will comply with statements made during this meeting.

Helmrich wondered if we should table the resolution and vote until May. Curcio explained that the applicant was specific enough in this discussion that there is not a need to postpone addressing the resolution. Curcio further explained that the driveway will meet the requirements of the Allegan Co. Road Commission, as discussed, and the Township driveway requirements. VanHorn explained that the driveway will be paved to the road. Helmrich stated that a representative from EGLE who oversees sand mining is planning to visit the site this week and asked VanHorn if he was aware. VanHorn referred this to his attorney who stated he was not aware of an impending visit this week but they have visited the site at other times.

Prietz thanked the attorney, staff and participants for their time and efforts in the discussion this evening.



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A **Motion** was made by Israels to adopt the proposed resolution with the understanding that we incorporate the changes discussed and agreed upon this evening, as recommended by our attorney. Seconded by Ihle.

Discussion: Helmrich voiced that he would like to table the decision until the next meeting.

The Motion passed by roll call vote 5:1, Helmrich voting no.

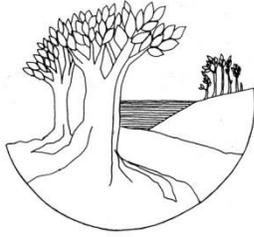
Prietz again thanked everyone for their participation in the meeting.

8. Public Comment:

- L. Goshorn: expressed she finds it interesting that the commission passed it prior to other permitting, but doesn't understand the legal process, and glad it is on the docket for pending approval by EGLE.
- R. McIlwaine: expressed that not one member of the commission brought up the concern of this project fitting into the neighborhood character. Stated we approved a single family 10 acre pond for power boat water skiing in a residential area with sand mining involved.
- D. Swan: Expressed he spoke with the sand mining manager at the DEQ (referring to EGLE) and they are not aware of this project. He said the DEQ (referring to EGLE) is shocked that this is going on and they will visit the site this week.

9. Board Discussion/Update: from J. Helmrich

- Township board conducted its first remote meeting via Zoom on April 8, 2020.
- The newly revised Administrative Policy Handbook was adopted by a 5 – 0 vote. It is available on the website.
- Manager Graham presented a first draft for the Fiscal Year 2021 budget which must be presented publically and adopted before July 1. Many improvements have been made to the format of the budget to increase transparency and improve understanding.
- A second agreement was approved to allow for an applicant to pay water connection fees over time; Cabbage Construction on Just Barns Drive.
- Road projects for remainder of FY2020 and a plan for FY 2021 were reviewed.
- A discussion was held on reviewing and possibly amending the current Short Term Rental policy.
- Manager Graham reviewed the status of the 'Board Goals' which were adopted in December, 2019.
- Public Comment by P.C. Chair Prietz. He asked the Board to consider and include better response times for both the North and South sides of the Township in their emergency response.



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- Next Township Board meeting is Wed., May 13, 2020 at 6:00pm via Zoom.

10. Adjourn

A **motion** was made by Israels to adjourn the meeting at 08:24 p.m. Seconded by Rowe. Motion passed by unanimous roll call vote.

Next P.C. meeting: (scheduled) May 18, 2020 07:00 p.m.

Motions:

1. A **Motion** was made by Rowe to conduct the meeting via video conference, ratify the procedures for public participation and meeting conduct as described in the Notice of Public Meeting, and to approve the agenda as written. Seconded by Helmrich. The Motion passed by unanimous roll call vote.

2. A **Motion** was made by Rowe to approve the minutes of 02/24/20 as amended. Seconded by Ihle. The Motion passed by unanimous roll call vote.

3. A **Motion** was made by Israels to adopt the proposed resolution with the understanding that we incorporate the changes discussed and agreed upon this evening, as recommended by our attorney. Seconded by Ihle. The motion passed by 5:1 roll call vote, Helmrich voting no.

4. A **Motion** was made by Israels to adjourn the meeting at 08:24 p.m. Seconded by Rowe. The Motion passed by unanimous roll call vote.

Respectfully,

R. Israels, P.C. Sec.



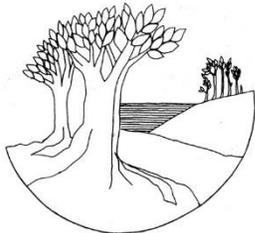
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Attachment A



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PHONE (269) 857-7721
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TO: Planning Commission
FROM: Lynee Wells, Township Planner
Date: April 21, 2020
RE: **Special Approval Use for Sand Mining (UPDATED)**

OVERVIEW:

Mr. Chad Van Horn has submitted a request for Sand Mining per Section 40-740 of the Township Zoning Ordinance. The properties impacted by the request include: Parcel Numbers – 20-003-063-07, 20-003-063-06, 20-003-063-05, 20-003-063-04, 20-003-063-17, 20-003-063-16, 20-003-063-15, 20-003-063-14, 20-003-065-05, 20-003-065-04, 20-003-065-03, 20-003-065-02, 20-003-063-13, 20-003-063-11, 20-003-063-09, 20-003-063-08, 20-003-063-18

The parcels effected include approximately 47 acres in land area. This review and application is limited to a sand mining use only. This review and application does not include site condominiums, private roads, or other uses except for sand mining and removal of sand from the site.

This request was tabled at the February 24, 2020 Planning Commission meeting. The Planning Commission requested additional information, which has been provided by the Applicant.

We will also have the Township’s Attorney Nick Curcio in attendance at the meeting. We have prepared this review memorandum as well as a resolution of approval in the packet for consideration by the Planning Commission. Additionally, you will find the applicant has revised the restoration plan and provided written correspondence related to various pending items, including hours of operation, truck routes, site restoration, driveways, and soil quality for your review.

I also wanted to remind the commission that Section 125.3205 of the Michigan Zoning Enabling Act of 2006 provides the authority and governance opportunities for the Planning Commission when considering natural resource extraction. There is limited control over mining operations. The Act provides that we can establish conditions for things dust control, truck loading hours, hours of operation, noise levels, etc. We can also revoke permits for non-compliance.

REVIEW:

Section 40-693 governs Special Approval Uses generally, and Section 40-740 governs Sand Mining specifically

Sec. 40-740. - Soil pits, sand mines and quarries.

- (1) All Uses shall be established and maintained in accordance with all applicable state statutes and regulations. If any of the requirements of this subsection are less strict than those in applicable state statutes, the state requirements shall prevail.**

Comment: ~~There remain questions related to state permits and approval, namely EGLE permits which may be necessary when more than 3000 tons (2222 cubic yards) are removed, as well as lake~~



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creation over 5 acres. Additionally, a current SESC permit is needed from the Allegan County Health Department. Concerning the driveways, two are shown on the site, only the permit for the driveway on Blue Star Highway has been approved.

UPDATE: The applicant has clarified that Blue Star Highway is the haul route. This has been confirmed by the Allegan County Road Commission who also require Blue Star Highway to be used as the driveway for hauling materials. The proposed resolution addresses this, as well as the requirement that permits be furnished to the Township, and that should/if the excavation exceed 5 acres, permits will be furnished to the Township.

- (2) No fixed machinery shall be erected or maintained within 50 feet of any property or Street or Private Road line. No cut or excavation shall be made closer than 50 feet to any Street or Private Road right-of-way line or property line in order to ensure sublaterals support to surrounding property.**

Comment: This standard is met. Mining limits are depicted on the site plan and these limits are more than 50' from any property line. It should be noted that no new private or public roads are depicted on the site plan.

- (3) Where a Use is determined by the Planning Commission to be a public hazard, the Use shall be enclosed by a security fence six feet or more in height for the entire periphery of the property or portion thereof so as to discourage trespassing.**

~~Comment: The applicant has not provided any indication of fencing or gates to the site. The Planning Commission should discuss security measures with the applicant.~~

UPDATE: The applicant has placed signage not less than every 275' on the site around the pond. Further, a gate has been installed at the Blue Star Highway driveway. The applicant has also offered to place four signs at the driveway (two for trucks, two at the Blue Star Trail) to notify passersby of truck traffic and truck traffic of trail users. A condition has been added to the proposed resolution.

- (4) No Building shall be erected on the premises except as may be permitted in this chapter or except as temporary shelter for machinery and a field office subject to approval by the Planning Commission.**

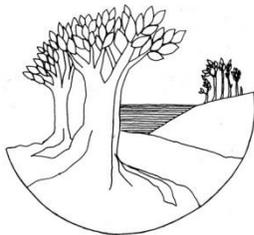
Comment: No buildings are proposed to be erected on the site.

- (5) The Planning Commission shall establish routes for truck movement to and from the site in order to minimize the wear on Streets and to prevent hazards and damage to properties in the community. That portion of access roads within the area of operation shall be provided with a dust-resistant surface.**

Comment: The applicant has stated that Blue Star Highway will be used as the haul route. A gravel drive approach is required by the Allegan County Road Commission for dust control.

- (6) All permitted installations shall be maintained in a neat, orderly condition to prevent injury to property, persons, or the community in general.**

~~Comment: The Planning Commission may wish to require a performance bond to ensure compliance with a site reclamation plan, and the repair and replacement of any damaged portions of the Blue Star Trail.~~



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UPDATE: A condition has been added to the proposed resolution that a bond in the amount of \$100,000 shall be provided, as well as requirements that the Blue Star Trail be maintained and repaired. Please see the proposed resolution.

- (7) Proper measures, as determined by the Planning Commission, shall be taken to minimize the Nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practices of stockpiling excavated material upon the site.**

~~Comment: The existing stockpiles are 70' in height. The Planning Commission may wish to discuss with the applicant measures to ensure sand and dust do not cause a nuisance to adjacent properties.~~

UPDATE: The required buffering and maintaining the landscape buffer has been proposed as dust control for the site. A condition has been added to the resolution requiring this be maintained per the site plan.

- (8) When excavation and removal operations or either of them are completed, the excavated area shall be graded so that no gradient in disturbed earth shall be steeper than a slope of 3:1 (horizontal-vertical). A layer of arable topsoil of a quality approved by the Zoning Administrator shall be spread over the excavated area, except exposed rock surfaces or areas lying below natural water level, to a minimum depth of four inches in accordance with the approved contour plan. The area shall be seeded with perennial grasses and maintained until the area is stabilized and approved by the Planning Commission.**

~~Comment: A site restoration plan has not been provided to indicate the restoration of the site with top soil, finished grades, nor seeding. This plan shall be provided for review to determine compliance with this standard. A note has been added to the discussion list at the end of this memorandum.~~

UPDATE: The applicant has provided a Site Restoration Plan and has provided that the site will be restored within 36 months from the date of approval. Please see the proposed resolution.

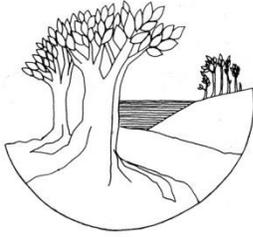
- (9) The Planning Commission, in granting a Special Approval Use, may require the posting of a bond or other assurance that the requirements in subsection (8) of this section shall be met.**

~~Comment: The Planning Commission may wish to require a performance bond to ensure the site is restored per a site restoration plan (yet to be submitted). The overall development plan is not a restoration plan, and this review does not include analysis of future building sites or private roads. A performance bond shall also include costs associated with periodic repairs and eventual replacement of the impacted portions of the Blue Star Trail.~~

UPDATE: A condition has been added to the proposed resolution that a bond in the amount of \$100,000 shall be provided, as well as requirements that the Blue Star Trail be maintained and repaired. Please see the proposed resolution.

Section 40-693

- 1. Will the Special Approval Use be designed, constructed, operated, and maintained in a manner harmonious with the character of the surrounding area?**



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~~Comment: A determination cannot be made until additional information is provided as discussed herein.~~

UPDATE: The applicant has provided and has offered operational and site standards to mitigate offsite impacts to ensure the operation will be as harmonious as possible during its operation. Hours of operation have been established and are included in the proposed resolution.

2. Will the Special Approval Use change the essential character of the area?

~~Comment: A determination cannot be made until additional information is provided as discussed herein.~~

UPDATE: The mining operation is temporary to create a pond for residential enjoyment. Once restored, the site will be similar to other residentially used and zoned properties in the Township.

3. Will the Special Approval Use be hazardous or involve uses, activities, materials, or equipment which might prove detrimental to the health, safety or welfare of persons or property by reason of traffic, noise, vibration, smoke, fumes or glare?

~~Comment: A determination cannot be made until additional information is provided as discussed herein.~~

UPDATE: Conditions have been added to the proposed resolution. The applicant is required to operate in accordance with all applicable federal, state and local laws.

4. Will the Special Approval Use place additional demands on public services and facilities.

~~Comment: A determination cannot be made until additional information is provided as discussed herein.~~

UPDATE: The applicant is required to use Blue Star Highway for site access. The Kent County Road Commission has provided a letter of support and their driveway permit for this use. The applicant has and will post no trespass signs. Additional demands on public services and facilities are not anticipated to be greater than those typical for the proposed use.

RECOMMENDATION:

The Planning Commission may wish to review this memorandum, consider the resolution that has been prepared by the Township Attorney and seek any additional comments from the Applicant. The public hearing was February 24, 2020; therefore, no additional public testimony is required. The minutes from that meeting are included in the packet for reference.