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## **Planning Commission Minutes 11/22/21**

The Saugatuck Township Planning Commission met November 22, 2021.

### **1) Call to Order** at 6:01 p.m. by Chairperson Israels.

Israels read Zoom instructions for public participation. All votes should be taken via roll call. Please say your name before speaking. Mute yourself when you are not speaking. This meeting is being recorded. Please do not interrupt. If any public member is disruptive in a way that interferes with the board conducting their business, they will be blocked. If there are any individuals that would like to participate, but need special accommodations, we will do our best to make those adjustments. Please do not click on any links on Zoom.

### **2) Roll Call**

Present: D. Ihle, R. Israels, J. Helmrich, D. DeFranco, D. Webster, M. Wurth, J. Ground  
Also present: L. Wells, Zoning Administrator

### **3) Approval of Agenda**

Helmrich recommended eliminating item 7.A, Committee Reports, under Old Business.

A **Motion** was made by Webster to approve the agenda as amended. Seconded by DeFranco. The Motion passed by unanimous roll call vote.

### **4) Approval of Minutes:** PC Meeting 10/25/21

- Page 4: Line 4, strike “in a revised site plan” and replace with “in the north elevation drawing.”
- Page 10: Line 18, strike “decline to read the book” and replace with “would like more time to consider a more appropriate book.”

A **Motion** was made by Webster to approve the minutes as amended. Seconded by Ground. The Motion passed by unanimous roll call vote.

### **5) Public Comment**

No Public Comment

**Public Comment Closed**



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## 6) New Business

### **A. Public Hearing, Rezoning Request, Midwest V, LLC parcel number 20-032-046-00 rezoning portion from A-2 to C-1 and rezoning portion of C-1 to A-2. Parcel is vacant and located near 68<sup>th</sup> and 124<sup>th</sup>**

Wells introduced the project, reviewing zoning map and rezoning request. Wells also read through factors to consider in determining the appropriateness of rezoning request. Wells explained that the applicant's rezoning request was to move 1.414 acres of commercial from the northeast to the southwest of their 19.07-acre parcel, an area presently zoned A-2, and align it with their existing .92 acres of C-1. The rezoning would not result in a net increase of commercially zoned land, but is a relocation of commercial within a 19.07-acre parcel.

Andrew Rossell, Kalamazoo, MI, with AR Engineering introduced himself as the Project Manager. Complimented the detailed staff report provided to commissioners, and said that he would be able to answer any questions from commissioners on behalf of the applicant.

Israels opened Public Hearing.

Israels said that there had been multiple correspondences received concerning the rezoning application. Wells added that all correspondence received were on file at the TWP and all were against the rezoning request. Wells read off the names of those who sent the TWP correspondence:

- Margaret Harrison, 6820 Dale Ct.
- Tara Warner 2671 Lakeshore Dr.
- Sylvan Shores and Meadows Home Owners Association
- Janet Schroeder, 6944 Lakeshore Ct.
- Sherry Edris 2534 Lakeshore Dr.
- Katherine Stiver, 2538 Lakeshore Dr.
- Nancy Rosener

Wurth asked if there were any reasons given for opposing the rezoning request. Wells said the correspondences all referenced a Dollar General store and were concerned with loading docks, parking lots, increased traffic, brownfield/environmental concerns, a business at that site not being harmonious with the area and not being consistent with the tourist nature of the area. Wurth asked why the correspondences were relevant to the present rezoning request. Wells could not answer that, but said that those were the comments received. Wells clarified that there had not been a site plan submitted nor any request for a specific end user; rezoning to C-1 would allow any of the approved uses in C-1. Wells noted that currently the property owner can do any of the activities allowed in C-1 in the part of the parcel presently zoned C-1.

1. Lynn Kirkcaldy, 2402 Lakeshore Dr., was opposed to the rezoning request because of the



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limited frontage on M-89 and the possible traffic issues that could arise.

2. Sue Fencl, 2492 Lakeshore Dr., thanked TWP for providing a better understanding of the request.
3. Don Olendorf, 2432 Lakeshore Dr., thanked TWP for the information shared and expressed concerns for future traffic issues that may arise from a business at that location.
4. Carol Josefowicz, 2334 Lakeshore Dr., concerned with lot's limited frontage on M-89 and ability to safely enter and exit the property.
5. Jennifer Drew, 2435 64<sup>th</sup> St., was against the rezoning. Drew traveled in that area often and stated that it could be dangerous with present traffic congestion.

Webster inquired about a remark in the Master Plan that said that general businesses should not be located in highway interchange areas and noted that the comment was in association with the northern portion of BSH. Webster wondered if the comment pertained to the north highway interchange and not the south interchange presently being discussed. Wells said she would have to review the Master Plan, but agreed that the Master Plan identified distinct areas along BSH.

Helmrich said that historically the property in question had been considered for a truck stop and asked Wells to clarify whether a truck stop had by-right usage for the property. Wells said that "truck stop" is a use in the TWP zoning table and that the zoning table specifies which districts in which a use could be located. "Truck stop" is not a use allowable in the C-1 district and so there could not be a truck stop at the property under discussion. Israels noted that most properties located at an interchange in the TWP are zoned C-3, whereas the site in question is zoned C-1. Given the Zoning Ordinance, Israels believed that the C-1 district is more tourist and small business oriented. Helmrich asked Wells to list some of the land uses allowable by right in the C-1 district. Wells read the purpose statement for C-1 district and said uses allowable by-right in C-1 include ambulance service, antique shops, resale shops, bakeries, bait and tackle, bank and financial offices including drive-up facilities, barber/beauty shop, florist, dental/medical, dance studio, taxidermy, art/music studio, gift shops, book/video/record stores, convenience store, party store, retail and convenience printing, travel agency, restaurants (full-service, excluding drive-through), bars/taverns/lounges. Wells mentioned additional special uses cited in the zoning ordinance.

DeFranco referenced Rossell saying that the applicant had a buyer for the property, and ask him to clarify. Rossell stated that the applicant's client has an option to purchase the property contingent upon its rezoning and that application for rezoning was on behalf of the current property owner.

**Public Hearing Closed**



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Webster asked if the rezoning would result in a land-locking of the A-2 portion of the property. Wells said that there is access on BSH. Webster said PC would need to consider in future site plans whether owner would have to secure an easement on 124<sup>th</sup> Ave. Ihle asked if the owner of the 19-acre site also owned the 1 acre parcel at the south/west border of the 19-acre parcel. Wells said yes. Ground asked if Midwest V intended to purchase only the rezoned parcel and not both parcels shown on the map provided. Rossell confirmed this to be the case. Ihle noted that there would be a net loss of commercial and a gain to A-2 with this rezoning, and did not see any concerns with the rezoning given that C-1 was being moved to border I-196. Ihle asked if staff knew anything about the brownfield environmental issues with the site. Wells did not know. Ground said it made sense to consolidate the commercial area along M-89. DeFranco noted that neighboring commercial lots were non-conforming, and wondered if it would be reasonable to anticipate the applicant could secure a variance. Wells said she could not speculate, because it would ultimately depend upon the applicant to make a case according to dimensional variance standards. Wurth agreed with Ihle and did not see any reason to block the rezoning request.

Israels noted that the rezoning request appears to make the property more conforming to the land use plan than its present zoning, and that it did not make sense to have a C-1 district behind business lots on M-89. Israels added that she like the zoning being C-1 and not C-3, and that the C-1 designation was more appropriate for that area. DeFranco mentioned that I-196 is designated a Tree Protection Zone in the Tree Ordinance and that a healthy tree buffer could be required of an applicant. Wells noted that a site plan would have to adhere to all zoning requirements including architectural requirements. Helmrich noted that the rezoning is aligned with the TWP's interest in encouraging economic development.

A **Motion** was made by Wurth to support the rezoning request, Midwest V, LLC parcel number 20-032-046-00 rezoning portion from A-2 to C-1 and rezoning portion of C-1 to A-2 given that the rezoning (1) results in a net decrease in commercially zoned area, (2) is consistent with the Master Plan given that the Master Plan shows residential use in the area requested to be rezoned A-2, (3) fits the zoning description for C-1, (4) is consistent with the Master Plan in recognizing economic establishments at Freeway and M-89 interchange, and (5) any potential project would require site plan review and PC approval. Seconded by Ihle. The Motion passed by unanimous roll call vote.

**B. Public Hearing, Special Approval Use Amendment, RJ Prospects and Top Grade, LLC, 6135 133<sup>rd</sup> Avenue, between 60<sup>th</sup> and 62<sup>nd</sup>, to reduce the size of the approved pond. Parcel: 03-20-012-005-20**

Wells introduced the project. Wells stated that the original approval was for a sand mining operation; the original proposal included a 3.5-acre pond, 11 ft. deep that was to be filled by



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tapping into the water table. Wells said that there were several inconsistencies between the original site plan and the current state of the site including elevation discrepancies and no consistent presence of water in the pond. Wells said that staff had received a call from someone interested in purchasing the property and who wanted to know if the work completed was consistent with the approved site plan, which gave staff the opportunity to review the approved plans and conditions. When staff visited the site, they discovered that all the following were not per approved plans: the pond depth, water source to fill the pond, circumference and shape of pond, 4" of topsoil described in the 2018 narrative, seeding, failure to stabilize banks of pond. In addition, Top Grade received a violation from EGLE for diverting water from the established ash drain to fill the pond. Wells said that Top Grade then applied for a pond permit with EGLE which they were denied and thus were required to restore the ash drain. Wells said that the pond, as it stands, is essentially a storm water pond, not a recreational pond nor an aesthetic pond. Wells noted that the pond depth fluctuates between 2-3ft, which is highly dependent on the amount of storm water and will never have a consistent depth. Wells explained that to excavate down into the water table would require Top Grade to apply for a new SAU and continue to mine to penetrate the water table. Top Grade was wanting to leave the site as is. Wells reiterated that there was no water source supplying the pond and it was not expected to fill over time. Wells noted that the slopes are much steeper than was approved, so steep that they will not hold top soil. Wells said Top Grade has made a submittal to amend their SAU because the site does not match what was approved and TWP staff's job is to go through the standards and determine how the standards could be met.

Applicant, Ross Veltema, said that EGLE did not deny Top Grade's pond permit, but that Top Grade dropped the application. Wells said that Top Grade was issued a violation by EGLE, which Veltema confirmed. Veltema said he had hired Kurt Koella of Lakeshore Environmental because he wanted to build a bigger pond than what had been permitted. Veltema said that he wanted to clay line the pond to make it more aesthetically pleasing, but he ran into the mining deadline which was a big part of shrinking the size of the pond. Veltema mentioned walking the site with former TWP Manager Graham and expressing his intention to clay line the pond. Veltema claimed that the TWP had no proof that the slopes of the pond were steeper than the approved grade and maintained that the slopes were a grade of 1:3 as was permitted. Veltema said that the top ring of the site was layered with top soil and the reason the rest of the site did not get top soil was due to his belief that the rest of the area would be underwater. After the EGLE violation, Veltema restored the ash drain, not knowing at the time of the drain's complexity. Veltema said everything changed when a neighbor approached him and expressed interest in purchasing the property as is; other than that, Veltema had every intention on working with EGLE to get the necessary pond permit and to return to the TWP with a development plan. Veltema noted that the sale of the property to the neighbor had not been executed. Veltema reiterated that the size of the pond was going to be bigger, but they ran up against the SAU deadline. Veltema also knew that digging into the water table was controversial and thought it was a positive if it could be avoided. Veltema said that the interested neighbor approached the



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TWP to find out if he could purchase the property as is, not to find out if the site was built to plan. Veltema acknowledged that after his meeting with the TWP he recognized that things could be improved at the site and was willing to make those improvements, but has not made any changes in anticipation of coming before the PC. Veltema said that if any commissioners were interested in learning about the difference between a clay-lined pond and a water table pond, he brought with him Koella, a hydrogeologist with Lakeshore Environmental, to answer questions.

Kurt Koella, Grand Haven, a hydrogeologist with Lakeshore Environmental said that the characterization of the project was misleading; they had been “jacked around” by EGLE and that made proceeding difficult. Koella asserted that TG had several good proposals but it had been difficult to adjust to neighbors and EGLE. With regards to the drain, Koella said that TG had talked to the Allegan County Roads Commission and Allegan County and both said diverting the drain would not be an issue, despite it becoming an issue. Koella said that despite the challenges there was an opportunity here. Koella maintained that the slope grade was correct but acknowledged they were rutted out and could be improved. Koella noted that the slopes were not seeded because TG was still deciding on how to proceed. Koella asserted the TG’s present proposal was suitable. Koella had a pond at his own home and has built over 50 ponds in his career. Koella acknowledged that the site in question was challenging. Koella said he had been working on the site since the 1980s; it was beat up and Koella was happy when Veltema got involved in 2017 to clean it up and turn it into a pond. Koella believed the proposal was a good one and that it was aesthetically pleasing, adding that it has a buffer and most people do not know it’s there. Koella added that even a shallow basin of water at the bottom was a great amenity to homeowners. Koella said that there are going to be more ponds/lakes like it in the future and that Koella himself had constructed lakes several hundred acres in size in subdivisions which are numerous in the area. Koella said he was not opposed to the project in any way and endorsed it.

Wells explained that staff and the TWP engineer were provided a survey from the applicant and calculated the slopes based on the applicant’s survey. Wells was unsure why the applicant was disputing the grade of the slopes given that the calculation was made using data provided by the applicant. Wells maintained that the survey submitted by the applicant with respect to slope grade does not match what was approved. Wells reviewed the special land use standards specific to mining and special land use standards for uses in general. Wells said that the staff recommendation was to approve the amendment to the SAU with several conditions that would ensure the site would not continue to be the dangerous, eye-sore situation it is presently. Wells noted that new, high quality top soil needed to be brought to the site, seeding needs to occur, and work must be done to the slopes to make them more gentle. Wells also said that staff would recommend TG provide a new performance bond of around \$50,000 to ensure compliance. Wells reviewed the 18 conditions being recommended by staff.

Israels opened the public hearing.



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1. Jane and Larry Dickie, 6108 Old Allegan Rd, read the following correspondence sent to the TWP. Top Grade comes to you with a new application which they say is designed to rectify the mess created when they sand mined approximately 250,000 yd.<sup>3</sup> to 400,000 yd.<sup>3</sup> of sand from the site on Old Allegan Road and 133rd St. in Saugatuck Township. I urge you to deny the request for continued digging to create what they say will be a 2-acre pond. And I ask that you instead require that they meet the obligations they agreed to at the Township Planning Commission Meeting on April 25, 2018, to restore the area to a green space with safe slopes, topsoil, and grass. And for the Top Grade to pay for expert consultation with the Outdoor Discovery Center on the ways to rehabilitate sand mine areas. There are several reasons why you must reject this application.

Top Grade has consistently filed applications for sand mining with, what appear to be intentionally misleading and erroneous statements:

Their first application for special use approval drew maps and indicated they would be removing 125,000 yd.<sup>3</sup> from an approximately 10 to 35-acre parcel to create a pond. They assured that their 4.9-acre pond [just under the 5 acres which required EGLE (DNR) permission] would naturally fill from groundwater. When I took this to an expert geologist/hydrologist he looked at it and said they are removing no less than 400,000 yd.<sup>3</sup> of sand. This is not to create a pond; it is straight up sand mining. Planning commission rightly rejected the proposal.

Their second application amended the first and requested 400,000 yd.<sup>3</sup> with a hole that would be deeper than the aquifer which supplies all of the adjacent wells. They said this would create 3.5-acre pond. (See the attachment indicating the static water depths of all the surrounding wells. The wells range from 31 feet to 55 feet.) Their lawyer in turn pressured the Township lawyer with what we believe is an erroneous reading of the sand mining laws in effect at that time, indicating that they have a legal right to proceed even though it could be shown that they did not meet the five state law factors required to allow special use approval. At that point the planning commission voted 4 to 1 to approve the project with a set of conditions agreed to in writing and spoken. (See attached memo summarizing conditions placed by Saugatuck Township at the regular planning commission meeting on June 4, 2018.) While some conditions were met, such as building a berm and planting trees on the south side of the property, posting signs of possible drowning dangers, crushed asphalt was used in the driveway, 25 mile an hour posted speed limit for the trucks and gating was provided at the driveway entrance others were ignored. For example:

- a. No berm nor trees were planted on the east side of the property to prevent dangerous sand dust from drifting into the neighbors' homes.
- b. Excavation on-site shall have been seeded and graded in accordance with the S.E.S.C. & Grading plan dated December 4, 2017. It was not.



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- c. Upon completion of the pond the property will be graded to a minimum of 4 inches of topsoil over the exposed ground and the site will be seeded. It was not.
- d. The pond will be excavated with side slopes 1:4. (The stipulation for the ratio for side slope in the pond was 1:3.) – Since there is no pond and only a puddle the slope of 1:4 should be continued all the way to the bottom of the hole. The current slopes are much steeper, a ratio of 1:0.5 in many places, causing extensive and dangerous erosion. (See pictures attached.)
- e. Heavy soils will be used in the restoration and such soils and topsoil will be tested for contaminants to prevent contamination of the pond water and local shallow wells. No detailed testing was reported to the neighbors, nor the Township.
- f. The only materials brought on site will be topsoil for restoration... Many truckloads of heavy materials brought in and deposited. Not topsoil.

Now they come with their third application asking for approval to create a 2-acre pond and once again we see misinformation in the materials provided by Top Grade Aggregates and Lakeshore Environmental Inc. For example:

- a. In the Introduction, Lakeshore Environmental reports that "due to the discovery of extensive clay deposits at the site, which was developed in the sand mine, Top Grade abandoned sand mining to utilize the clay to construct a clay lined lake." Most of the clay was in fact trucked in from some other undisclosed sites. Neighbors observe these trucks depositing heavy soils over a period of weeks and reported such to the township office. And although Top Grade promised to provide sample testing of any heavy soils brought in, they never reported the details of tests even when requested in February 2019. We were merely told that the soils had been tested and were fine.
- b. Continuing in paragraph one of the Introduction Lakeshore Environmental reports that Top Grade told them that they had obtained approval from both the Allegan County drain commission and the Allegan County Road commission to install an equalization pipe to Ash Drain. No such approval was requested until after neighbors reported a surreptitious pipe had been installed to drain the Ash Drain into the storm water catchment/"pond". Approval was denied by EGLE. Top grade did not get approval to divert water from the Ash Drain, and yet they installed the pipe which still exists as the attached pictures show.
- c. A report that 257,600 yd.<sup>3</sup> of dry sand and clay to depth of 30 feet was removed. Yet their own graphs show a drop of approximately 42 feet.
- d. They suggest that the static water is at least 5 feet below the clay liner. Yet the static water depths from relevant local water well logs indicate static water from 33 to 42 feet deep. Clearly their excavation is below the static water of the surrounding area. See attached map with static water levels inserted as well as their own attachment B.



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- e. Finally, and most egregiously, they report that the planned excavation AND RESTORATION HAS BEEN COMPLETED. NO IT HAS NOT. The excavation may be complete, but the restoration is far from complete.

In summary we request: First, that you deny this application for a 2-acre pond. The maximum depth of the so-called "pond" will be 6 inches to 2 1/2 feet at most, and even with the possible storm creating the hundred-year flood, their own report indicates this still will not create a workable pond. Second, that you require Top Grade to meet their obligation to restore this space including, to bring the slope of the hole into compliance with safety standards which will prevent further erosion and danger. And to cover the disturbed area with 4 inches of topsoil as initially required. Third, that you require Top Grade to consult with experts on sand mine reclamation, such as the Outdoor Discovery Center, and follow their recommendations to create a green space. At the time of Top Grades initial application, Ross Veltema (TG owner) turned repeatedly to the audience asked us to consider what would be created, a beautiful pond that would enrich the neighborhood and property values. What we have instead is a dangerous eyesore with the mosquito breeding puddle at the bottom. Please require top grade to make this right. Thank you for your work on behalf of we, the citizens of the Township.

2. Dayle Harrison, 3108 62<sup>nd</sup> St, said it was time to bring the project to a close. Noted that the water table would never be sufficient to fill the pond, and that it was fair and reasonable to request that more fill be brought in and that the slopes be graded at ratios of 1:4 or 1:5. Harrison said that the pond has many safety issues as it is an attractive nuisance. Harrison encouraged the mining to stop. Harrison was unsure if an SAU was appropriate in the situation, and that perhaps it should be a citation on the prior application. Harrison asked to let the neighbors heal from the mining experience, and asked that the PC deny the SAU and require additional fill, re-sloping, and plantings to create a natural environment.

3. Steve Hickok, 6092 133<sup>rd</sup> Ave, gave background on when the applicant shared a graphic of what the site would look like after restoration. Mentioned that the neighbors had to suffer through the project. Hickok was concerned with the PC and their ability to enforce conditions. Hickok noted that it had been a lot of work for neighbors to make sure conditions were adhered to and that TG had failed to meet many of those conditions. Noted that if the site now were to be compared to the original graphic, it looks nothing like what was promised. Hickok inquired about the trucking route and asked that it be expanded to include Old Allegan Rd.

4. Ed Welk, 2557 Lakeshore Dr, spent 10 years on the PC, just retiring this year. Welk said that the hardest vote he ever made on PC was on this project. Welk noted that the only reason he approved it was because he felt that denying it would result in litigation. Welk agreed that much of what the applicant set forth did not happen, and suggested that lack of enforcement was a possible reason for the applicant's failure to satisfy conditions of the original SAU. Welk



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expressed concern with lack of enforcement for future projects and said the TWP needed an enforcement body.

5. Gene Adamczyk, 6045 133<sup>rd</sup> Ave, said that the mining project was detrimental to the community and that TG had taken advantage of both the TWP and the neighbors. Adamczyk wanted the TWP to uphold the conditions of the original SAU and have TG restore the site.

6. Tom Burgin, 6117 Ravines Ct, said he lives about a quarter mile from the site and that he has been impacted by noise coming from the site. Burgin walked the site and noted the steep slopes and that the site, as it is presently, is a scar. Burgin supported Jane Dickie's letter. Burgin expressed that the conditions that were put in place were intended to be an alternative to litigation with TG. Burgin insisted that TG acted irresponsibly and was not good corporate citizens to our community. Burgin noted that there was no way to enforce conditions and wondered how the community could trust the applicant who had already failed to satisfy the conditions of the original SAU.

7. Eric Ellison, 6050 133<sup>rd</sup> Ave, agreed with neighbors who made public comment, and said that the applicant had gotten what they wanted, but had not fulfilled their responsibility to restore the site. Ellison said that if anyone visited the site they would agree that it is not aesthetically pleasing. Ellison wanted TG to live up to their responsibility and restore the site to either a pond or green space, but that the site cannot remain in its present state. Ellison said that it appears that TG's intention is to do nothing by introducing a mystery buyer that may or may not come to fruition. Ellison was very concerned that the mention of the buyer was just a ploy for TG to get out of having to do any restoration to the site, allowing TG to get the sand that they wanted and to leave the site without having done any restoration. Ellison said he was sorry that for some reason TG could not figure out how to fill a pond; Ellison lived in a community with a lake and so he knows that engineering wise it can be done. Ellison said that the applicant must be held accountable to figure it out and to make it right.

Veltema said that he has created ponds in residential developments in other communities and that he knows how to do it, and that his intention was to do the same with the site in question. Veltema said the only reason everyone is upset is because the site was supposed to be covered in water. Veltema agreed that the site does not look good in its present state. Veltema said the reason he stopped with the restoration process was because he had a buyer for the property who wanted to purchase it as is, and he wanted to reach an agreement with the Township on how that would look. Veltema said he did not think any trucks were needed or that he would have to import anymore clay or topsoil because the site is on 33 acres with spots which have 18" of topsoil that can be used for restoration. Veltema said the only reason he stopped with restoration was because he ran into the mining deadline. Veltema also relayed that when mining he encountered a lot of clay and began the process of shifting to a clay-liner strategy to fill the pond as opposed to tapping into the water table. Veltema said it was not true that he is trying to



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abandon the project, rather he kept running into hurdles, and he was willing to work through this with a reasonable outcome.

Wells noted that correspondences were received from Harrison and Dickie, on file with the TWP.

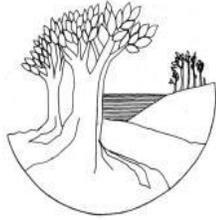
Wurth mentioned that Veltema said his intention was to “make it right,” and asked how far off Veltema’s vision of “making it right” was from what was originally agreed to. Wurth suggested that it was far off given that the conditions of the site did not allow for the original plan. Veltema explained that what was originally permitted was a hole 1/3 larger in size than the present hole that was to have water 8-11ft above the bottom of the hole. Veltema now suggested having less to no water in the hole, re-grading the slopes to 1:4, and adding 4” of topsoil from soil onsite. Veltema thought the TWP was going overboard with the requirement to haul in top soil.

DeFranco asked Wells if the TWP collected a performance bond from TP for the original SAU. Wells said that TG had provided the original performance bond, but was unsure if the account was still active.

## **Israels closed the Public Hearing**

Helmrich thanked Welk and Harrison for speaking and for their many years of service on the PC. Helmrich thanked Wells for doing a fantastic job with her summary to the PC and members of the public for bringing forth important information. Helmrich underlined that the original approval of TG’s SAU was in June 2018, and now in November 2021 all five members of the Board were not on the Board in 2018 and out of seven members of the PC, only one, Chairperson Israels, was on the PC at the time of the decision and voted against the SAU. Helmrich noted that the TWP also had a new Zoning Administrator and TWP Manager since the SAU approval in 2018. Helmrich noted the great number of items that were not per the approved plan, and that there was a huge trust issue here and he was unsure how the PC or TG could address that. Helmrich thought it was important to bear in mind how much of the original plan had not been followed. Noted that this issue dovetails with the issue of enforcement, and Helmrich encouraged all step-up enforcement measures in the TWP. Helmrich encouraged PC members to speak to members of the Board about the issue of enforcement.

Israels recounted being on the PC when TG applied for their original SAU, noting that those meetings were difficult and a decision was not made in a single night. Israels noted she had conferred with lawyers at a TWP meeting who said that there was no way to stop the mining project, but thought that if the TWP could not stop it that they should look for ways to make it better. Israels noted that she voted against the SAU primarily for health reasons knowing that there were people in that area with asthma and other health issues for which sand mining would



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be detrimental. Israels noted that after the project started there were continuous problems with no recourse. Israels explained that the TWP developed a reporting form that the Dickies, who represented impacted land owners, would aid residents in filling out and sending on to TG. Issues included hauling at high speeds and operations occurring after hours. Israels said that in retrospect the TWP has always been correcting mistakes and continues to correct them, and Israels felt bad about that. Israels thought the project should be put back together as promised.

Ihle asked the applicant if the pond was already clay-lined. Applicant confirmed that to be the case. Ihle wanted the public to understand that the site would never be a wet pond or what is traditionally thought of as a pond. Ihle said he went out to the site and found it unsightly, and believed it to be that way due to neglect. Ihle noted that once topsoil is put down it must be seeded to hold, it had to be maintained regularly, and that soil will inevitably erode and must be restored again. Ihle referenced the applicant's comment about there being a potential buyer for the site who is good with the site as is, but Ihle does not think the TWP is good with the site remaining as it is. Ihle noted that TG is a good company that knows how to do such a project correctly, but this project was not done correctly. Ihle believed the site should be restored according to the original approval and knew TG could do so if they wanted to. Wurth inquired about the disconnect between what the TWP's and Veltema's respective visions for the site. Veltema said the respective visions are close, and that the difference is that wells were not constructed to fill up the pond. Wurth said that the PC had moved on from wanting water at the site. Veltema said that the original plan called for the removal of an additional 100 cubic yards of sand to breach the water table. Wurth said to take filling the pond out of the equation, and asked what then separated the TWP's vision from TG's vision. Wurth said that he thought the PC wanted to restore the site to a viable natural setting that looked aesthetically pleasing and asked the neighbors if there were any objections.

Helmrich noted that there was a comment that the PC might request that TG and the TWP work with an expert, such as the Outdoor Discovery Center, on a reclamation and restoration plan. DeFranco noted that he had an existing meeting with the ODC and that PC members and staff could join and ask about developing a restoration plan given that the PC are not experts on the subject. DeFranco agreed with Wurth's sentiment in wanting to see something natural for the site and not necessarily needing a water-filled pond to meet that goal. DeFranco said that he understood the biggest point of contention between the applicant and the TWP to be the applicant's unwillingness to bring onsite dark, organic, friable loam to use as the 4" of topsoil, which DeFranco thought was a critical measure in the site's restoration. Wurth asked if the topsoil onsite doesn't already meet that standard. Wells said staff was onsite and the soil present does not meet that standard, but could have the soil tested to confirm. Veltema acknowledged that the slopes could have better quality soil. Koella said he would work with Wells to satisfy the 18 conditions identified in the staff report, and that TG's biggest challenge was deciding in which direction to take the project. Koella was in support of TG's SAU application because to deny the current application would delay the project, and Koella was interested in getting



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whatever expert, be it the ODC, out on site to get the project moving. Veltema agreed with Koella that he wanted to get the project moving, whether the outcome is selling the property to the neighbor or creating wetland banks. Veltema said we was willing to work with the TWP on a plan to improve the site, but would like it to be reasonable to justify it financially.

Adamczyk suggested filling the hole with clay so that a pond might be possible. Veltema noted that when the ash drain emptied into the pond, it held quite a bit of water. Hickok noted that when the ash drain was emptying into the pond it was actually eroding the clay liner of the pond exposing the sand below.

Wurth recommended that the applicant come back to the PC in the near future with a proposal that would meet the TWP's needs. Israels asked the applicant if it would be acceptable to take into account the 18 conditions identified in the staff report and the 3 points outlined in the correspondence from Jane Dickie. DeFranco asked if the suggestion was to make a motion or to table the SAU application. Israels said the suggestion was to table, and asked if DeFranco had anything to add. DeFranco said that the project in question caused a great deal of stress for the community and impacted many residents' lives. DeFranco made note of the five well studies included in the Lakeshore Environmental report to the PC, and said that each of those wells represented a family in the community that was unsure whether their water would be contaminated due to the mining operation. DeFranco noted that as the project proceeded, the community lost trust in the applicant. DeFranco said that as a PC member he is interested in moving forward with the applicant to remedy the issues, but noted that the PC would need to address the present distrust. DeFranco believed that to move forward with the applicant it was necessary for the PC to engage some outside guidance to feel comfortable that the conditions being required would satisfy the goals of the PC for the site. DeFranco believed that part of any tabling would be the engagement of an outside consultant. Webster noted the job of the PC concerned protecting the health, safety and welfare of TWP residents, and that the site presently is unsafe and that is concerning. Webster agreed with DeFranco that the PC should consider engaging an expert along with the applicant to determine what could be done to make the site safe and usable. Webster also thought it was important to do so for the residents in that area of the TWP. Ihle reiterated the commissioners should not expect that the site could ever hold water, but agreed with DeFranco that there could be other viable options for the site. Wurth said the PC needed to determine a course of action.

Veltema said that the site was private property, not a community park, and that the applicant may very well develop it. Veltema said he would like some input on how the site could be restored, and that he would come up with some ideas with Koella, integrating Wells' input, that he would bring back to the TWP. Veltema said he was fine with the PC comparing his future plan with an outside opinion, but he would first like the opportunity to come back to PC with a plan that accomplishes the vision outlined in commissioners' comments from the meeting. Webster asked if the PC was postponing a decision on the SAU application and allowing the applicant to come



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back with revisions. Webster requested that any future amendments take into consideration all that was said at the present meeting by commissioners, staff and the public. DeFranco asked if the applicant could provide cross sections of each side of the mining pit in their amended plan. Veltema agreed to provide cross-sections and more detailed drawings.

Israels asked it was true that PC members were interested in having an expert from ODC working with them. Ground, Wurth, DeFranco and Helmrich said yes. Webster said it would be appropriate to have the ODC review the plan and ODC could be a consultant for the PC. Webster asked Wells to confirm that if the PC postponed a decision there was no need for an additional public hearing and if the PC rejected the application there would have to be a new public hearing if the applicant resubmitted an application. Wells confirmed this to be the case. Veltema said he would be prepared to submit an amended proposal for the January PC meeting.

A **Motion** was made by Webster to postpone the decision on the Special Approval Use Amendment, RJ Prospects and Top Grade, LLC, 6135 133<sup>rd</sup> Avenue, between 60<sup>th</sup> and 62<sup>nd</sup>, to reduce the size of the approved pond, Parcel: 03-20-012-005-20, under the conditions that the applicant will provide a new plan that (1) takes into consideration all comments made by commissioners, staff and the public, in person and/or via correspondence, at the 11/22/21 PC meeting and (2) provides more detailed renderings, including cross sections of all sides of the mining site, in the amended plan for the January PC meeting. Seconded by Ihle. The Motion passed by unanimous roll call vote.

## **C. Coastal Leadership Academy**

Helmrich explained that the TWP had been formally accepted to participate in the SW MI Coastal Leadership Academy, which is a joint effort of the MI Coastal Management Program and MI Association of Planning. The purpose of the academy is to put coastal communities together to become more resilient in the face of coastal hazards and provide tools to guide future growth while protecting coastal, natural and cultural resources. The program involves three, three-hour tele-video conferences held on 1/13, 1/27 and 2/10. Helmrich encouraged interested PC members to reach out to Israels. Helmrich asked Webster and DeFranco to share this information with members of the Attainable Housing Committee and Rural Character and Conservation Committee.

## **7) Old Business**

### **A. Township Board Update: November 10, 2021 Submitted by Board and PC Member Jon Helmrich**

- **The Township Board met on November 10, 2021:**



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- Public Comment was made by Garnet Lewis on the Recycling Committee who are studying single-hauler services for all three communities.
- Voted 3-2 to purchase equipment to allow for hybrid meetings (in-person for the board and Zoom for the public).
- Voted 4 - 1 to approve a bond resolution to assess and collect payments for the water main extension to the Van Horn properties.
- Voted 5 - 0 to proceed with Section 2 work by Abonmarche for the planning and design of township hall renovations.
- Reviewed the proposed new logo for Township as part of the Branding study. Board will complete a questionnaire for review by the Branding Committee: Frey, Bigford, and Aldrich.
- Reviewed the Wage & Benefit Review presented by Frey; Osman and Bigford will work with manager on further review.
- Approved the purchase of two Speed Alert signs for Blue Star Highway on either side of Old Allegan Road.
- Approved a one-year plan for the snow removal on Silver Acres Drive to allow Fire Department access to a water source.
- **Next Board meeting is Wednesday, December 8, 2021 at 6:00pm.**

Israels thanked Wurth for putting together his concerns and ideas related to safety on BSH and submitting them to the Board member who is working with the Allegan County Roads Commission.

## **B. Staff Update**

- Wells noted that Ryan Kilpatrick from Housing Next would be presenting at the December PC meeting
- Special Committees would be providing recommendations at the December PC Meeting

Helmrich noted that the Board, PC, Parks Commission and the three Special Committees would all be submitting their agendas a week before their respective meetings to the TWP to be ensure public notice.



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Ground and Ihle expressed interest in participating in the meeting with the ODC concerning the mining site at Old Allegan and 133<sup>rd</sup> Ave. DeFranco said he would arrange it.

Israels thanked commissioners for their time and participation in the meeting, TWP staff and Board for making all the processes work, and especially the community and guests for sharing their voices and concerns.

Helmrich echoed the sentiments of Israels, and thanked Israels for all the time and effort put into chairing the PC.

## 8. Adjourn

A **Motion** was made to adjourn the meeting at 9:44 pm by Webster. Seconded by Ihle. Motion passed by unanimous roll call vote. Next P.C. meeting: Monday, December 13th, 2021 at 6:00 pm.



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## **Motions:**

1. A **Motion** was made by Webster to approve the agenda as amended. Seconded by DeFranco. The Motion passed by unanimous roll call vote.
2. A **Motion** was made by Webster to approve the minutes as amended. Seconded by Ground. The Motion passed by unanimous roll call vote.
3. A **Motion** was made by Wurth to support the rezoning request, Midwest V, LLC parcel number 20-032-046-00 rezoning portion from A-2 to C-1 and rezoning portion of C-1 to A-2 given that the rezoning (1) results in a net decrease in commercially zoned area, (2) is consistent with the Master Plan given that the Master Plan shows residential use in the area requested to be rezoned A-2, (3) fits the zoning description for C-1, (4) is consistent with the Master Plan in recognizing economic establishments at Freeway and M-89 interchange, and (5) any potential project would require site plan review and PC approval. Seconded by Ihle. The Motion passed by unanimous roll call vote.
4. A **Motion** was made by Webster to postpone the decision on the Special Approval Use Amendment, RJ Prospects and Top Grade, LLC, 6135 133<sup>rd</sup> Avenue, between 60<sup>th</sup> and 62<sup>nd</sup>, to reduce the size of the approved pond, Parcel: 03-20-012-005-20, under the conditions that the applicant will provide a new plan that (1) takes into consideration all comments made by commissioners, staff and the public, in person and/or via correspondence, at the 11/22/21 PC meeting and (2) provides more detailed renderings, including cross sections of all sides of the mining site, in the amended plan for the January PC meeting. Seconded by Ihle. The Motion passed by unanimous roll call vote.
5. A **Motion** was made to adjourn the meeting at 9:43 pm by Webster. Seconded by Ihle. Motion passed by unanimous roll call vote. Next P.C. meeting: Monday, December 13th, 2021 at 6:00 pm.

Respectfully,

D. DeFranco, P.C. Sec.