

THORNAPPLE TOWNSHIP PLANNING COMMISSION

Regular Meeting, Monday, June 28, 2021

1. Call to Order:

- a. The meeting was called to order by Chairperson Tom Kilgore at 7:00 p.m. at Thornapple Township 200 E. Main Street Middleville, MI 49333
- b. Present: Elaine Denton, Linda Gasper, Elizabeth Hansson, Tom Kilgore, Sandra Rairigh and Craig Wandrie. Absent: Bryan Finkbeiner. Also Present: Catherine Getty, Amy Brown, Todd Boerman, Bob Kars, Randall Patterson, Mike & Heidi Flierman, Carson Galloway, Spencer Galloway, Daniel Wenger, Bob Reurink, and Marty Wenger.

2. Approval of Agenda:

MOTION by Gasper, **SUPPORT** by Rairigh to approve the Agenda, as printed. **MOTION CARRIED** with 6 yes voice votes and 1 absent.

3. Approval of Minutes:

MOTION by Gasper, **SUPPORT** by Rairigh to approve the April 26, 2021 Minutes as amended with 8a line two changed from 'it' to 'short-term rentals'. **MOTION CARRIED** with 6 yes voice votes and 1 absent.

4. Citizen Comments: None

5. Public Hearings:

a. Special Use # 132 – Mineral Extraction Renewal – Top Grade Aggregates

1. Applicant Presentation – Randall Patterson – Top Grade is requesting a renewal to their special use permit. They have already been mining at this site for about 7 to 8 years. Formerly they mined from the west to the east. Patterson explained that they would like to change up the mining a bit by working from the east to the west. They recently acquired mining agreements with the Reurink and Wenger families who own two adjacent properties. So far, they have mined up to two-thirds of the Yerington property. There are good sand and gravel deposits available to mine at the site. Their intention is to not go much deeper but rather to pull the natural gravel and sand that is above grade. There is some processing they will do because there is a demand by MDOT for gravel. There won't be a lot of changes to the project from what has been done in the past other than they do want to extend it into the new areas they recently acquired the rights to mine. There will be a future plan for a pond to be added at the end of the project as part of the reclamation at the end. Patterson did see the notes by Boerman that they need to get an accurate elevation of Leeks Lake. There are a couple of benchmarks already placed at the

boundaries, but they plan to place signage at the north and west ends of the mining operation area. Patterson thinks it will be at least another two years of processing the site. Then Getty asked Patterson to explain about the contractor yard. Patterson said just last week, he'd made contact with Michael Rusche who is open to some type of mining agreement to process the residual gravel that is in there, bring the whole floor elevation down and get rid of the steep slope on the adjacent property line so there is a consistent boundary line along there.

2. Staff Introduction – Getty & Boerman – Todd Boerman stated that he would like to go through his letter with everyone. See Exhibit D, “Vriesman & Korhorn Review.” There are two additional parcels that were not part of the mining operations before that are being included in this special use permit application, one of which was formerly a Stoneco operation. They had restored it with a little bit of topsoil and they were able to grow some crops on it. There is more material there that Top Grade would like to mine. They could bring it down another 40 ft. to the proposed floor of 810 ft. One distinction is that they had found the ground water elevation to be 802.5 ft., however it was a previously assumed elevation. The plan is for 804.1 ft. but generally they want the floor to be about 5 ft. above water level. They are allowed to dig below that, but then to build it back up. That would make it possible to have septic systems in the area in the future. Patterson said that Ross had told him they would not be doing any crushing of gravel, which is the noisiest part of the processing. Boerman asked Patterson if the truck scale was part of the plan. Patterson replied that it was. At the entrance to the road there is electric already there where the conveyor belt goes underneath the road. Patterson said Ross is working on an agreement with Aggregate Industries to use the existing electric to put a truck scale in that location. Boerman said this was new since previous reviews of the site and he didn't know what Aggregate's future plans were. Boerman said their plan for what would be permitted is almost complete for that area. However, the site plan showed the scale at a different location. Patterson agreed that originally, they had it located further down on the easement road, but that Ross had told him he thought it would be more advantageous to have it up by the entrance road where the electrical is available. Boerman said he has had some discussions with the Top Grade staff about the existing elevation of the pit floor and surrounding areas. Boerman would like to see a more accurate topographical report of the area near Leeks Lake to ensure that the wetlands are preserved. These are covered in numbers 4 and 5 of the review letter. Number 6 addresses the need for a fence because the ordinance does require a fence. Getty would like to see a fence along the north boundary of the Wenger parcel that is adjacent to the residential area and also to the Reurink property which may be opened for mining in the future. Top Grade is making some reclamation on the western most portion of the mine (Bekius parcel) so that the land would be available for agricultural use. Boerman has noticed soil has been brought to the site for reclamation. Boerman then addressed number 11 saying the maximum of 10 acres should be actively mined at any one time which does not include areas of stockpiling. Boerman would like to see the active mining area be more closely monitored so that the expansion is not occurring too quickly. Also, he'd like to see less steep slopes so there are more contours rather than it just being a flat surface during reclamation. Not sure if that

needs to be in the plan, or whether just talking about it is all that's necessary. The future plans for a pond during reclamation could be less than 5 acres, but Boerman would like it to be reviewed by EGLE prior to it being started regardless of the size. Gasper asked if an independent review with monitoring wells would be needed. Boerman reminded the board that Aggregate Industries did a hydrological study when they created their pond during the reclamation process. Gasper clarified that her question referred more to the groundwater flow and the concern for drying up wells or sending water from aquifers in the wrong direction. Boerman stated that he would make some assumptions because a final plan for a pond wasn't included in the current plan, but normally these types of ponds are not deep enough to impact underground water issues. If Top Grade does this in the future, they would be required to do an EGLE study as part of the permitting application. Leeks Lake is a little bit higher than the Lettinga Lake that Aggregate made. The EGLE review would be looking at that type of thing. Gasper asked if the Lettinga Lake has impacted Leeks Lake so far. Boerman replied that they were not aware of any issues so far. Boerman stated he's not recommending that the pond be part of this two-year permit. This would be for a future reclamation plan. Marty Wenger stated that 1:4 is too steep for farming, but 1:2 is better since it allows for more flat area to be farmed. Boerman stated the ordinance calls for a minimum slope of 1:4, but the property owner could include a gentler slope in their agreement with the operator. A 1:10 slope, for example, is a slope that is farmable. Wenger admitted he understood it would take a lot more soil to do that. Boerman stated that the performance bond continues for this project. Patterson asked if it applies to the entire acreage or just the active mining. Boerman said it would likely be just the active mining plus the stockpile area - whatever would be needed by the township to restore the area in the event the operator could not complete the reclamation for any reason. Getty explained that she took Boerman's recommendations plus the site plan recommendations with the changes from the last site plan renewal with the added adjacent parcels and a smaller, truck scale house. Patterson asked about condition #5 whether another permit would be needed if an agreement with Michael Rusche was reached within the two years-time frame. Getty stated that Top Grade would need to submit a revised site plan and have a review at the cost of one-half the application fee. Gasper asked about the August 2 deadline given for getting more topographical information near Leeks Lake. Getty explained that the August 2 date was a suggestion. Getty, Boerman and Patterson discussed a better deadline and agreed November 1, 2021 would be appropriate so that the drone could get a better view of the ground with the leaves off the trees. Gasper asked about condition #12. She wondered what would happen if Top Grade progresses faster than they think and want to include the pond construction. Would it be part of this two-year permit? Boerman clarified they would have to submit a revised site plan if they excavated faster than what is currently outlined. It would require the reclamation plans be outlined with the EGLE review. Getty questioned when the amount for condition #16 would be determined. Gasper stated that it would be determined based on the site plan as of this date.

3. Public Comments – None
Public Hearing

Opened at: 7:42 p.m.

Closed at: 7:42 p.m.

4. Commission Questions & Deliberation – Rairigh asked Boerman about the manure mix used for the Yerington parcel. Rairigh wondered if it's suitable for agriculture use, would it also work for residential development. Boerman stated it would work for both. Kilgore said usually a residential developer would strip off the topsoil anyway. Marty Wenger explained that it takes a long time for the organic matter to be able to hold water and nutrients enough to grow crops.

MOTION by Gasper, **SUPPORT** by Rairigh to approve Special Use #132 – Mineral Extraction Renewal – Top Grade Aggregates with the 18 conditions outlined in Exhibit E dated 6/28/2021, “Proposed Conditions for Approval Special Use #132 and Site Plan #112 – Mineral Extraction” with condition #7 changed to the deadline of November 1, 2021. **MOTION CARRIED** with 6 Yes votes via roll-call and 1 absent.

b. Special Use # 149 – Mineral Extraction – Excel Excavating

1. Applicant Presentation – Carson Galloway from Excel Excavating proposes a mining operation on the parcel owned by Mike and Heidi Flierman. There is already a small mining operation set up from a former operator. There is a road that goes back to area and 582 ft. back from Adams Road puts you behind the line of pine trees. Galloway explained that he is a small construction company with about 14 guys working for him. They are doing more and more work in the area and materials are getting scarcer making it harder to get ahold of said materials. He proposes to continue what was already started with a total mining area of about 10.6 acres of the 40 acre parcel. His plan is to mine just the sand for about 6 to 8 years total. Because they just have sand there, they will not be doing any sorting or other processing. It is just a Class Two sand pit. He stated there is very little topsoil there now, but he plans to bring back spoils from job sites and stock pile it so that during reclamation, they can bring it back to farmable land. There are height variations of 30 to 40 ft. currently, but they plan to take the current pit floor which is 7.56 ft. and 6 ft. above the adjacent ponds and maintain that, with a slight grade so they can control the water flow. Again, the floor will be 6 ft. above the water table. There is already a berm on the West side of the existing ponds to keep anything from flowing down from active area. They would maintain it, keeping the existing pit floor at least 100 ft. from the pond and they will be moving north and west from there. There is a small area of trees nearby that will need to come down as they are already leaning over. Material would then be brought in to feather out the grade and try to maintain at least a 1:4 grade if not less so, as Marty Wenger mentioned, making sure the land is farmable. They plan to maintain the buffer distance from the road so there is nothing noticeable from the operations. They plan to first mine Phase 1, restore Phase 1 area and then begin to mine Phase 2. There would still need to be a road back into the Phase 2 area, but once that is complete the road would be filled back in as well. It is already a gravel road, but they intend to coat it with asphalt millings to reduce dust and track out. Their plan calls for a snow fence giving a 20 ft. buffer around the active area which would create a movable barrier to allow the farmer to access the land. Furthermore, they plan to place a silt fence on the pond side to act as a barrier,

but also help the operators to recognize the border there. Posted signs will be placed on the perimeter and a second gate at the pit would be placed to keep people from accessing the site. The homeowners would still be able to access the private drive and their home and property without issues. There is already a gate at the main road. They will maintain 100 ft. distance from adjacent property lines. The only areas that do not have natural tree lines, they will be placing "Posted - Keep Out" signs. The mining area is about 500 ft. from the main household and Excel would just have a mineral lease while the Fliearman's retain ownership of the property. Galloway estimates there are about 350,000 to 420,000 yards of sand to be mined over a 6 to 8-year period. He estimates an average of 4 to 5 trucks per working day. He recognizes that an average means there could be as many as 20 truckloads in one day and then no trucks on other days. He confirmed trucks would not be accessing non-truck roads at this location. However, there are already trucks in the area used for mining and agriculture, so it isn't like they are going to be traveling through a solely residential area. Gasper expressed concerns about traffic on Adams road as people drive fast there and there's a hill just east of the property, so people could be going fast as the truck leaves the front gate. Also, school buses travel this road. Galloway stated that a truck driver sits much higher than a normal car, so their line of sight is better and was sure this would not be an issue. Marty Wenger commented that the speed limit is already posted at 40 mph because of limited sight distance and there is also a truck crossing sign along there as well. He stated that he's driven his tractor along that stretch and traffic can at times back up. Galloway added that there are no plans for any structures or sorting machinery.

2. Staff Introduction – Getty & Boerman – This is a new one, but there is a common theme of property owners wanting to have better fill for making more farmable land. This seems like a win-win for everyone. But the idea came from the idea of using this pit for the school property to the north. The ordinance requires a permit for anything over 1,000 yards being taken. Boerman did observe a lack of topsoil on the land and feels this can be improved for farming with the mining and reclamation process. Excavation being to 5 ft. above ground water level rather than putting in monitoring wells. The idea of securing the yard is always an issue. They are right along a school property but the issue with a fence is the farming access so putting signs up and the Fliearman's are keeping watch. The idea is always to keep others out of the area, for example, snowmobilers, so the movable snow fence would suffice. Because the site is very isolated it isn't going to bother neighbors as far as being unsightly. Galloway's plan is for gentle side slopes which follows the ordinance requirement of a minimum of 1:4. Once again, if the operator's and the land owner's agreement is for a less steep slopes such as 1:8, that is acceptable. Water runoff isn't an issue as it will drain through the sandy pit floor. The performance bond is \$6,000 per acre for 11 acres. Galloway clarified that Phase 1 and Phase 2 together are about 11 acres. Boerman stated that they could do the performance bond for each section at a time since it will be a few years before they get into Phase 2.

3. Public Comments – None

Public Hearing

Opened at: 8:16 p.m.

Patterson asked Galloway if this would just be for Excel’s use only or if they intend to sell. Galloway answered he intended to apply for a permit that would allow them to sell. He said mostly it would be for his own use, but he didn’t want to limit himself in case another contractor contacted him with a need. He also didn’t intend to have a full-time operator there or publish a cost list as it wouldn’t be worth his time to go in that direction.

Closed at: 8:17 p.m.

4. Commission Questions & Deliberation – Denton asked about the two sections of trees. Galloway confirmed there are two sections to be removed. The first in within the area of the previous mining operation. They need to be removed as a safety measure and from an operational standpoint as the trees are already severely leaning. The second set of trees are at the Northeast corner of the phase 1, the grade is relatively steep, and it may not be worth taking out any sand from there. Galloway isn’t sure. If they do, then likely yes, they would take out those trees and then feather back the land so that area will be farmable. However, the tree line along the parcel border is all going to stay put. Gasper asked about condition # 3 being set at \$66,000.00. She asked if that was set for the whole site. Wondered if it could be changed to read \$6,000 per acre since it would be mined in two phases. Boerman agreed that would be reasonable to limit it to Phase 1 and then at a later date have Phase 2 covered when that becomes active. Gasper asked if the wording from condition #16 from the previous special use permit could be applied here as well. Rairigh asked when the school project would be completed. Galloway stated that it was about 95% complete. He stated that the whole reason they had hauled the sand the back way was to avoid the bus traffic during that time. He said he had about 500 yards left to haul, but he could go ahead and stock pile sand on the school site so that it could be done in one day.

MOTION by Gasper, **SUPPORT** by Wandrie to approve Special Use #149 – Mineral Extraction – Excel Excavating with the 9 conditions outlined in Exhibit E dated 6/28/2021, “Proposed Conditions for Approval of Special Use #149 – Mineral Extraction” as presented with condition #3 being changed to match condition #16 from Top Grade’s “Proposed Conditions for Approval Special Use #132 and Site Plan #112 – Mineral Extraction.” **MOTION CARRIED** with 6 Yes votes via roll-call and 1 absent.

6. New Business:

a. Getty read email received from Larry McMillian who emailed Chairman Kilgore asking that the Planning Commission consider amending the Township Zoning Ordinance to allow for two-family residential buildings in the Rural Residential Zoning District by Special Use just like Ag Residential Zoning Districts. Mr. McMillan owns property at the southeast corner of 108th St. and Duncan Lake Rd. Getty stated that the Planning Commission could decline to review the issue, or they could send it to the Ordinance Committee to review and provide a recommendation.

Gasper stated that Rairigh was on the Ordinance Committee and asked Rairigh what she thought about the issue. Rairigh stated that Mr. McMillan was a friend. Gasper asked if anyone else on the commission had any comments. Hansson asked why there is a difference between

the two. Getty stated that she wasn't sure about the original intention as it was something that occurred under the former zoning administrator. Hansson replied that it seemed a reasonable request to ask. Gasper asked what the lot sizes were. Getty replied 1.5 acres. Getty suggested that it could go to a committee to review the ordinances. Gasper said she would be uncomfortable discussing the issue without further investigation. Gasper recommends it go to committee first. Denton noticed the owner hadn't explained his reason for asking. Chairman Kilgore said that it would be sent to the Ordinance Committee to review and bring a recommendation to the Planning Commission.

b. Getty explained that the cup koozies with the township logo would be handed out with a bottle of cold water at the Barry County Fair at a shared municipal booth in a couple of weeks. She invited everyone to stop by the booth.

c. Getty mentioned the flooding issue at Duncan Lake. Chairman Kilgore commented that he was aware of the issue and that the water level was already receding. Getty asked if it went over his shore station. Kilgore said it was up to the canopy.

7. Unfinished Business: None

8. Committee Reports:

- a. Ordinance Committee [Kilgore, Finkbeiner, Rairigh, Gasper (alt)]
- b. Site Plan Committee [Finkbeiner, Denton, Wandrie, Hansson (alt)]
- c. Joint Planning Committee [Rairigh, Denton, Gasper, Kilgore, Getty (alt)]

9. Administrator's Report:

- a. Zoning Activity Report – Included in agenda packet
- b. Code Enforcement Report – Included in agenda packet

10. Commissioner Comments:

11. Adjournment:

MOTION by Wandrie, **SUPPORT** by Denton to adjourn the meeting at 8:37 p.m.

MOTION CARRIED with 6 Yes voice votes and 1 absent.

Sandra Rairigh

Sandra Rairigh, Secretary

Amy Brown

Amy Brown, Recording Secretary

Approved 9/29/21

