

Watson Township Planning Commission

October 23, 2024

MINUTES

1. CALL TO ORDER: chair Brad Stalker called the meeting to order at 7:01pm
2. PLEDGE OF ALLEGIANCE: recited
3. ROLL CALL:
 - a. Travis Long – present
 - b. Jim Davis – present
 - c. Troy Baker – absent
 - d. Brad Stalker – present
 - e. Brady Cole – present
 - f. John Caras – present
 - g. Hunter Davis – present
4. CONFLICT OF INTEREST: none
5. APPROVAL OF MINUTES from September 25, 2024
 - a. Motion to approve: Jim Davis
 - b. Second motion: John Caras
 - c. Unanimous decision to approve with revisions suggested
6. PUBLIC COMMENT
 - a. Brad Stalker made a motion to move public comment to last agenda item
 - b. John Caras seconded
 - c. Unanimous decision to move public comment
7. APPROVAL OF AGENDA
 - a. Jim Davis made a motion to approve
 - b. Travis Long seconded
 - c. Unanimous decision to approve agenda
8. OLD BUSINESS
 - a. Status of Allegan Sand & Gravel LLC application - no update
 - b. Review township ordinance update from McKenna Associates - previously discussed revisions/clarifications to the ordinance were summarized by Chris and Aayush from McKenna Associates
 1. Hunter Davis made a motion to approve ordinance changes with revisions and send to board
 2. Travis Long seconded
 3. Unanimous decision to approve with revisions after a roll call vote

9. OPEN FLOOR TO PUBLIC COMMENT at 7:52 - closed at 7:55

10. MEMBER COMMENTS: note of no November meeting

11. NEW BUSINESS: none

12. ADJOURN MEETING

- a. Motion to adjourn by Jim Davis 8:03
- b. Second motion: Travis Long
- c. Unanimous decision to adjourn

WATSON TOWNSHIP PLANNING COMMISSION

Findings of Fact

Relative to the Allegan Sand & Gravel Request for Special Use Permit and Site Plan Review to Conduct a Mining Operation Pursuant to the Watson Township Zoning Ordinance upon Parcel 03-23-005-014-10

As adopted by the Watson Township Planning Commission during a regular meeting in conjunction with a Public Hearing held in compliance with the standards of PA 110 of 2006, held at the Watson Township Hall, 1895 118th Avenue, Allegan, Michigan, on the 25th day of September 2024, at 7:00 pm and contained in the minutes thereof.

Findings relative to the criteria within Section 15.02 and broader Chapter 17 provisions, as included in the Watson Township Zoning Ordinance, are hereby recorded pertaining to the above-described special use permit application.

Section 17.02. Location

- (a) *“All such operations shall be located on a primary road, as defined by the County, for ingress and egress thereto, or on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, said Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not “all weather” roads.*

Findings: The property has frontage only along 122nd Avenue—a paved County local road. The project narrative indicates that, due to sightline issues at the road, all traffic is to enter from westbound 122nd Avenue and exit onto westbound 122nd Avenue. The applicant has specified that trucks are expected to come from 20th Street and exit westward only onto 122nd Avenue until reaching 22nd Street, though they are still awaiting final approval from the Allegan County Road Commission.

The one-mile segment of 122nd Avenue between 20th and 22nd Streets host approximately eleven (11) homes based on currently available data, equating to an average density of one residence every 480 feet. The Planning Commission has determined that these characteristics do not deem the area “primarily developed for residential use.”

- (b) *Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No such excavation operation shall be permitted closer than one hundred fifty (150) feet to interior boundary lines of the property.*

Findings: Site plan indicates that excavation area is to be at least 150 feet from all interior lot lines.

- (c) *No such excavation operation shall be permitted within fifty (50) feet of an adjoining public right-of-way except for the lowering of land adjoining said rights-of-way to the gravel level of said rights-of-way. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.*

Findings: The Applicant has proposed excavation that maintains the required fifty (50) feet setback from the 122nd Avenue right-of-way. Proposed distance to the right-of-way is to be approximately 470 feet at its nearest.

- (d) *A processing plant and its accessory structures shall not be located closer than two hundred fifty (250) feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment.*

Findings: The only processing listed as taking place is washing. Project narrative indicates stockpiling will take place near the excavation area, but within the processing setbacks. No permanent processing structures or equipment location are proposed except stormwater storage ponds, which are indicated on the plan.

- (e) *No such excavation operation shall be located within one hundred (100) feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission, or such other state commission having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.*

Findings: The applicant has provided a wetland delineation per EGLE, indicating Wetland A (north) to be unregulated and Wetland B (south) regulated. As such, the applicant has amended the excavation area setbacks to comply with the above requirement for Wetland B. As Wetland A is not regulated, the applicant is not required to adhere to the above setback in relation to it.

- (f) *No berming, storage heaps, access roads, operations, or associated activities including a batch plan shall be located within 100 feet of a regulated wetland."*

Findings: As noted above, the applicant has amended the plan to indicate no such activities to take place within 100 feet of the regulated Wetland B.

Section 17.03. Sight Barriers

"Sight barriers shall be provided along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:

- (a) *earth berms constructed to a height of not less than twelve (12) feet above the mean elevation of the centerline of the adjacent public highway or twelve (12) feet above the general level of terrain along interior property lines. Such berms shall be designed to provide effective screening.*
- (b) *plantings of evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than four (4) feet in height at the time of planting and which grow to not less than six (6) feet in height at maturity and sufficiently spaced to provide effective sight barriers when six (6) feet in height.*
- (c) *masonry walls or attractive solid fences made of uniform new materials, constructed to a height of not less than six (6) feet and maintained in good repair.*
- (d) *Planning Commission may require additional screening subject to topography and site lines."*

Findings: The submitted plan and aerial imagery indicate that the extraction are ais to be entirely enclosed within existing forestry. Furthermore, the proposed depth of the excavation trough is to be 20-30 feet lower than the existing elevations and similarly lower than nearby elevations proposed to remain unchanged, further aiding in screening the site from adjacent properties. Finally, as mentioned above, the excavation is to take place nearly 500 feet from 122nd Avenue.

The Planning Commission has determined that the existing forestry indicated on the site plan is sufficient for the project's screening needs.

Section 17.04. Nuisance Abatement

- (a) *“Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations and shall not exceed PNEL (Permissible Noise Exposure Limit) as set by MIOSHA.*

Findings: A dust and noise study performed by Lakeshore Environmental, Inc. for what the applicant describes as a similar operation in Mooreland Township, dated July 2023, has been submitted. This study provides ample information on the expected particulate and noise impacts a site may produce.

In the Zoning Administrator’s opinion, the mine proposal for which the study was conducted stands to pose a much greater risk of impact than the one currently before you. Whereas that mine was proposed for an open field surrounded by immediately adjacent houses, this is tucked into a forested parcel that will inherently better insulate the activities within.

- (b) *Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution injurious or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.*

Findings: See comments above regarding dust and dirt control as addressed by the included study. Sheet No. C200 of the submitted plan includes Grading Plan Notes. Items 7, 12, and 13 read as follows:

- “7) CONTRACTOR SHALL TAKE PRECAUTIONS TO AVOID TRACKING SOIL ONTO ADJACENT ROADWAYS. CONTRACTOR SHALL SWEEP IMMEDIATELY AS OCCURS.
- 12) DUST CONTROL: THE CONTRACTOR SHALL SUPPLY ALL LABOR, MATERIALS, AND EQUIPMENT NECESSARY SUCH AS CALCIUM CHLORIDE, WATER, OR A MOTORIZED DUST-FREE STREET SWEEPING DEVICE TO MAINTAIN ALL ROADWAYS BEING USED FOR ACCESS TO THE CONSTRUCTION SITE AND SHALL ADHERE TO ALL ORDINANCES OF THE TOWNSHIP, COUNTY, EGLE, OR ANY OTHER GOVERNMENT AGENCY.
- 13) IF MUD, SOIL, OR OTHER DEBRIS IS DEPOSITED ON ADJACENT STREETS, ROADS, OR OTHER PROPERTY, THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL OF SUCH AT THE END OF EACH WORKDAY OR AS REQUIRED DURING THE WORKDAY.”

The applicant has updated the plans to indicate that the service drive will be paved to the gate to further help with dust control.

- (c) *Hours. The operation shall be carried on exclusively between the hours of 8 a.m. and 5 p.m., Monday through Friday.*

Findings: Hours of operation have been given in supplemental information, indicating them to be the same as required above. The Planning Commission finds this standard to be met.

- (d) *Fencing. All dangerous excavations, pits, pond areas, banks or slopes shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others and shall be eliminated as expeditiously as possible.*

Findings: The plan has been updated to indicate fencing will be installed around all excavated slope greater than 1:3 feet, though supplemental information also provides that existing slopes in excess of that which are not part of the project will remain unfenced. Additional concerns about fencing and signs have also been addressed as updates to the plan and supplemental information.

Section 17.05. Reclamation of Mined Areas

- (a) *“Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area effected. Completion of reclamation and rehabilitation shall be accomplished within one year after termination of mining or excavation activity. Inactivity for one 12-month consecutive period shall constitute justification for the Planning Commission to evaluate the operation for the purpose of determining whether the operator has terminated mining activity.*

Findings: The project narrative indicates the affected areas to be returned to agriculture upon reclamation. Grading Plan Notes Item 10 reads as follows:

“10) ALL NONPAVED AREAS TO BE TOPSOILED (6” MIN.) & SEEDED.”

Applicant has specified the site will be returned to agricultural use following conclusion of the project.

- (b) *The following standards shall control reclamation and rehabilitation:*

- (1) *Reclamation shall occur on an ongoing basis as mining is completed in certain areas of the site.*
- (2) *All excavation shall be either to a water-producing depth of not less than five (5) feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-flammable and non-combustible solids to insure:*
 - (a) *that the excavated area shall not collect stagnant water and not permit the same to remain therein; or*
 - (b) *that the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.*
- (3) *The banks of all excavation shall be sloped to the waterline in a water-producing excavation, and to the pit floor in a dry operation at a slope which shall not be steeper than one (1) foot vertical to three (3) feet horizontal.*
- (4) *Topsoil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one-year period. Where used, topsoil shall be applied to a minimum depth of six (6) inches sufficient to support vegetation.*

Section 17.07. Hearing

- (a) *"After receiving an application for the grant of a special exception permit for an earth removal, quarrying, gravel processing, mining, and related mineral extraction business accompanied by the required plans and specifications and permit fees, the Planning Commission shall hold a public hearing upon such application in the same manner preceded by the same notice as set forth in Section 24.04 of this Ordinance.*

Findings: A public hearing was held on August 28th, 2024 at the Watson Township Hall.

- (b) *Following such hearing, said Planning Commission shall approve, approve with conditions or deny the special use application and set forth its reasons for its decision. Such recommendation shall be based upon the criteria set forth within the Ordinance and shall be based, in addition, on a consideration of the following:*

- (1) *the character of the area in question and its peculiar suitability, if any, for particular uses*

Findings: The Planning Commission has determined the site in question to be uniquely favorable to mining based on its self-enclosing topography and forestry. Any further potential concerns for road visibility and navigation are to be handled by the Allegan County Road Commission.

- (2) *conservation of property values, as well as natural resources and the general and appropriate trend and character of development in the subject area*

Findings: Watson Township is geologically predisposed to attract mines. The State of Michigan preempts much local regulation on mines. Given the generally rural nature of the Township, the Planning Commission finds it generally suitable for mining activities. Likewise, the applicant has submitted a property value study conducted for a similar, but separate, mine that concludes no significant impact to property values is imminent.

- (3) *the protection and preservation of the general health, safety and welfare of the township*

Findings: As previously stated, the Planning Commission recognizes that the State of Michigan preempts mines as the benefits of extracted aggregate benefit the State as a whole. The Planning Commission likewise determines that the proposal poses no such substantial threat to the above characteristics of the community.

- (4) *the scarcity or value of the minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operations*

Findings: As previously stated, Watson Township is geologically predisposed to attract mines. As the State of Michigan experiences a shortage of housing, building-grade aggregate will be necessary to meet the demands of the people living everywhere.

- (5) *in making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residents and property owners. It may also limit the length of time that the special exception permit is to be effective and may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same. It shall be empowered to renew or extend*

a special exception permit where all standards and conditions are complied with and may revoke or refuse to renew the same where non-compliance exists. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of said mined or disturbed area. No permit shall be revoked or not renewed until the operator has been given written notice of any violation forming the basis of such revocation or denial or renewal and not less than 30 days have elapsed to correct the said violation. All permits shall be reviewed by the Planning Commission annually.

(c) **Annual Review - Renewal and Revocation.** The Planning Commission shall review each permitted operation annually under the provisions of Section 17.09 to ascertain compliance with all standards and conditions imposed. The Planning Commission shall renew the special use permit where all standards and conditions are complied with and may revoke or refuse to renew the same where non-compliance exists.

(d) **Review and Inspection Fees.**

(1) The operator shall be required to pay renewal and inspection fees to cover the cost of inspections and the review efforts of staff and the Planning Commission as may be established by the Township Board.

(2) No permit shall be revoked or not renewed until the operator has been given written notice of a violation forming the basis of such revocation or denial of renewal and not less than 30 days have elapsed to correct the said violation(s). Operator must respond in writing with an improvement plan within two (2) weeks from the date of the notice, and shall make all required corrections within thirty days of violation notice.

(e) **Obligation to Restore.** Revocation of a permit or failure to obtain permit renewal or extension shall not release the applicant from the duty of restoration and reclamation of said mined or disturbed area.

Findings: The Planning Commission has required as a condition of approval a reclamation bond that allows the Township, in event of abandonment, to use funds to reclaim the property as agreed upon if approved.

(f) **Insurance.** Liability Insurance shall be a pre-condition to commencement of operations, and maintenance in full force and effect of insurance shall be a pre-condition to the right to continue operations. The applicant shall provide binders for personal injury and property damage insurance for the project to be carried by an insurance company licensed to do business in the State of Michigan during all times which any reclamation is left to be done, and during all times any machinery and/or equipment remains on the site, or any structures, equipment or improvements to be removed remain on the site, said insurance to contain a hold-harmless clause regarding liability of the Township during any reclamation phase.

Findings: Applicant will verify liability insurance with the Watson Township Zoning Administrator prior to project commencement.

Section 15.02. General Standards [for Special Use Permits].

"Special Land Uses are not permitted to be engaged in within the particular zone in which they are listed unless and until the Township Planning Commission, in its discretion, is satisfied that the use under the conditions, controls, limitations, circumstances and safeguards proposed and imposed by the Commission, will:

(a) *be compatible with the other uses expressly permitted within the district, with the natural environment;*

Findings: Sand mines are preempted by the State of Michigan to be considered for approval in any and all districts. However, they are logically more appropriate for establishment

in rural areas rather than dense urban or suburban areas. Given the rural nature of the A-2 District and area in general, the Planning Commission finds this standard to be met.

(b) *be consistent with the capacities of public services and facilities affected by the land use;*

Findings: While sand mines require little in the way of public utilities, the applicant will still be required to acquire approval or commentary on the proposed haul route from the Allegan County Road Commission. Approval from said agency has been made a condition of approval.

(c) *not be detrimental or injurious to the use or development of adjacent properties or to the occupants thereof or to the general neighborhood;*

Findings: As previously noted, the site is heavily forested on all sides, minimizing many of the potential impacts before they even reach the property lines. The Planning Commission has also determined the impact of the haul route on the road and surrounding houses to be manageable so long as the applicant receives approval from the Allegan County Road Commission, which has been made a condition of approval.

(d) *promote the public health, safety, morals and general welfare of the community;*

Findings: While sand mines are often viewed as an ultimately negative land use, the State of Michigan preempts them largely due to the unpredictable location of useful aggregate and undeniable need for them, regardless of where one lives. As such, the Planning Commission has found there not to be any *very serious consequences* that may result from this project.

(e) *encourage the use of lands in accordance with their character and adaptability;*

Findings: The proposed reclamation will result in a parcel that produces no less in agriculture than it currently does. Depending on the favorability of the resulting slopes, it may actually become a more productive or efficient producer afterward.

(f) *the standards required by the Commission for the allowance of this Special Land Use can and will in its judgment, be met at all times by the applicant or its assigns.*

Findings: The site will be monitored by PCI for zoning compliance and by the Township enforcement officer for general blight violations. This will be set up for annual inspections, and additional inspections upon request of the Township

The burden of proof of facts which might establish a right to a Special Land Use Permit under the general standards and any specific standards contained herein shall be upon the applicant."

MOTION MADE BY: Jim Davis and supported by Hunter Davis.

AYES: Long, Baker, Davis J, Cole, Caras, Davis H

NAYS: None

Abstentions: None


Stalker - Absent with notice.

CERTIFICATION

I, Hunter Davis, secretary for the Watson Township Planning Commission, Allegan County, Michigan, do hereby certify that the application for special use permit as described herein is approved based on the Findings of Fact as determined by the Planning Commission, subject to the above conditions and those otherwise included in the adopted minutes.

Respectfully submitted,

Dated: 23 Oct 2024

By: 

Hunter Davis
Watson Township Planning Commission
Secretary

By: 

Brady Cole
Watson Township Planning Commission
Vice Chair

WATSON TOWNSHIP
PLANNING COMMISSION
Conditions of Approval

Relative to the Allegan Sand & Gravel Request for Special Use Permit and Site Plan Review to Conduct a Mining Operation Pursuant to the Watson Township Zoning Ordinance upon Parcel 03-23-005-014-10

As adopted by the Watson Township Planning Commission during a regular meeting in conjunction with a Public Hearing held in compliance with the standards of PA 110 of 2006, held at the Watson Township Hall, 1895 118th Avenue, Allegan, Michigan, on the 25th day of September 2024, at 7:00 pm and contained in the minutes thereof.

The below conditions shall apply at all times to operation of the above-referenced mineral extraction operation and all related activities as permitted herein, based upon the Findings of Fact established by the Watson Township Planning Commission at the above-stated public hearing:

A. General Operations

1. *Hours of operation: 8:00 am – 5:00 pm, Monday through Friday and 8:00 am – 1:00 pm Saturday. No further weekend or holiday operations are proposed except for operations strictly related to direct, local customer sales.*
2. *Boundaries of the operation shall comply with the submitted site plan dated September 9, 2024 and any approved minor revisions thereafter.*
3. *Administrative renewal inspections and evaluation timelines will take place on an annual basis. Should the project remain ongoing ten (10) years following approval, the applicant shall be required to obtain a special use permit renewal from the Watson Township Planning Commission requiring further renewal every five (5) years after that.*
4. *All operations shall comply with all Federal, State, and Local laws, even if such laws are not listed as condition of approval.*
5. *All areas of are to be reclaimed within six (6) months of completion of excavation.*
6. *Warning signs shall be posted at intervals of not more than 250 feet around the perimeter.*
7. *All grades exceeding a slope of 3:1 feet shall be adequately fenced at top of grade.*
8. *A sign shall be posted at the entrance which includes the hours of operation, operator's name, and emergency phone number.*
9. *Gate shall be closed and locked during off hours.*

B. Documentation Requirements

1. *Department of Environment, Great Lakes, and Energy (EGLE), Allegan County Road Commission (ACRC), and Health Department (ACHD) shall give approval prior commencement of this operation.*
2. *Annual escrow payment shall be submitted to the Township Supervisor to maintain an escrow balance of not less than \$500 therein.*
3. *A Letter of Credit, performance bond, or equivalent financial guarantee of \$100,000 valid for the life of the approved project and indicating Watson Township as the beneficiary will be submitted to the Watson Township Zoning Administrator for surety of reclamation.*
4. *An updated certificate of liability will be submitted annually.*

C. Trucking/Hauling

1. *Dust control and necessary road maintenance shall take place as needed and no nuisance shall be created.*
2. *Truck access to and from the operation will be restricted to specific haul routes and the expansion of the excavation area will not change these routes.*

D. Reclamation

1. All slopes shall be restored as indicated upon the site plan dated September 9, 2024 and any approved minor revisions thereafter.
2. All reclamation shall be completed per the requirements of Section 17.05 of the Watson Township Zoning Ordinance and indicated in the attached Findings of Fact.

E. Renewal.

1. This approval is valid through October 3rd, 2034 (10 years), subject to annual review per the requirements of Section 17.09 of the Watson Township Zoning Ordinance.

MOTION MADE BY: Hunter Davis and supported by Travis Long.

AYES: Jim Davis, Troy Baker, Hunter Davis, Brady Cole, Travis Long, John Caras

NAYS: None

Abstentions: None

Absent from Meeting - ~~Brady Cole~~
Absent with notice - Stelker - Chair

CERTIFICATION

I, Hunter Davis, secretary for the Watson Township Planning Commission, Allegan County, Michigan, do hereby certify that the application for special use permit as described herein is approved based on the Findings of Fact as determined by the Planning Commission, subject to the above conditions.

Respectfully submitted,

Dated: 25 Sept 2024

By: 

Hunter Davis
Watson Township Planning Commission
Secretary

By: 

Brady Cole
Watson Township Planning Commission
Vice Chair