

BENTON TOWNSHIP PLANNING COMMISSION

Meeting Minutes

February 6, 2020

Members Present: Jack Caughey, Jeff Locke, Ben Kudwa, Jason Haigh, Chris Tennes and Barb Wickerham

Members Absent: Roy Pelfrey, Tom Fasnaugh, Maureen Sorbet Sorbet

Others who attended the Meeting:

List Attached

Call to Order:

Chairman Jack Caughey called the meeting to order at 7:00 p.m. and led the Board in the Pledge of Allegiance.

Meeting Minutes Approval:

A motion was made by Jeff Locke, supported by Ben Kudwa, to approve the minutes of January 9, 2020. Motion carried 6 ayes; 0 nays.

Agenda Amendments:

None

Public Comment Non-Agenda Items:

None

New Business:

- A. SUP2019-001: Request by John and Mary Diemer and ABM Pits LLC for a Special Use Permit to operate a Surface Min per Section 14.01 P of the Zoning Ordinance located off Benton Road (identified as parcel 070-007-200-008-05.)

Opened for Public Comment:

- R. Bashore – Length of permit, hours of operation, jake breaks, speed limit, magnesium chloride
- R. Farrell – Violates ordinance, problem setting precedent, residents giving Commission authority and responsibility to do the correct thing.
- David Lukkonn – Moved to area for rural atmosphere, concerns of noise and dust
- J. LaBreck – Wants a farming community, concerned about gravel section of road, deer, and local residents having to move.
- M. Royston – Where previous site was years ago
- M. Slivensky – Thanked Commission, hopes Commission has worked on the issue.
- J. Farrell – Commented we didn't announce "public hearing comments".

Public Comment Closed

John Diemer addressed the Commission and said that they intended to obtain all permits. Would like hours to remain a 7:00 a.m. start time to keep a flowing movement and no bottleneck, and industry standard work time starts at 7:00 a.m., and sometimes 6:00 a.m.

Barb Wickerham read the pre-conditions and operating conditions prior to Board discussion. When the reading was completed, and Board discussed a few issues at a time.

Jack Caughey made a motion, supported by Ben Kudwa, that the Benton Township Planning Commission recommend approval of SUP2019-001 to the Township Board for the Diemer Mining Excavation Special Use Permit located on Parcel #070-007-200-008-05 as stated in the following pre-condition and operating conditions, and subsequent to the site plan:

1. Pre-conditions

- a. Applicant must obtain all necessary approvals from and post any applicable bonds or surety with the Eaton County Road Commission (“ECRC”), the Eaton County Drain Commissioner, the Michigan Department of Environment, Great Lakes and Energy (“EGLE”), and any other applicable local, state, and federal agencies.
- b. Applicant shall obtain a haul permit and improve the gravel portion of Benton Road used for the haul route designated by ECRC as follows: improved gravel surface of 22 feet wide, grading and drainage improvements as required by ECRC.
- c. Applicant must comply with soil erosion and sedimentation control requirements and groundwater management provisions of local, state and federal laws. Applicant must obtain a Soil Erosion and Sedimentation Control Permit (“SESC”) permit from the Eaton County Drain Commissioners Office.
- d. Applicant must obtain required permits and approvals from the Eaton County Department of Construction Codes and as required by the Benton Township Interim Zoning Ordinance for the construction or alteration of buildings or structures located on the Subject Property, including but not limited to the screening plant, equipment parking area, tool storage building, scale house and trailer, employee parking, and pole barn. All buildings or structures shall comply with applicable zoning regulations.
- e. Applicant must post a performance bond in the amount of \$23,000 in order to obtain a final site plan approval.
- f. Applicant has deposited funds into an escrow account in the amount of \$2,500 to cover the costs for application review. Applicant has a continuing obligation to replenish this escrow account in the event the remaining escrowed funds are inadequate and additional funds are necessary to cover further review costs. No extraction activities may occur at any time the Planning Commission deems the remaining escrowed funds as inadequate.
- g. Applicant will be invoiced for annual inspections and compliance costs.

- h. Applicant must obtain a sign permit(s) from the Benton Township Zoning Administrator prior to the installation of a sign(s) in accordance with Section 13.0(2) of the Ordinance.
- i. Applicant must provide sufficient evidence illustrating extraction activities will not cause surface or subsurface water pollution, including evidence demonstrating the operations would not impact or adversely affect nearby wells. Applicant must also submit additional documentation specifically addressing environmental concerns about the day-to-day operation of the site (including non-mining activities), including findings on whether those activities will cause pollution, erosion, altered drainage patterns of water, odors, smoke, fumes, and/or dust.
- j. Applicant shall accept, via a notarized and sworn writing, continuing responsibility to ensure no erosion or alteration of drainage patterns occurs offsite due to extraction operations, including after cessation of those operations. Applicant must also agree to be solely responsible for remedying these issues if they occur.
- k. Applicant must obtain final approval of the site plan from the Zoning Administrator and the Benton Township Board before beginning extraction operations.
- l. Applicant must submit any documentation necessary to demonstrate compliance with these Pre-conditions, including but not limited to providing copies of all applicable approvals and permits required under this SUP. The Township Supervisor, or the Supervisor's designee, must certify, in writing, that each of these Pre-conditions have been satisfied prior to commencement under the SUP.

2. Operating Conditions

- a. The duration of this SUP is five (5) years, subject to an annual inspection by the Township. Applicant shall comply with all requirements of the Benton Township Interim Zoning Ordinance or successor ordinance during operation.
- b. Applicant must take measures to ensure that the extracted material and dust are not spread to nearby properties or the Township's roads. Applicant must perform dust-control activities on an as-needed basis, but no less than daily when operating. Measures shall include, but are not limited to, spraying down excavation areas and storage piles, the use of water trucks or chloride for dust control, sweeping mud, dirt, and debris off the entrance onto Benton Road. Applicant must also treat or brine on-site access roads and loading areas when operating on an as-needed basis.
- c. The extraction operations will take place in three (3) phases. Applicant must complete reclamation progressively from one phase to the next.
- d. No mining activity may take place within the approximate 726' of the narrow section of the parcel most adjacent to Benton Road and directly south of the 5-acre residential parcel adjacent to the northeast corner of the parcel.
- e. Applicant may not accumulate or permit outside storage of trash or debris beyond that

- which would be allowable under the ordinary course of business, and such trash or debris must be properly contained and disposed of on a regular basis.
- f. Applicant must store extracted materials within the boundaries of the phase in which the extracted materials were removed, or in an indoor storage building or structure located on the Subject Property.
 - g. Applicant must stay 2-feet above the ground-water elevation on the site. Pumping of water from excavated areas is not permitted.
 - h. Applicant must ensure the gate entrance at Benton Road shall be locked at all times where the site is not in use, or when an attendant is not present. An access key box, or “knox box” for the gate lock shall be located along the road frontage so that after-hours emergency access is available.
 - i. Applicant must ensure all surface water drainage will be contained on site. No off-site dewatering shall occur without an approved dewatering plan obtained from the ECDC.
 - j. Applicant must seed berms with native grasses and stabilized immediately at construction. 25’ wide; 8 high; or 25’ wide existing trees. 4’ fence along non road frontage, and then 6’ high along road frontage with gate.
 - k. All permitted buildings, structures, and stationary equipment associated with extraction activities shall be located a minimum of one hundred (100) feet from all lot lines in accordance with Applicant’s variance granted by Benton Township Zoning Board of Appeals (“ZBA”).
 - l. All extraction activities, including washing and stockpiling of materials shall be set back one hundred and fifty (150) feet from abutting property in accordance with the Applicant’s variance granted by the ZBA.
 - m. Maximum hours of operation of the mining operation shall be 7:00 a.m. to 8:00 p.m., Monday through Friday. No hours of operation shall be permitted on weekends or legal holidays. No hauling of materials offsite or staging of trucks stage outside of the operation may occur before 8:00 a.m. or after 6:00 p.m. due to safety concerns concerning school bussing and nuisance impacts on adjacent residential dwellings located near the Subject Property or along the haul route.
 - n. No on-site fueling or maintenance on equipment, including but not limited to bulldozers, excavators, front-end loaders may take place within one hundred (100) feet from all lot lines.
 - o. Applicant shall provide material certification for all materials imported on the site.
 - p. Applicant must ensure the extraction site(s) are graded to avoid the accumulation of water in stagnant pools.
 - q. Applicant must take appropriate and prudent measures to avoid and remove any caused pollutants or pollution. If any hazardous material incidents occur, the Applicant shall take remedial action consistent with industry practices and notify the Township of such event

and the remedial action taken.

- r. Applicant shall provide a public telephone number for citizens to make complaints, and must make reasonable efforts to address any complaints received at this number. Applicant will document all complaints and provide quarterly reports to the Township Board detailing the number of complaints received, the nature of those complaints, and the efforts made to address those complaints and prevent similar complaints in the future.
- s. Failure of the Applicant to comply with any of the provisions required by Benton Township Interim Zoning Ordinance, or any stipulations required by the Benton Township Board in granting the Special Use Permit, shall constitute grounds for revocation and termination of the Special Use Permit by the Benton Township Board.

Roll call vote: Chris Tennes-yes; Jason Haigh-yes; Ben Kudwa-no; Jack Caughey-no; Jeff Locke-no; Barb Wickerham-yes. Motion failed 3 ayes; 3 nays.

Chairman Caughey asked the Commission if they would like to have further discussion. There were still concern regarding of the layout of the road, and what the ECRC would suggest. The ECRC will not give further information until a permit has been passed. The Commission decided to add wording to 1. Pre-conditions, b. adding “minimum of 8” of depth of material to be a recommendation to the Road Commission.”

Jack Caughey made a motion, supported by Jason Haigh that the Benton Township Planning Commission recommend approval of SUP2019-001 to the Township Board for the Diemer Mining Excavation Special Use Permit located on Parcel #070-007-200-008-05 as stated in the above REVISED pre-condition and operating conditions, and subsequent to the site plan:

The REVISED paragraph is as stated below:

1. Pre-conditions:

b. Applicant shall obtain a haul permit and improve the gravel portion of Benton Road used for the haul route designated by ECRC as follows: improved gravel surface of 22 feet wide, grading and drainage improvements as required by the ECRC, with a minimum of 8” of depth of material to be a recommendation to the Road Commission.”

Roll Call Vote: Jason Haigh-yes; Jeff Locke-yes; Ben Kudwa-no; Jack Caughey-no; Chris Tennes-yes; Barb Wickerham-yes. Motion Carried: 4 yeas; 2 nays.

After the permit passed, there were comments that the Commission would like to make recommendations to the ECRC to add signage for truck crossing ahead, and to reduce speed limits to 45 mph in the hauling route.

B. SPR2019-002: Request by John and Mary Diemer and ABM Pits LLC for a Site Plan Review to operate a Surface Mine per Section 14.01 P of the Zoning Ordinance located off Benton Road (identified as parcel 070-007-200-088-05), Section 7, Benton Township.

After discussion, Jack Caughey made a motion, supported by Chris Tennes to approve the site plans for the proposed Diemer Mining & Extraction Operations as illustrated on site plan prepared by KEBS, Inc. with the following stipulations:

Required drawing updates are:

1. Label the ZBA approved setback dimensions of 150' for abutting property;
2. Identify the areas where the ZBA approved 25-foot wide and 8-foot high screening berms will be proposed and provide a detail of the berm including the proposed stabilization and planting material to be used;
3. Add elevation contour labels on the grading plan;
4. Add plan notes indicating which proposed structures are temporary and which will be permanent;
5. Identify and label the proposed on-site pit where surface water runoff will be directed; and
6. Add a noted indicating that a minimum of 3-inches of topsoil be used for site stabilization.
7. Provide detail for commercial drive entrance in accordance with Eaton County Road Commission requirements.

Roll call vote: Jack Caughey-yes; Jeff Locke-yes; Ben Kudwa-yes; Chris Tennes-yes; Jason Haigh-yes; Barb Wickerham-yes. Motion carried 6 yeas; 0 nays.

C. Planning Commission By-Laws: The Commission Board decided to table the “Benton Township Planning Commission By-Laws” so Tammy would have time to review and advise the Board.

The next meeting will be held on Thursday, March 5, 2020.

Adjournment: 8:59

Prepared by Barbara Wickerham, Secretary of the Benton Township Planning Commission

Note: As always, I apologize if I misspelled any name.