

WATERLOO TOWNSHIP BOARD

RESOLUTION GRANTING SPECIAL LAND USE PERMIT, SITE PLAN APPROVAL, AND POLICE POWER ORDINANCE APPROVAL FOR GREEN ROAD EXTRACTION OPERATION

RESOLUTION NO. 2021-03-23-1

At a meeting of the Waterloo Township Board, Jackson County, Michigan, held on March 23, 2021 at 7:00 p.m., Eastern Standard Time.

PRESENT: Lance, Walz, Kitley, Morency

ABSENT: McAlister

The following resolution was offered by Lance and supported by Kitley.

WHEREAS, on December 13, 2020 Meyer Mineral Company, LLC doing business as Aggregate Industries, Inc. (“Applicant”) submitted a Zoning Permit Application to expand its current extraction operations (“Project”) to include a portion of Green Road within the Township (“Subject Property”). Green Road/the Subject Property is between two areas of the Township that Applicant has been and currently is mining. The Subject Property is associated with Tax Parcel IDs of 10-01-451-001-00, 10-01-476-001-00, 10-12-200-001-01 and is located within Waterloo Township’s (“Township”) Secondary Agriculture (A-2) Zoning District. See Applicant Zoning Permit. The affected area of the Project’s extraction operations is 17.78 acres on a 200-acre parcel. *Id.*; and

WHEREAS, similarly, Applicant submitted an application to receive all necessary approvals for the Project under the Township’s Sand & Gravel Extraction Ordinance (“Extraction Ordinance”), as amended; and

WHEREAS, to expand its extraction operations to include Green Road, Applicant submitted a number of materials to the Township under both the Zoning Ordinance and the Extraction Ordinance (“Application”). These include but are not limited to: (1) a Zoning Permit Application; (2) site plan drawings prepared by Fishbeck Engineers (including sheets C301 and C201); (3) a legal description of the affected area; (4) descriptions of proposed actions on the land including hours of operation; (5) the entirety of Applicant’s application materials under the Extraction Ordinance dated November 25, 2020 that contain various reports, grading and reclamation plans, graphs, narratives, and explanations of the extraction operations; (6) a January 18, 2021 letter to the Planning Commission related to an emergency road usage plan; (7) a January 15, 2021 letter related to Zoning Ordinance requirements; (8) insurance policy submittals including a submittal received February 26, 2021; and (9) a reclamation bond received on February 12, 2021. All materials submitted by Applicant to the Township are referred to as the “Application” throughout this Resolution; and

WHEREAS, the Township Extraction Committee has reviewed Applicant’s Application and deemed it appropriate to forward to the Township Planning Commission and Township Board for consideration and review. As required by the Zoning Ordinance, the Waterloo Township Planning

Commission held a duly-noticed public hearing on February 16, 2021 and considered input from the public and stakeholders before recommending conditional approval of Applicant's special land use permit ("SLUP") and site plan applications; and

WHEREAS, in reliance upon Applicant's representations and Application, and recommendations from the Planning Commission and Extraction Committee, the Township Board has reviewed Applicant's Application and has found it to be satisfactory to issue special land use, site plan, and police power approvals, subject to certain requirements stated in this Resolution designed to ensure compliance with Township ordinances and to adequately protect the interests of the Township and its citizens.

NOW, THEREFORE, BE IT RESOLVED by the Waterloo Township Board, Jackson County Michigan, as follows:

- A. **SLUP and Site Plan Approval:** Having reviewed the recommendation by the Planning Commission related to the applicable zoning requests by Applicant for a SLUP and site plan approval, the Township Board adopts and incorporates the recommendation of the Planning Commission and grants Applicant a special land use permit pursuant to Zoning Ordinance Sections 11.02 and 11.21 and approves of Applicant's site plan subject to the conditions outlined in the Planning Commission's March 16, 2021 Resolution Recommending Conditional Approval of Aggregate Industries Special Land Use Permit and Site Plan attached as **Exhibit 1**. The reasoning and all conditions in the March 16, 2021 Planning Commission Resolution are incorporated to this decision. Any language in the March 16, 2021 Planning Commission Resolution inferring that a condition or other statement is a recommendation shall be considered to a binding decision rather than a recommendation.
- B. **Extraction Ordinance:** The Extraction Ordinance, as amended, requires individuals and entities to receive a permit before conducting extractive operations within the Township. Extraction Ordinance, Section 4. Applicant has submitted an application for a permit for the Project, which is approved subject to the following requirements:
 1. **Permit Coverage:** The Extraction Ordinance permit granted in this Resolution shall only apply to the Project site (17.78 acres) and is distinct from the permit granted to the Applicant's other extractive operations adjacent to the Project. Extraction Ordinance, Section 4.01. Altogether Applicant is conducting extractive operations on a 200-acre site including the Project and lands adjacent to the Project fulfilling the Extraction Ordinance 40-acre land area requirement. *Id.*
 2. **Permit Length:** Consistent with correspondence from the Applicant, the initial Project permit term shall expire on July 1, 2021 and will be subject for annual renewals under the Extraction Ordinance for future year-long permits to correspond with Applicant's other permitted extractive operations occurring adjacent to the Project. Extraction Ordinance, Section 6.04.
 3. **Compliance:** Applicant must conduct all activities associated with the Project in compliance with federal, state, and local laws and regulations and required licenses by applicable governmental agencies including the conditional SLUP and site plan approvals

as well as all requirements of the Extraction and Zoning Ordinances. Extraction Ordinance, Section 7.01.

4. **Insurance:** Applicant must maintain insurance policies consistent with the Extraction Ordinance for the duration of the Project. Extraction Ordinance, Section 8.03. The insurance policy submitted by Applicant for the Project on February 26, 2021 meets the Extraction Ordinance requirement. Proof of renewal or other adequate insurance shall be provided when the current policies expire in October 2021.
5. **Application and Activities Consistency:** Applicant shall conduct all Project activities consistent with the Application submitted to the Township as well as consistent with other permits granted under the Extraction Ordinance. See Ordinance, Section 6.06 (operating inconsistent with the Application is a violation of the Extraction Ordinance). Specifically, Applicant must:
 - a. Haul Routes: Applicant must maintain haul routes at existing locations used for Applicant's adjacent extractive operations.
 - b. Processing Plants and Stockpile Locations: Applicant must keep all processing plants and stockpile locations at existing locations used for Applicant's adjacent extractive operations.
 - c. Water Quality: As for Applicant's adjacent extractive operations, Applicant must continue to monitor wells 2, 3, 4, 5, 6, 7, the freshwater lake, Pond Lily, and Clear Lake on a monthly basis and submit quarterly monitoring reports to the Township Engineer. The Township Engineer shall contact the Township Board and Applicant in the event of any violations of the Extraction Ordinance or concerning levels related to water quality.
 - d. Lease Agreement: Should Applicant make any changes to the signed copy of the lease agreement between Applicant and the Jackson County Department of Transportation related to mining Green Road, Applicant shall communicate such changes to the Township for review and approval. See Extraction Ordinance, Section 17.
 - e. Reclamation and Restoration: Applicant must carry out reclamation and land restoration activities according to the Application including the following documents provided to the Township between November 25, 2020 and February 16, 2021 listed below. Should Applicant desire to change any reclamation and land restoration activities from what was presented in its Application, it must submit such changes to the Township for review and approval. See Extraction Ordinance, Section 17.
 - i. Conceptual Grading Plan in tab 6 of the materials provided to the Township. Drawing has a 10/4/19 date on it and indicates "Sheet 1" in the lower right corner.

- ii. Conceptual Sections drawing in tab 6 of the materials provided to the Township. Drawing has a 10/4/19 date on it and indicates “Sheet 2” in the lower right corner.
 - iii. Conceptual Phasing Plan in tab 6 of the materials provided to the Township. Drawing indicates “Exhibit C” and also “Revised 12/14/20” highlighted in green.
 - iv. Conceptual Landscape Reclamation Plan in tab 6 of the materials provided to the Township. Drawing has an 8/29/12 date on it and indicates “Sheet 3” in the lower right corner.
 - v. Drawing C201 – Proposed Green Road Profile – revision indicated as “1/16/21 REV.”
- f. Barricade and Turn Around: Due to the closure of Green Road, Applicant must place a barricade and turnaround location west of the Green Road closure consistent with Application revised drawing C301 (dated January 16, 2021).
- g. Water Table: Consistent with the Application, Applicant shall not perform any extractive operations for the Project below the water table nor shall Applicant discharge water offsite from the Project.
- h. Reclamation Bond: Applicant must maintain a Reclamation Surety Bond or other financial instrument acceptable to the Township Board for the Project. Extraction Ordinance, Section 8.01. Applicant may have one acceptable financial instrument for the Project and Applicant’s other permitted extractive operations adjacent to the Project. The Township Board deems the Reclamation Surety Bond with an effective date of February 23, 2021 in the amount of \$1,060,000 as acceptable subject to periodic review by the Township Board to ensure the amount is sufficient to cover costs outlined in the Extraction Ordinance.
- i. Miscellaneous:
- i. *Escrow Deposit*: The \$20,000 escrow deposit required in **Exhibit 1** is also authorized under various Extraction Ordinance provisions including Sections 4.08 and 6.
 - ii. *Community Benefit Royalty*: Consistent with Applicant’s Application, Applicant shall pay Waterloo Township a royalty in the amount \$0.20 per ton of processed material from the Project (estimated payment of \$180,000). Applicant shall report the quantity of material and associated revenue and provide a monthly report of the royalty to the Township. During the duration of the Project, Applicant shall pay royalty amounts monthly. Applicant shall pay monthly royalty payments by check payable to “Waterloo Township.”

- iii. *Community Benefit Tree Restoration:* Consistent with Applicant's Application, Applicant must compensate the Township for the loss of aesthetic values of trees that need to be removed from the Project site during the operation of the Project. The Township shall select a State of Michigan licensed forester to determine the aesthetic value of the removed trees in an appraisal report, and Applicant will pay the costs associated with the forester completing the appraisal report. Applicant will pay the costs associated with the lost aesthetic values of the trees within thirty (30) days of the Township's acceptance of the forester's appraisal report and communication of the amount to Applicant.
- iv. *Grit and Gravel Bike Ride:* As presented during the Planning Commission's February 16, 2021 meeting, Applicant must coordinate with "EPIC Races" to ensure that the annual Grit and Gravel bike race may be conducted as normally scheduled, through an alternative route, agreeable to EPIC races, while Green Road is closed for Project activities.
- v. *Right of Way – Green Road:* Prior to all Project operations, Applicant must provide the Township a road closure notice for Green Road from the Jackson County Department of Transportation that the portion of Green Road to be mined is not a public right of way and is closed to public access as well as access to the impacted portions of the road.

- C. **Changes in Operation:** Should Applicant operate the Project in any way inconsistent with its Application, it must submit a request for amendments to the Project and its plans under Section 17 of the Extraction Ordinance.
- D. **Inspection and Violations:** The Township, including all of its employees, officials, and/or consultants have the reasonable right to enter the Project property to conduct necessary inspections to investigate or determine whether Applicant is violating any provision of this Resolution or the Extraction Ordinance. See Extraction Ordinance, Section 5. Violations of the Extraction Ordinance including preventing reasonable entry of the Project property to conduct such investigations or inspection shall subject Applicant to all penalties under Section 18 of the Extraction Ordinance, revocation of a permit under Section 25 of the Extraction Ordinance, and/or any other legal or equitable actions by the Township permissible under law to ensure compliance with the Extraction or Zoning Ordinances.
- E. **Record Retention:** All materials received by Applicant related to the Project, including the Application, shall be retained at Township Hall for future review and inspection.

Roll call vote:

APPROVE: Kitley, Lance, Morency, Walz

DENY: None

ABSENT: McAlister

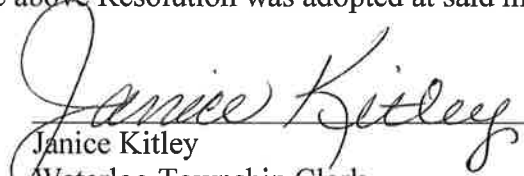
Resolution carried: Yes

RESOLUTION DECLARED ADOPTED

CERTIFICATION

STATE OF MICHIGAN)
) ss
COUNTY OF JACKSON)

I, the undersigned, the duly qualified and acting Clerk of Waterloo Township, Jackson County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Waterloo Township Board at a duly-noticed meeting held on the 23rd day of March, 2021, and further certify that the above Resolution was adopted at said meeting.



Janice Kitley
Waterloo Township Clerk