

ROBINSON TOWNSHIP PLANNING COMMISSION
April 25, 2023

The regular meeting of the Robinson Township Planning Commission was called to order at 7:00 PM at the Robinson Township Hall.

Present

Shawn Martinie
Bill Maschewske
Travis Vugteveen
Lydia Brown
Steve Young
Anne Goede

Absent

Michelle Gillespie

Also present were Supervisor Frank Johnson, Township Attorney Ron Bultje, Zoning Administrator Julie Lovelace, Philip Johnson of Resource Planning and Design representing the Clark Farm Class B Earth Change application, Mark Sloothaak, owner of the Clark Farm Earth Change Site, Christine Sloothaak, Doug Marshall and his attorney, Jennifer Lynn, both representing the Timpe/Marshall Site Plan and Special Use Applications, Rodney Rotman representing the Andor Holdings Preliminary Sketch Plan Application, Dennis Berens, and two additional members of the public. The attendance sheet is attached.

Approval of Agenda

A motion was made by Lydia Brown and seconded by Anne Goede to approve the meeting agenda as written.

The motion carried unanimously with one member absent.

Adopting of Previous Minutes

A motion was made by Steve Young and seconded by Lydia Brown to approve as written the minutes of the April 11, 2023 Planning Commission meeting.

The motion carried unanimously with one member absent.

Non-Commission member Inquiries and Questions -- None

Reports and Communications -- None

Announcements -- None

Old Business

At this time, the Clark Farm Class B Earth Change amended application Resolution and Report, prepared by Township Attorney Ron Bultje at the direction of the Planning Commission, was reviewed. Chairperson Martinie indicated that new information was available from the applicants regarding reducing trackout from the site using rumble grates. This information had previously been distributed to all Planning Commissioners.

Bill Maschewske – Questioned why the wheel wash system stated to be implemented by the applicant at the public hearing was not addressed but rather rumble strips were proposed.

Phil Johnson – The wheel wash system is seasonal and they are looking for an all-season solution.

Zoning Administrator Lovelace – Stated she received a new memo on this date from Phil Johnson regarding several items including the proposed wheel wash system. Copies of the memo from Phil Johnson to Zoning Administrator Lovelace were distributed.

Anne Goede – Are the trucks leaving the site already tarped?

Phil Johnson – Yes.

The April 25, 2023 Phil Johnson memo to Zoning Administrator Lovelace was read at this time.

Bill Maschewske – Noted that Item (z) of the Recommendation and Report to the Township Board did not make sense. A period should be placed after “28 years” and the rest of the sentence deleted.

Lydia Brown – Is this area planned Rural Residential?

Bill Maschewske – Yes.

Travis Vugteveen – Noted there are blanks in (aa), (bb), and (cc).

Mark Sloothaak – Stated that for Item (bb), the mining is completed and the driveway is removed. He also suggested a date of November 15, 2023 for Item (cc).

Chairperson Martinie requested review of the Phil Johnson memo dated April 24, 2023. Number and letter designations refer to sections in the Exhibit A Recommendation and Report by the Township.

Item 1 – Hours of operation. It was agreed to revise the Exhibit A Report to allow regular hours of 7:00 AM to 5:00 PM Monday through Friday. Extended hours after 5:00 PM weekdays and 7:00 AM. to 4:00 PM on Saturday may be permitted upon request and with Township approval on a case-by-case basis.

Item 2 – Fuel Storage 3(k). Mark Sloothaak stated they do not use fuel trucks but double wall stationary tanks. This was acceptable to the Planning Commission.

Steve Young – Are the tanks subject to State review?

Mark Sloothaak – The tanks are small enough that they are not subject to State review.

Item 3 – Trackout from the site 3(q). Instead of the wheel wash system, the applicants are now proposing rumble strips and 1000 ft. of asphalt paving before intersecting North Cedar St.

Bill Maschewske – What is a rumble strip?

Mark Sloothaak – It is an angle iron frame over a pit that can be emptied. Driving over it causes sand and gravel to be removed from the truck tires.

Anne Goede – Is the proposed 1000 ft. of pavement adequate?

Mark Sloothaak – Yes. The rumble strip is a 24 ft. long grate.

Bill Maschewske – Suggested adding maintenance of the rumble strip to the Recommendation.

Steve Young – Recommended adding cleaning of the 1000 ft. of pavement to the Recommendation.

Item 4 -- Duration of mining 3(z). Needs to be corrected grammatically as previously noted.

Anne Goede – Was it the applicant that proposed the 28 year life?

Phil Johnson – It was an estimate but is actually based on market demand.

Township Attorney Bultje – Stated that mining gets preferential treatment because it is a temporary use. The applicants need to state the life of the project and the Township will not unreasonably deny extensions. He suggested changing 3 (z) to state that the duration is market driven and the township will not unreasonably deny extensions. Suggested a 30 year life.

Chairperson Martinie – Is this acceptable to the applicants?

Mark Sloothaak – Yes.

Bill Maschewske – Noted that one issue we have not addressed is traffic.

Chairperson Martinie – Stated there appears to be no resolution.

Phil Johnson – Noted that he addressed traffic in his April 4, 2023 memo in which he stated traffic will not be worse with the amended permit than it was before.

Chairperson Martinie – Called for review of the Criteria for Approval in Article V, Section 3 of the Earth Change Ordinance and found in Section 2 of the Exhibit A Report.

Following review and discussion, it was agreed to add “and aggregate” to the end of 2(g).

Anne Goede – Should there be a date when the paving and rumble strip is complete?

It was agreed to add that “all the requirements of Section 3(q) be completed no later than November 15, 2023”.

A motion was made by Shawn Martinie and seconded by Anne Goede to recommend to the Township Board approval of the S and M Gravel Clark Farm Class B Earth Change application amendment based upon the findings in the Exhibit A Report, dated 4/13/2023 and as amended and with the conditions included in Section 3 of the Exhibit A Report dated April 13, 2023 as amended.

A roll call vote was taken.

Anne Goede – Yes

Lydia Brown – Yes

Bill Maschewske – Yes

Shawn Martinie – Yes

Steve Young – Yes

Travis Vugteveen—Yes

The motion carried unanimously with one member absent.

At 8:00 PM., the Marshall/Timpe Site Plan and Special Use Applications were considered.

Chairperson Martinie inquired if the Planning Commission reviews Section 32.5 of the Zoning Ordinance in detail?

Township Attorney Bultje – Yes, as a courtesy to the Township Board.

Chairperson Martinie – Inquired if the well and septic permits are approved?

Doug Marshall – The high water has prevented approvals from the County. He will have them within 30 days.

Chairperson Martinie directed the Planning Commission go through the Site Plan Review Standards found in Section 31.8 of the Zoning Ordinance.

Anne Goede -- Suggested screening for the portable toilet

Attorney Lynn – Stated that since the portable toilet could only be seen from the applicant’s in-laws house, the issue of screening should be up to them to decide.

Anne Goede – The portable toilet is visible by boat on the river.

Travis Vugteveen – Suggests tall grass or evergreens that could screen the portable toilet.

Anne Goede – Prefers shrubs.

Doug Marshall – Tall grass would be acceptable to him. He could have this planted by June 15, 2023.

Anne Goede – Does not want the renters to use neighbors waste receptacles. Will the applicant provide waste containers?

Doug Marshall – He will not provide waste containers. All waste must be removed by the renters.

Anne Goede – Will the applicant provide written rules and regulations to renters?

Doug Marshall – They are included in the web site for One Grand Place on AirBnb.

Anne Goede – Requested Mr. Marshall use a different meeting place with his renters since the current location results in blocked residential driveways.

Doug Marshall – Agreed to use 120th Ave. and North Cedar St.

Lydia Brown – How frequently is the portable toilet serviced?

Doug Marshall – Weekly.

Attorney Lynn – Stated that the on-site septic system was last tested in 2005. The first well test was positive. She requests approval for both lots to share the portable toilet if the septic system does not pass inspection.

Chairperson Martinie – Where do the recreational vehicles go with their waste.

Doug Marshall – He recommends a truck stop or the State Park, both off- site.

Anne Goede – Do the people who rent sign a contract?

Attorney Lynn – Not currently.

Chairperson Martinie – What is on the web site now?

The Chairperson was given a printed copy of the current website information.

Chairperson Martinie inquired if Anne Goede was requesting a signed contract. He recommends something in writing and given to the renters outlining the specific rules and the prohibition of dumping waste.

Steve Young – Does the positive well test mean the well is contaminated?

Doug Marshall – No, the well passed the first test.

A discussion followed regarding what approvals could be given if either the well or septic system did not pass the Ottawa County Health Dept. tests. The applicants request, regardless of whether well and septic system approvals are received, and if they are not received, they will state that the sites have no potable water and both lots will share the portable toilet.

Bill Maschewske – Believes additional proof of ownership should be provided beyond a quit claim deed.

Attorney Lynn – A copy of the warranty deed will be submitted.

Bill Maschewske – Should the site be inspected annually?

Lydia Brown – Section 9.3(D) of the Zoning Ordinance requires the permit be renewed annually.

At this time, review of Section 31.8 of the Zoning Ordinance was complete.

Next to be reviewed was the Special Use Criteria in Section 32.5 of the Zoning Ordinance. Items below follow the numbering of Section 32.5 of the Zoning Ordinance.

- A. Not applicable.
- B. 1, 2, 3, 4, and 5. No known significant negative impacts.
- C. If there are any other similar applications, they would be evaluated on their own merits.
- D. Add a condition that all parking is to be confined to the subject two parcels
- E. The applicants are waiting for evaluations from the Ottawa County Health Dept. If approvals are not obtained, the applicants will have appropriate alternatives for water and septic systems as necessary.
A discussion followed regarding actions if well and or septic system approval is not forthcoming. It was agreed that the applicants must have the required permits from the Ottawa County Health Department or provide for alternative services. If a lot does not have septic system availability, the recreational vehicle must be self- contained. If potable water is not available to the site, then the renters must provide their own supply.
- F. The applicants have proposed seasonal use from May through the end of September.
- G. No services are required.
- H. Meets Section 9.3(D) of the Zoning Ordinance and approval of the Site Plan.
- I. Meets Section 9.3(D) and Section 31.8 of the Zoning Ordinance and Ottawa County Health Dept. requirements.
- J. Same response as I above.
- K. Complies with Chapters 3 and 4 and the definition of “Recreational Vehicle” in the Zoning Ordinance.
- L. Not applicable.

At this time, the conditions of approval were reviewed.

Attorney Lynn – Please change “trash receptacle” to “dumpster”.

Chairperson Martinie – Agreed to the requested change.

The Planning Commission also agreed to the following non-inclusive list of conditions:

1. Change fence screening of the portable toilet to tall grass screening to be planted by June 15, 2023.
2. All parking is to be contained on the subject parcels.
3. Renters will review and sign a list of regulations provided to them by the applicant.
4. The established meeting place of renters with the applicant will be at the intersection of North Cedar St. and 120th Ave. before proceeding to the rental site.
5. Proof of ownership is to be provided.

A motion was made by Lydia Brown and seconded by Steve Young to recommend to the Township Board approval of the Site Plan and two Special Use Applications from Douglas Marshall based upon the findings from review of Sections 31.8 and 32.5 of the Zoning Ordinance and with the following conditions.

1. Compliance with the application.
2. Compliance with all laws, ordinances, and regulations.
3. Compliance with the applicant’s verbal representations stated in the minutes.
4. Ottawa County Health Department approvals for well and septic or alternatives as outlined in the findings for Section 32.5 E above.
5. Neighboring waste receptacles are not to be used.
6. Any future addition of site lighting, trash dumpsters, or signage must be reviewed and approved by the Township.
7. Tall grass screening for the proposed portable toilet, to be planted by June 15, 2023.
8. All parking must be contained on the subject parcels.
9. Renters will review and sign a list of regulations provided by the applicant.
10. The established meeting point of the owners and the renters shall be located at 120th Ave and North Cedar St. and the renters will be escorted to the property.
11. The applicant shall provide proof of ownership.

A roll call vote was taken.

Anne Goede – Yes

Lydia Brown – Yes

Bill Maschewske – Yes

Shawn Martinie – Yes

Steve Young – Yes

Travis Vugteveen – Yes

The motion carried unanimously with one member absent.

New Business

At 9:40 PM., Rodney Rotman and Rick Postema, of Postema and Associates, presented their Preliminary Sketch Plan for Andor Holdings. Mr. Rotman gave a description of the proposed project. The site consists of 3.8 acres on which an existing 1200 sq. ft. commercial building exists. He proposes to build two 12,000 sq. ft. buildings with 10 units of commercial space proposed per building. The project is expected to be constructed in four phases, with one half of each building to be constructed per phase. Timing will depend on market demand. He already has MDOT approval for ingress only on M-45 and Ottawa County Road Commission approval for ingress/egress on 120th Ave. north of M-45. He also has Ottawa County Health Department approval for well and septic. He intends to comply with all ordinances, including the new parking standards.

Bill Maschewske – Inquired regarding the number of businesses per building.

Chairperson Martinie – Noted the Zoning Ordinance limits occupancy to no more than 5 retail establishments but there may be other businesses.

Rodney Rotman – Stated he expects a mix of retail space and office space.

Chairperson Martinie – How high will the absorption field for the septic system be above grade?

Rodney Rotman – Four feet.

Chairperson Martinie – The Fire Chief expressed written concern about the buffers at the corners of the septic field. Could the landscaped areas be reduced to assist in emergency vehicle access?

Lydia Brown – Is public water and sewer available?

Rodney Rotman – No. Public water and sewer are not available.

Chairperson Martinie – Questioned the noted directions of the elevations on drawing A1.

Rodney Rotman and Rick Postema – The elevations are labelled incorrectly and will be corrected.

Chairperson Martinie – Inquired about the façade of the building and noted the blank wall on one end could be more attractive. Will you dress up the road frontage views?

Rodney Rotman – Agrees and will explore options.

Travis Vugteveen – How can the two types of fences be distinguished on the drawings?

Rodney Rotman – They are different heights.

Travis Vugteveen – Which is 6 ft. tall and which is 30 inches tall.

Rodney Rotman – What is the purpose of the fencing?

Zoning Administrator Lovelace – The fence is required per Parking Standards and Section 4.54 B of the Zoning Ordinance.

Rodney Rotman – Noted that his company, 2R Automation, will occupy the north two units of the south building. These units are actually in the portion of the property zoned B-1.

Township Attorney Bultje – Noted that a variance would be required for the revised parking at the existing building since it is newly constructed and non-conforming, even though it is less non-conforming than the existing parking. If the parking for the existing building is left unchanged, then no variance is required.

A motion was made by Travis Vugteveen and seconded by Anne Goede to accept the Preliminary Sketch Plan and authorize the applicant to proceed to the Detailed Site Plan for the Andor Holdings proposed commercial development.

The motion carried unanimously with one member absent.

The next item of business was the amended Rules of Procedure for the Planning Commission. A motion was made by Travis Vugteveen and seconded by Lydia Brown to table review of the proposed revisions to the Planning Commission Rules of Procedure.
The motion carried unanimously with one member absent.

Pay Bills

A motion was made by Lydia Brown and seconded by Travis Vugteveen to pay Planning Commission salaries for the April 25, 2023 meeting (6 members present, one absent).
The motion carried unanimously with one member absent.

Any and All Other Business That May Come Before the Board – None.

Adjournment

A motion was made by Travis Vugteveen and seconded by Steve Young to adjourn the Planning Commission meeting at 10:35 PM.
The motion carried unanimously with one member absent.

Respectfully submitted,

Bill Maschewske, Secretary
Robinson Township Planning Commission

Attachment: Sign- In Sheet for Planning Commission April 25, 2023 meeting.
Clark Farm Class B Earth Change Recommendation and Report



SIGNATURE

11. 名

Christine Loothack

G. O. L.

[Handwritten signature]

V. Marshall

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[Signature]

EXCERPTS OF MINUTES

At a meeting of the Planning Commission of the Township of Robinson, held at the Robinson Township Hall, 12010 - 120th Avenue, Grand Haven, Ottawa County, Michigan, on the 25th day of April, 2023, at 7:00 p.m., local time.

PRESENT: Shawn Martinie, Bill Maschewske, Travis Vugteveen, Anne Goede, Lydia Brown, Steve Young.

ABSENT: Michelle Gillespie.

After certain other matters of business were concluded, the Chairperson stated the next order of business was the consideration of a proposed Resolution and appended Report recommending approval of a proposed Class B earth change permit amendment request from S&M Gravel, Inc. (the "Applicant") for the Clark Farm, a 510 acre mining site in the M-1 Zoning District, located between North Cedar Drive and Sleeper Street, and between 120th Avenue and 108th Avenue, consisting of the following parcels:

70-04-34-300-013	70-08-02-100-001
70-04-34-300-015	70-08-03-200-012
70-04-34-400-004	70-08-03-200-001
70-04-35-300-004	70-08-03-100-002
70-04-35-300-023	70-08-03-200-013
70-04-35-300-008	70-08-02-100-003
70-08-02-100-031	70-08-02-100-018

After discussion, the following resolution was offered by Martinie and supported by Goede.

RESOLUTION

WHEREAS, on March 28, 2023, the Planning Commission held a public hearing on the Class B earth change permit request; and

WHEREAS, the Robinson Township Earth Change Ordinance requires the Planning Commission to make a recommendation concerning the Class B earth change permit request;

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS.

1. The Planning Commission adopts the Report attached as Exhibit A and recommends approval of the Class B earth change permit request submitted by the Applicant.
2. All resolutions in conflict in whole or in part are revoked to the extent of such conflict.

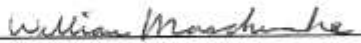
YES: Shawn Martinie, Bill Maschewske, Travis Vugteveen, Anne Goede, Lydia Brown, Steve Young.

NO: None.

ABSTAIN: None.

RESOLUTION DECLARED ADOPTED.

Dated: April 25, 2023


William Maschewske, Secretary
Robinson Township Planning Commission

CERTIFICATE

I, the undersigned, the Secretary of the Planning Commission of the Township of Robinson, Ottawa County, Michigan, certify that the foregoing is a true and complete copy of a resolution adopted by the Planning Commission at a meeting held on the 25th day of April, 2023. I further certify that public notice of the meeting was given pursuant to and in full compliance with Michigan Act 267 of 1976, as amended, and that the minutes of the meeting were kept and will be or have been made available as required by the Act.

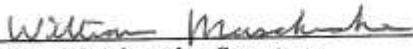

William Maschewske, Secretary
Robinson Township Planning Commission

EXHIBIT A

REPORT

Pursuant to the provisions of the Robinson Township Earth Change Ordinance, as amended (the "Earth Change Ordinance"), the following is the Report of the Robinson Township Planning Commission (the "Planning Commission") concerning an application by S&M Gravel, Inc. (the "Applicant") for approval of a Class B Earth Change Permit Amendment Request (the "Project") for property located between North Cedar Drive and Sleeper Street, and between 120th Avenue and 108th Avenue (the "Property"), consisting of the following parcels:

70-04-34-300-013	70-08-02-100-001
70-04-34-300-015	70-08-03-200-012
70-04-34-400-004	70-08-03-200-001
70-04-35-300-004	70-08-03-100-002
70-04-35-300-023	70-08-03-200-013
70-04-35-300-008	70-08-02-100-003
70-08-02-100-031	70-08-02-100-018

The Project pertains to the Class B Earth Change Permit Amendment Request as submitted to the Township in the latter part of 2022 and supplemented thereafter. It includes a proposed lake expansion resulting in the excavation of 14,533,000 cubic yards, with 24 feet maximum depth and area of 289 acres.

The purpose of this Report is to state the recommendation of the Planning Commission concerning the Project and the bases for the Planning Commission's recommended approval.

1. The Planning Commission recommends approval of the Project.
2. In considering the Project, the Planning Commission is obligated to review the standards in Article V, Section 3 of the Earth Change Ordinance. In considering these standards, the Planning Commission has reached certain conclusions concerning the Project.
 - a. The zoning of the Property is appropriate in the M-1 Zoning District.
 - b. The Planning Commission finds that the ultimate end use of the Property (up to 52 dwelling units around the expanded lake) could still be harmonious with the character and the Rural Residential zoning of the surrounding area, and with the Robinson Township Land Use Plan, subject to the conditions in this Report. Therefore, the end use plan is not a legitimate reason to deny the Project.
 - c. Given the Applicant's long and positive history of sand mining in the Township, the Planning Commission finds no reason to conclude that the Applicant lacks the honesty, integrity, financial responsibility, or overall ability to comply with the Earth Change Ordinance and with any conditions placed upon the Project.

- d. The Planning Commission concludes that the Project, if approved with all of the conditions recommended by the Planning Commission, and given the history of sand mining on the Property and in the area, would not have unreasonably negative consequences for adjacent property and the surrounding neighborhood; or to the health, safety, or welfare of persons or property; or to the environment as established by the 1979 Environmental Impact Assessment and the 2022 Hydrologic Study.
 - e. The Planning Commission concludes that the size and the nature of the Project, and its scope and duration, are consistent with the legitimate goals of the Project and the market demand for sand.
 - f. The record established during the public hearing on this Project, and during the Planning Commission's deliberations, does not establish that the Project would place demands on public services and facilities in excess of current capacity, or that it would create an unreasonable risk of hazards or nuisances as long as all of the conditions recommended by the Planning Commission are implemented.
 - g. The Planning Commission finds that the Project is reasonably necessary given the ongoing market demand for sand and aggregate.
 - h. The Planning Commission finds that if the conditions it recommends are implemented, the Project will not remove the lateral or sublateral support of adjacent land, result in a dangerous topographic condition, result in seepage or slides, or create an attractive nuisance dangerous to public safety.
3. The Planning Commission recommends that the following conditions, restrictions, and requirements be placed on this Project.
- a. Unless other requirements are specified in the Earth Change Ordinance or in these conditions attached to the Project, all representations made by the Applicant in its documents submitted to the Township in support of the Project and those reflected in the Planning Commission minutes concerning the consideration of this Project must be met in their entirety.
 - b. All applicable requirements of the Earth Change Ordinance must be met in their entirety.
 - c. All applicable approvals must be obtained from the Michigan Department of Environment, Great Lakes, and Energy ("EGLE"), as well as any and all other governmental units and agencies having jurisdiction concerning the Project. All conditions placed on any such approvals must be complied with in their entirety.

- d. The Project shall comply with the terms and assumptions of the minimal impact approval letter from the County of Ottawa Office of the Water Resources Commissioner, dated March 23, 2023.
- e. All activity on the Property which results from the approval of the Project shall be accomplished between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday. If the Applicant demonstrates a need for extended hours and the Township approves the extended hours, work after 5:00 p.m. and Saturday work between the hours of 7:00 a.m. and 4:00 p.m. may be permitted.
- f. The Applicant shall file with the Township a performance bond which names the Township as the sole obligee, with the performance bond to be in such amount as is determined necessary by the Township to secure compliance with all of the conditions placed by the Township upon the completion of the Project. Any and all performance bonds which list the Township as an additional or as the sole obligee shall insure that the conditions set forth in this Report are met in their entirety. The performance bond may be limited to the portions of the Project that have been initiated and have not been successfully closed.
- g. The Earth Change Ordinance requires in Article VII, Section 1(g) that all topsoil shall remain on the Property. The Applicant must comply with this requirement, and shall ensure that at least four inches of topsoil is returned to the extraction area of the Property before the area is seeded.
- h. The Project shall timely and properly pay the tipping fees charged an applicant per the Earth Change Ordinance. The Applicant will provide to the Township and any other applicable governmental agencies final cross sections on the excavation area for the Project, and will monitor the daily progress of the Project.
- i. Any trucks which are loaded and operated on public roads shall be tarped.
- j. Unless otherwise required by these conditions or the Earth Change Ordinance, the Applicant shall comply with the February 7, 2023 revised application material submitted to the Township by the Applicant, and all supporting documentation from the Applicant. In the event of inconsistencies within the documentation, the later material shall control, subject to these conditions.
- k. All onsite fuel storage will continue to utilize secondary containment tanks.
- l. The Applicant shall water haul routes on the Property as necessary to prevent excessive dust. The Township shall monitor this on a day-to-day basis, and the Applicant shall water as necessary, according to the Township, to prevent excessive dust.

- m. The Applicant will cooperate with the Township and allow photographs to be taken of the excavation and other work areas before, during, and after the Project is implemented.
- n. The soil on the Property will be stabilized as necessary until no longer needed. Turf will be reseeded and topsoil will be added as necessary to achieve and maintain stabilization.
- o. The truck route for the Project shall be via North Cedar to 104th Avenue to Lake Michigan Drive.
- p. The Applicant will keep the ingress to and egress from the Property clear and free from dirt and sand.
- q. The first 1,000 feet of the access road from North Cedar Drive shall be covered with asphalt, which will be maintained and replaced as necessary during the life of the Project. By November 15, 2023, a rumble grate which is 24 feet long will be installed in the 1,000 feet of asphalted area to remove loose soil and gravel from truck tires before leaving the Property. The rumble grate will be properly maintained, monitored, and emptied on a timely basis. The first 1,000 feet of asphalted area shall also be regularly swept as necessary to keep it clear of loose soil and gravel.
- r. To ensure potential future uses of the Property are maintained, all road runoff must be segregated from the excavated area.
- s. Upon completion of the Project, as-built surveys are required from the Applicant to ensure compliance with the approved plans prior to release of the performance bond required by subsection f above.
- t. Topsoil stockpiles shall be temporarily seeded during the implementation of the Project to prevent wind erosion. Silt fences shall also be installed by the Applicant to control water erosion.
- u. Existing trees in the setback or buffer zone on the Property will remain throughout the implementation of the Project.
- v. If required seeding cannot occur on the Property due to the season, mulch will be used to stabilize the Property and prevent wind erosion until the seeding can be completed. The mulch used shall be safe for the water table.
- w. A setback of 50 feet shall be maintained for any excavation on the Property from all wetlands on the Property, all boundaries of the Property, and all public rights-of-way.
- x. The Project includes the construction of a lake. The Applicant shall indemnify the Township and its officers, Board, Planning Commission,

employees, and agents from all claims, damages, demands, expenses, liabilities, and losses of any kind (specifically including but not limited to damage to wells or to agricultural crops from the lowering of the groundwater table) resulting from the construction, maintenance, repair, and utilization of the lake included as part of the request. The indemnification obligation shall include the payment of all reasonable attorneys' fees and other expenses of defense. The Township shall give prompt written notice to the Applicant of any claim or litigation against the Township relating to the lake. The Applicant shall have the opportunity to defend and contest such claim or litigation.

The Applicant shall also indemnify all area landowners from damage of any kind relating to any lowering of the water table caused by the acquisition, construction, completion, or operation of the various components of the Project.

- y. The Applicant has designed and engineered the lake included as part of the request. The Applicant assumes all responsibility with respect to the adequacy of the lake concerning its design, its adequacy for surface drainage of the parcel, its safety with respect to the general public, and all other aspects of the construction, operation, and maintenance of the lake.
- z. Activities per this Project shall be completed within 30 years after the Project is commenced. The Township understands the Project is market driven and may need an extension, which the Township will not unreasonably deny.
- aa. The processing plant shall be centrally located on the Property, in cell 2, as shown on the application and supporting documents. It shall not be moved without Township approval.
- bb. The ingress to/egress from the Property on 108th Avenue has been and will remain closed.
- cc. The MME mining site cells on the Property shall be closed and reclaimed no later than November 15, 2023. By that date, the Applicant shall submit a certificate of reclamation by a registered civil engineer or professional ecologist, confirming that the reclamation has been completed in full compliance with all applicable requirements.

4873-9070-2428 v2 [90065-17]