

These are the minutes of the February 5, 2009 Planning Commission meeting.

Meeting called to order at 7:30 p.m. by Chairman Shields.

Present: Boyles, Myers, Heasley, Shields, Oosterink, Blakeslee, Berens. Mark Sisson and Bob Jones of PCI were also present.

Absent: none

Oosterink made a motion to approve the January 15, 2009 minutes as presented, Berends seconded, motion carried.

Public comment: none

Conflict of interest: none

New Business:

Top Grade Aggregates is requesting a SUP to continue the sand mine located at 3100 142nd Ave., p.p. 03-19-021-010-00, Sec. 21 & 15. The current permit to the Salem Development Group expires Feb. 2009. Ross Veltema representing Top Grade was present at the meeting and gave an overview of the request. (refer to 1/15/09 minutes for prior review given also). He is purchasing 40 acres of the original 100 acres and Hogquest, LLC is the owner of the other 60 acres. A letter dated 1/20/09 was addressed to the PC from Hogquest, LLC agreeing to the mining permit of Top Grade on their 60-acre parcel. Currently this 60 is actively being farmed; it will most likely not be mined until phase II.

Ross has operated the DeBoer sand mine on 144th and has done an excellent job in keeping the site looking nice and completing the project. The PC members feel he has done a nice job in the past project. He is looking to bring a "brighter face" to the 142nd Ave. mine and will clean it up to look attractive. He plans to keep the working area at a minimum to avoid blowing sand and will seed as much as possible to protect neighbors. Depending on the economy, he is optimistic that they will do a good business there. Their goal is to keep the sand local and foresees a good opportunity with surrounding areas.

Mark Sisson brought up the issues from the Salem Development Group wherein the project was in violation. Main issues were reclamation not being done, not more than 25 acres open at one time and the standing water issue. The requirement was to not dig within 6' of the water table and evidence shows violation, although it is disputed with the former applicant.

Berens questioned how the PC can monitor being 6' above the water table.

The zoning administrator would have to check monthly. Applicant also is open to providing pictures, measurements to confirm.

Currently there is no written agreement between Top Grade Aggregates (applicant) and Hogquest, LLC (owner of the 60 acres) The PC would like this agreement in place for at least 5 years to protect and permit Top Grade to continue mining the sand since they are not the full owner of the 100 acre parcel on which the permit is being requested. Jim DeWitt of Hogquest was present at the meeting and is in agreement with this.

Discussion on letter of credit.

Public comment:

Sue Hildebrand – lives to the South. Concern of blowing sand, her pond and water table.

Greg Koopman – what is happening to the West berm? It is right next to his property line and is very unsightly.

Ross: will keep that berm there as it will be used in the reclamation process. Also will keep berm to the South.

After further discussion, Heasley made a motion to grant the special use permit subject to the stipulations outlined in the Top Grade Aggregates Mining Operating Agreement dated 2/5/09 (attached as part of these minutes) and the following conditions:

- 1) Letter of Credit required for \$100,000 (\$4,000 per acre @25 acres)
- 2) Formal arrangement/contract between applicant and Hogquest, LLC, minimum of 5 years.
- 3) \$500 annual enforcement fee placed in escrow for annual review
- 4) Site plan dated 2/3/09 signed by applicant and Chairman 2/5/09

Oosterink seconded, motion carried.

Heasley then made a motion to incorporate the Findings of Fact (attached as part of these minutes), Oosterink seconded, motion carried.

Bob Jones of PCI presented a permit fee sheet for the PC to review increasing certain application fees. Heasley made a motion for Boyles to present to the Township Board for review/approval, Myers seconded, motion carried.

Chairman Shields scheduled a special work meeting for next Thursday, February 12, 2009 7:00 p.m. to work on the by-laws with Mark. Susan to post special notice of the township for public.

Berens motion to adjourn, Myers seconded, motion carried. Meeting adjourned at 9:30 p.m.

Submitted by,
Cris Heasley, Secretary
Salem Township Planning Commission

**SALEM TOWNSHIP
SPECIAL USE PERMIT TO CONDUCT A MINING OPERATION
TOP GRADE AGGREGATES**

**As adopted by the Salem Township Planning Commission
on Thursday, February 5, 2009. Pursuant to the Salem Township Zoning
Ordinance, as amended, the applicant listed below is hereby granted a Special Use
Permit to conduct sand mining operations on the property described herein in
accordance with the Zoning Ordinance, approved operation and reclamation plans
and the other stipulations as noted herein. The special use permit shall become
effective as of the date listed below. Pursuant to Section 15.06 of the zoning
ordinance, this permit shall automatically expire if the site is abandoned or inactive
for a consecutive period of 12 months. Pursuant to Section 15.06, this permit may
be revoked or suspended for failure to comply with any standards, conditions,
restrictions or requirements imposed as part of the issuance of the license.**

Applicant (Permittee)

Top Grade Aggregates
Mr. Ross Veltema

Business Address

3407 58th Street
Hamilton ,Mi 49419

Site Address/Location

3100 142nd Ave.

Legal description

West ½ of the West ½ of the Northeast ¼. and the East 60 acres of the Northwest
¼ of Section 21, T4N., R.,13 W

A. Project Phasing and Reclamation

1. There will be three general areas or phases of mining activity. Within each phase will be areas devoted to active mining, loading and stockpiling, areas being prepared for mining (stripped areas) recently restored areas and perimeter “no disturb” and bermed areas.
 - Phase I mining activities are limited to within the area generally described as the west 1150 feet of the north 2100 feet of the site and is more accurately indicated on the Mineral Mining site plan dated 1-09 and last revised on 2-3-09.
 - Phase II is generally described as areas east of Phase I. - Phase III is generally described as the area south of Phase I.
2. Site restoration and reclamation of mined areas shall occur in unison with the mining process. As mining is completed in any area, it will be final graded with topsoil being spread over the site and seeded.

3. Upon restoration, the land will be capable of being cultivated or otherwise developed for purposes zoned.
4. Within Phase I, interim finished re-vegetated side slopes of 1 on 3 may be created as the mining progresses to the south.
5. Final reclaimed slopes shall be 1 on 4 or less and shall be stabilized with a minimum of five inches of topsoil, seeded with grasses or other acceptable vegetation.
6. Site reclamation of Phases I and II will be completed within 180 days of the opening of mining operations in the successive phases, or mine closure.

B. Limits and Extent of Operations.

1. The topographic plan, topographic plan aerial base, and reclamation plans originally approved for the Salem Development Group LLC sand pit prepared by Focus Engineering and dated 7-24-01 together with the “Mineral Mining 2009 Annual Review and SUP Renewal Plan” prepared by Pathfinder Engineering Inc. (last revision date of 2-03-09) shall serve as the approved mining and reclamation plans for the permitted area.
2. Mining operations shall be limited to the areas as defined at the time of each annual review. Expansions shall be expressly approved by the Planning Commission as indicated by sequentially approved and dated mining operations plans. Within Phase I the limits of excavation are those indicated within the “Proposed Excavation Area” as labeled on the mining plan dated 2-3-09. Mining shall progress from Phase II to Phase III only after specific authorization. No material shall be removed within 50 feet of the property line.
3. Operations area. Areas utilized for mineral storage and stockpiling, production facilities, overburden storage and any approved permanent or temporary structures (if any) shall be restricted to the areas indicated on the approved and last dated Mining plan. . The limits of the “operations area” shall be subject to annual review and approval and at a minimum, equipment and processing shall be setback a distance of at least 100 feet shall around the perimeter of the site. Within the setback no equipment storage, processing or stock piling will take place. .
4. The depth of excavation shall be maintained at or within 10 feet of the elevations indicated on the Mining Operation Plan. An existing temporary detention basin as shown on the mineral mining site plan shall of 2-03-09 shall be maintained to collect storm water runoff from mining areas. The mining operations floor (existing grade) as in existence on the effective date of this permit shall be sloped upwards and towards the detention pond at a minimum slope of 2% until the operations floor is demonstrated to be at least 6 feet above the ground water table. Thereafter the mine floor shall be maintained at least 6 feet above the ground water table. Annual documentation of the ground water elevation relative to the mine floor shall be required.

5. Final elevations after restoration will be as indicated on the reclamation plan or at least ten feet above groundwater elevation, whichever is the greater elevation above the water table.
6. Except as will occur in the approved detention pond and as may temporarily occur subsequent to major rainfall events, no standing water is permitted to accumulate elsewhere on the site.

C. Hours of operation

Hours of operation shall be 7 a.m. to 6 p.m., Monday through Friday and 7 a.m. to 12:30 p.m. on Saturday. Equipment maintenance and repair may be carried out at any time between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday. Emergency repairs may be made during other hours provided that the Township Building/Zoning Inspector is given prior notice of such activities.

D. Equipment and Methods of operations and reclamation

Material generally will be excavated and loaded by a conventional front-end loader. The bulldozer and scrapper will be utilized for stripping and building berms, periodically leveling and grading, reclamation and re-spreading topsoil. On-site equipment fueling and maintenance activities shall be conducted so as to prevent the contamination of the surface and groundwater.

The following major types of equipment will be considered part of the approved operations

- Conveyors
 - Screens
 - Front end loaders
 - Hydraulic cranes
 - Bulldozer
 - Scrapper
 - Generator
 - Trailer or skid mounted fuel storage
 - Water wagon
1. Other than screening, there will be no processing of materials on site. Stone crushers are not permitted under the terms of this permit.
 2. Prior to removing materials from the site, topsoil stripping will occur. The topsoil will be used to build berms around the mineral excavation area
 3. No water will be used from any source for the purpose of processing on-site materials. Loading, excavation and screening equipment shall, to the extent possible, be positioned at the bottom of the mining area to minimize vibration, noise and dust emissions.
 4. Unless specifically authorized by the Planning Commission in writing, exposed mining faces shall be reduced and sloped when operations temporarily cease, such as during the winter months or any other period of

time that is to exceed 30 days. Requests for such authorization shall be made at least 30 days prior to the cessation of operations.

5. Sufficient sand and gravel may be imported for the purpose of creating and maintaining the haul roads. No dumping is allowed and no off-site materials may be imported for filling or other activities.
6. Removal of topsoil from the site is allowed provided that sufficient topsoil for reclamation to a depth of five inches is required to be on site at all times.
7. Excess topsoil and clay deposits may be temporarily stockpiled for reclamation purposes within the proposed perimeter berms and internally within each phase being actively mined.

E. Access

1. Access to the site will be from off 142nd Ave and will consist of an entrance and an exit drive as indicated on the plan. The entrance/exit shall be constructed to the specifications of the Allegan County Road Commission. The entrance/exit must be constructed as approved and permitted by the Allegan County Road Commission.
2. The drive shall be paved and maintained with bituminous asphalt for a distance of at least 300 feet, beginning at 142nd Ave. and extending internally as indicated on the mining site plan. As the drive is extended internally, it shall thereafter be surfaced with gravel to facilitate dust control.

F. Dust Control

Water or chemical dust control agents shall be utilized within the excavation, reclamation and loading areas and on internal haul roads to control dust associated with excavation, loading, grading and transport operations. To minimize dust and the areas from which dust may originate, haul road leading to the operations and staging area shall be graveled and the extent of cleared, un-vegetated area will be minimized in the following fashion.

1. Top soil used for the initial construction of berms shall originate from an initial 15 acre area within Phase I and/or areas immediately adjacent and parallel to the location of the berms. The berms and any scalped areas not included within the initial active mining phases shall be immediately fertilized and seeded to re-establish grass cover.
2. All active operations including loading, extraction, screening, equipment storage and stockpiling shall be limited to within the operations area that migrates through the site. The limits of the operations area shall be subject to annual review and approval.
3. Forward of the direction of mining, advance clearing may occur, but shall be minimized. Behind the active operations area, diligent restoration and re-vegetation will be required. At no time shall the combined area of stripped area above the active mine face and un-reclaimed area behind the operations area, exceed 25 acres.

G. Berms and Screening

For privacy buffering and aesthetic purposes, berms will be maintained and constructed in the locations outlined and illustrated on the mining operation plan.

1. The berms will be constructed by stripping topsoil from the areas to be mined.
2. The berms along 142nd Avenue and the west property line shall be to a minimum height of eight feet above average grade at the base of the berm.
3. The berm along the east line shall begin and end at approximately the 680 feet elevation. It shall be to a height of three to four feet above the average grade at the base of the berm and shall be planted with two staggered rows of hardy, fast growing evergreen trees, each three to four feet in height and planted on ten foot centers.
4. All berms shall be constructed, contoured, fertilized, planted and seeded before any mining in Phase I occurs.
5. Once the mining activity is complete, the berms will be removed and topsoil will be spread over the reclaimed cells as part of site reclamation.
6. The length of the berm that as initially installed along the west property line may be 600 feet shorter in its southern extent than that indicated on the approved plan. If a new home is positioned on the adjacent parcel at any time prior to closure of the operation, a future extension of the berm up to the full length indicated on the plan may be required. The Planning Commission shall make the determination of whether an extension is warranted as part of any subsequent annual review. If a determination is made that an extension is required, the Planning Commission shall specify the length of the extension

H. Safety and Security

1. The perimeter of the site will be posted and maintained with signs at 200 foot increments indicating the site as a mineral mining area with dangerous vertical slopes.
2. An orange construction barrier fence will be placed and maintained as a caution and as a barrier to trespassers. This fence shall be portable and shall be placed above all active or open mining faces. The fence shall be periodically relocated so to remain no closer than fifty feet and no further than 100 feet from all active or open mining faces.
3. A lockable gate shall be provided and maintained to guard the entrance near 142nd Ave.
4. A sign shall be posted near the entrance gate, which clearly depicts the hours of operation. The sign shall further state that no dumping is allowed and shall contain the name and telephone number of the operator. The contact shall be made available 24 hour a day seven days a week.
5. Speed limit signs shall be posted and maintained along the internal haul road indicating a maximum speed of 10 miles per hour.
6. The operator shall post and otherwise inform truckers and equipment operators that violation of the hours of operation and speed limit or the operation of trucks and equipment in an unsafe manner or other manner that

causes undue noise, dust or other nuisance, may be cause for revoking the privilege of utilizing the operation.

7. "Truck Entrance" signs shall be posted and maintained on 142nd Street in accordance with Road Commission specifications.
8. The operator shall annually confer with local school districts regarding school bus operations along the primary haul routes. The operator shall inform truck drivers of school bus schedules and post the schedule on a sign near the entrance of the site. Truckers shall be encouraged to use extra caution during such times and if possible, to avoid travel during those times.

I. Site Drainage, Erosion Control and Groundwater Monitoring

1. A soil erosion and sedimentation permit issued by Allegan County shall be held in compliance throughout the duration of the operation.
2. As a minimum, silt fences shall be installed where runoff will be leaving the excavated area. Barriers to the natural flow of water across the site shall not impeding or diminish any surface stream flow of water to or across adjacent properties.
3. Groundwater monitoring wells will be maintained near the four corners of the site. Monitoring logs shall be kept showing depth to groundwater and groundwater quality. The log shall be provided to the Township at the time of annual reviews.

J. Annual Review

Beginning in April, 2010, and annually during each April of subsequent years, the operator shall submit to the Planning Commission spot elevations of the areas excavated and reclaimed.

In addition to well log and depth to water table information, the operator shall submit projections as to where excavation and restoration will occur and an estimated volume of material to be removed in the coming year. During its annual review, the Planning Commission shall review the progress of the operation, any complaints received compliance with required conditions and any requests by the applicant to commence operations within a subsequent phase.

The Commission may, if necessary or justified, modify the requirements of this permit upon such findings of need and justification and upon a formal Special Use Permit amendment being made under the same procedures used for adopting the initial Special Use Permit.

K. Time Limits, Revocation and Extension of Permit

The Special Use Permit is conditionally granted for extraction of sand and gravel resources for a period of seven (7) years.

The permit may be revoked under the provisions of Section 15.05 of the Salem Zoning Ordinance upon a showing of violation of one or more conditions and failure of the operator to correct the violation.

After expiration of the initial seven (7) year permit period, the Planning Commission may renew the permit for such additional time as may be necessary in the event the removal of material to the extent indicated in the approval operation plan is not completed. The process for extension shall be the same as outlined for the review and authorization of the initial Special Use Permit.

L. Enforcement, Surety and Certificate of Insurance

1. The operator shall be required to maintain an escrow account in the amount of \$500.00 with the Township to cover the cost of enforcement and monitoring of compliance. This amount shall be drawn upon subsequent to documented routine inspections or inspections brought about as a result of complaints made against the operation.
2. A letter of credit in the amount of \$4000.00 per acre of disturbed, excavated or un-reclaimed land shall be required to be continually maintained during the life of the operation and through the period of closure and final reclamation. It shall be placed on deposit with the Township. The amount and adequacy of the letter of credit will be subject of the annual review by the Planning Commission and may be increased or lowered based upon the extent of disturbed areas and then prevailing construction costs. The letter of credit shall allow funds to be used by the Township for enforcement as well as restoration. The letter of credit will be released upon a determination by the Planning Commission that reclamation is complete.
3. The operator shall provide binders for personal injury and property damage insurance for the project. An insurance company licensed to do business in the State of Michigan shall underwrite the insurance. The insurance shall be in effect at all times during which reclamation remains to be done, and during all times when machinery and/or equipment remains on the site. The insurance is to contain a hold-harmless clause regarding the liability of the Township during any operational or reclamation phase. The insurance shall be carried in amounts of no less than \$2,000,000.00 for personal injury and not less than \$2,000,000.00 for injury and damage occurring to more than one person's property arising out of a single occurrence. The insurance shall cover injury or damage occurring upon the site as well as upon adjoining property as the result of conditions or activities conducted upon the site.

M. Effective Date and Commencement of Operations

1. This permit shall become effective upon the filing of the letter of credit, certificate of insurance and soil erosion and sedimentation permit, as required herein, with the Salem Township Zoning Administrator.
2. Full mining operations may commence when authorized by the Building Inspector. The building inspector may in his discretion, authorize limited mining operations prior to the completion of one or more of the required improvements (e.g. security measures and surfacing of haul route). In authorizing limited operations, the Building Inspector must find that the mining is reasonably related to initial site set up, that the duration of time

until the improvements are completed will be minimal that site safety is insured and that dust control measures are in place.

_____ **Planning Commission Secretary**

Date: _____

The undersigned has read this permit and understands that incorporated by reference as a part of the terms and conditions thereof, are all the statements and contents of the application for license that are not in conflict with these provisions, and of any other applicable law, ordinance or regulation. The undersigned also agree that Salem Township employees and agents are permitted to enter the premises at any reasonable time for the purpose of inspection, monitoring and administering the license.

Permittee: _____

Date: _____

FINDINGS OF FACT

Based upon the information contained in the record, the Salem Township Planning Commission makes the following findings relative to compliance with Chapter 21 and consideration of Section 11.17 and the standards of Section 15.03 in support of the decision to approve the Special User Permit of Top Grade Aggregates and said findings are hereby incorporated into the minutes of February 5, 2009:

- A. The applicant has presented plans that are in compliance with the requirements of Chapter 21.
- B. The operation is located on a primary road and the major haul routes are all season county roads generally capable of supporting the increased truck traffic.
- C. Traffic safety is impacted by the increase in truck traffic. Given the location of the site's entrance with respect to visibility and street intersections, the impacts have not been severe or of a magnitude that is substantially greater than expected to occur when the area is developed as otherwise planned and zoned.
- D. Sufficient setbacks and screening have been provided ; other safeguards and controls will be used to minimize impacts on surrounding property, land uses and streets.
- E. Adequate lateral support is indicated along the perimeter of the operation.
- F. The access road is located and designed to minimize dust and has minimized truck traffic conflicts to an acceptable degree.
- G. Grading and operational plans and operations to date have shown that noise, dust, drainage impacts and other environmental affects will be minimal and generally limited to the site itself.
- H. The plan includes a mining, operation and restoration plans that if carried out by the applicant will allow the site to be developed in ways consistent with other uses in the area.

Moved by Heasley
Supported by Oosterink
Motion carried.