

AMENDED
Barry County Planning Commission
Meeting Minutes
September 27, 2021

The meeting was called to order by Chairperson Clyde Morgan at 7:00 p.m. in the Community Room of the Tyden Center located at 121 South Church Street in Hastings. The Planning Commission members in attendance included: Morgan, John LaForge, Jack Miner, Jack Nadwornik, and Joyce Snow. Vivian Conner and Robert Vanderboegh were not present. Those also in attendance included: Jeff Kresnak, Kenneth Vermeulen, Barry County Planning Director James McManus, and many other interested people.

Morgan asked if anyone had any changes to the agenda. McManus noted he would like to distribute Master Plan proposals and discuss the next meeting at the end of the agenda. Motion by LaForge to approve the agenda as amended. Support by Nadwornik. All ayes - motion carried.

The Planning Commission reviewed the minutes of August 23, 2021. On Page 8, Miner asked to rephrase line 3 to read "...,"development due to a wetland and possible floodplain. He noted creating a drain district could be expensive." Motion by Miner to approve the minutes as corrected. Support by LaForge. All ayes - motion carried.

BUSINESS

Morgan explained the procedures of a public hearing.

Special Use/Site Plan Review

**Case No. SP-11-2021
PR-4-2021**

**Jeff Kresnak (Applicant)
JMK Realty, LLC (Property Owner)**

Morgan recessed the Planning Commission, opened the public hearing, and asked Kresnak to present his request.

Brad Meyers, representing Kresnak, noted the property is 72 acres in size. He referred to the plans and noted the green area is not being impacted. He said the grey area is existing asphalt, and the pink area is the new access, which will be paved. He noted the pit will be a 5-cell operation, and they will be mining stone which will be transported to Superior Asphalt in Kent County. Meyers estimated that 90-95% of all the material will go to Superior Asphalt, and 5-10% will be sold locally.

Meyers noted the ordinance requires 50 ft setbacks which they will meet, and they will have a 100 ft setback on the north line. He said the slopes will be maintained at 1:4 slope ratio, and they will not be mining below the water table. He also said they will be 100 ft from the wetland area to the west. Meyers noted the existing drive will be the main entry, and it will be upgraded to meet the standards. He noted the truck traffic will move east on Keller Road and then go north on Norris Road. He said there will be a sign near the entrance that will direct the truck traffic to the east. He also noted the gravel entry will have a locked gate.

Meyers continued and noted the yellowish color will be an area of additional screening, likely white pine trees, to help buffer the existing residences. He noted all of the mining will be going inward, so the grade will be a natural barrier. He said they will be starting with Cell One and they anticipate being in the pit for 15 years. He said they will only have 15 acres of the site open at any given time, and they will be planting trees and reclaiming the land as they move to new cells. He noted the reclamation plan will either be grass or trees, but they will need to remove some trees to mine the land. He concluded that they anticipate being in each cell for three years, but economics will ultimately dictate the time frames.

Kresnak noted they were not sure of the exact depth of the stone, and he noted the economic need will dictate the timing of the mining.

Morgan asked if anyone wished to speak in favor of the request.

Dave Dykstra noted Superior Asphalt had done all of the asphalt work for his subdivisions. He noted Kresnak's bills always matched his quotes. He said Kresnak would repair Keller Road if it needed it.

Phil Corson said that High Grade and StoneCo were already in the area. He said that Kresnak will follow the rules. He said society is running out of resources, and prices are going up.

Morgan asked if anyone wished to speak in opposition.

Dan Willett questioned if the pit could be stopped. He asked what the effect of the gravel operation would be later on.

Philip Joseph said he was promoting community. He noted he moved to the area for peace and quiet, and he feels like he has a 15-year death sentence. He noted his neighbor is a veteran of 10 years who will be significantly impacted. He said there will be negative effects on the community. He asked that the Planning Commission not follow the money, and noted there could be additional gravel pits in the area.

Roger Smith questioned if Keller and Norris Road would be improved. He asked if the seasonal load limits would be enforced. He noted the area is a major tourist area, so there are many other road users in the area. He suggested that Kresnak find an alternate route to run his trucks, and asked who will pay for the road repairs.

Lou Ann Willett noted they had recently moved into the area, and she was concerned about the noise. She questioned if it would be hard to sell her house. She asked how this request could happen as she was given no warning.

Karen Hayward, who lives across the street from the site, said the driveway access to the pit actually is on her property. She submitted pictures that showed the property lines.

Tom Rook, Orangeville Township Supervisor, noted he was concerned about SB 231. He said his primary concern was Keller and Norris Road. He noted the township's road budget was \$319,000. He compared the weight of a gravel truck to a normal vehicle and noted that it would equal 371 extra vehicle trips per day. He asked that Superior Asphalt contribute to the road fund. Rook was also concerned about children's safety. He noted buses to two school districts are in the area around 7:00 a.m. He asked that the hours of operation start at 7:30 or 8:00. He submitted a letter summarizing his statements.

Linda Ribble noted the property is under JMK Realty, LLC, not Superior Asphalt. She suggested widening the west side of the drive onto Keller Road, and asked that the drive paving be extended so stones can be removed on the drive surface. She asked that the Port-a-Potty be moved to another location.

Eric Eberhard asked that JMK Realty put up a one Million Dollar insurance policy for dust removal, PTSD, and therapy.

Julie Rader questioned whether the use was compatible with adjacent uses. She was concerned about road hazards and traffic issues. She was worried about the effect on property values as they could decrease by as much as 30%. Rader asked about screening and berms around the mine. She noted there are several homes in the area. She asked that a berm be constructed on the north side of the mine to protect the neighborhood. She noted there was significant noise and vibrations when Kresnak cleared the parcel. She asked that the hours of operation be limited to 8 a.m. – 3 p.m. Monday-Friday with no weekend or holiday hours, and no crusher on site.

Jeff Kirkwood, the nearest neighbor, said there is no end to the noise. He said the mine will go on all day and affect his property. He questioned if a crusher would be on site. He asked that the pit only be open for six hours per day and that the Planning Commission put limitations on the use.

Julia Kirkwood noted their house sits in a basin, so the noise is amplified. She asked how the 65-decibel limit is measured or maintained. She asked if the back up beepers could be shut off. She asked if portable crushers needed a permit. She was concerned about water runoff flowing into the neighboring swamp. She asked if there would be any stone washing on site. She asked about the reclamation plan and the time frame for completion. She noted all of the trucks will go past her house, and she noted traffic has increased on Keller Road. She asked that the setbacks be increased.

Victoria Smith noted other trucks slam on their brakes. She felt it was a safety hazard and noted many bikers use the road. She said the trucks speed down the road, and people and cars get hit by gravel.

Sasha from Circle Pines Center noted they run year-round educational programs, and she questioned if the gravel operation would affect their functions.

Mr. Matthews from Circle Pines Center was concerned about reclamation and naturalization. He said there could be erosion from the site. He said more time may be needed to review the project.

Glenn Hayward said Kresnak does not own the property where the driveway intersects Keller Road. He noted he would not give Kresnak an easement for a driveway. He said there are survey markers out there.

Larry Heslinga was concerned about the gravel trucks on the road. He also expressed concern about the large number of properties being sold to gravel operators, and distributed a map of the sold properties in the area. He read the purpose of the Zoning Ordinance and noted he wanted to protect the character of the area. He suggested a moratorium be placed on gravel pits until the Master Plan can be reviewed.

McManus read letters of support from Ben Spitzley, Jeanne Vandersloot, Jerry Johnson, and Tom Sands.

McManus read letters of opposition from Katie Hayward and Jacob Gould, and noted the Kirkwoods had submitted a letter.

Ken Vermeulen, an attorney for Kresnak, rebutted the comments and noted the letters of support are from current neighbors of Kresnak's gravel pit near Portland. He cited an Upjohn study on property value and noted they do not go down. He noted a recent appraisal for a property in Portland that had a 61% increase in value. He noted there are many gravel pits in Barry County and property values have not gone down.

Vermeulen continued and noted the State statute trumps local zoning and noted you can only mine where the gravel is so it has a special protection. He noted Barry County was blessed by Mother Nature with gravel, but he noted asphalt plants do not have special protections.

Vermeulen cited Ada vs. Silva and noted a municipality cannot deny a gravel pit request unless there are very serious consequences. He noted noise, dust, and truck use are normal consequences. He said using a single-lane bridge or having endangered species on site would be considered very serious consequences, but he questioned if this location met that standard. He noted the property is zoned Rural Residential.

Vermeulen agreed that air and water permits are required from EGLE, but he noted stormwater discharge is usually not issued since any runoff will flow into the pit. He noted the county can impose limitations on the mining operation such as hours of operation, but they must be consistent with mining operations. He noted crushers are considered to be part of a normal mining operation.

Kresnak reiterated the property value increase, and he said he has had only one complaint in five years. He said he will try to be a good neighbor, and he has good reclamation practices.

Meyers noted each cell size is a good size to work in. He noted they do not do any crushing in the winter months. He noted Kresnak will respond to complaints.

Meyers noted they did receive a permit to clear trees and remove topsoil. He said they did file an amendment to adjust the acreage, and they will post the card on site.

Morgan closed the public hearing and reconvened the Planning Commission.

Morgan asked if the equipment would be in the mining holes. Meyers showed the Planning Commission the profile of the excavation.

Morgan recessed the Planning Commission at 8:30 p.m.

Morgan reconvened the Planning Commission at 8:39 p.m.

Morgan questioned if there was an access issue. Kresnak noted his survey shows he has access.

LaForge said that should not hold up his request.

McManus noted the Fetch document photos are not survey documents. He said the issue would be the widening of the drive, and that would likely be a court issue.

LaForge asked if Kresnak would hire locals. Kresnak said he hires locals to do tree trimming and mowing.

Morgan asked if Kresnak owned his own trucks. Kresnak said he owns about half, and he leases the rest from VanKampen.

Morgan noted they have processed lots of gravel pits during his time on the Commission, and he noted some trucks do not always follow the rules. Kresnak stated that if the truck drivers do not follow the rules, they will be fired.

Morgan commented that any local buyers could drive anywhere.

Miner asked what the water table was. Meyers said it was 840 ft based on the wetland, and they will not be digging below 850 ft.

Snow asked about water collection and retention. Meyers said it will flow into the pit and infiltrate through the sand and gravel.

Snow asked how long the crusher will operate. Kresnak said all day.

Snow asked if it was portable. Kresnak said yes.

Snow suggested the mining operations begin at 7:30 a.m. Kresnak said he could do that if he could run until 6:30 p.m.

Vermeulen noted the gravel pit's operation will coincide with the asphalt season, which is usually mid-spring to mid-fall.

Meyers said they will work with school districts to minimize impacts with bussing.

Morgan asked if they would use double trucks to haul gravel. Kresnak said yes. Morgan asked when the crusher would be in operation. Kresnak said that will depend on the material.

Morgan verified the equipment will be in a hole ASAP. Kresnak agreed. Morgan asked when they would crush. Kresnak said most likely in the spring and fall. Morgan suggested running the crusher for limited hours to lessen the impact on the neighbors.

Morgan noted reclamation needs to be done so the land does not turn into a moonscape.

Nadwornik asked if the financial bonding was set up yet. Meyers said it will be set up when the use is approved.

LaForge asked if his drivers were paid by the load or by the hour. Kresnak said by the hour. He noted he has to comply with DOT and the weighmaster.

Miner suggested Kresnak make a commitment to the roads.

McManus noted the Road Commission usually asks for bonds for the road route.

Meyers noted they have a road bond in Ionia County. He noted they usually do a survey of the roads with the Road Commission and come up with a road plan. Meyers also noted they have bonded for roads in Ottawa County. He noted Kresnak paved a road in Ionia County so trucks could access other paved county roads.

LaForge asked if there had been any bond collections. Kresnak said no.

Morgan asked if vehicles would be maintained on site. Kresnak agreed. Morgan asked if the vehicles are inspected. Kresnak said yes. Morgan asked that the Jake brakes not be used around the pit. Meyers said he would have signs installed.

Snow asked that 7:30 a.m. – 6:30 p.m. be the hours of operation, and that censors be used on the vehicle beepers.

Motion by Snow to approve Case No. SP-11-2021 per Article 23, Section 2302.A.1.-7. of the Barry County Zoning Ordinance of 2008, as amended, with the following stipulations: that the hours of operation be 7:30 a.m. to 6:30 p.m. Monday-Friday and 7:30 a.m. to 1:30 p.m. on Saturday; that the crusher only run from 7:30 a.m. – 4:30 p.m. Monday-Friday; that Kresnak meet with Road Commission and Township about the road routes; and that censors be used on the back-up beepers. Support by LaForge.

Roll call vote taken: 4 ayes-LaForge, Miner, Morgan, Snow - 1 nay-Nadwornik - motion carried. Special Use Approved with Stipulations.

Nadwornik asked if the site plan could be approved with the driveway situation.

Meyers asked that it be approved subject to administrative review.

LaForge suggested approving as submitted; if there are any changes, it must come back for a formal review.

Motion by LaForge to approve Case No. PR-4-2021 as submitted and that any changes to the plan require a formal review. Support by Miner.

Roll call vote taken: 5 ayes - 0 nays - motion carried.

Master Plan Documents

McManus distributed the Master Plan RFQ submittals to the Planning Commission. He asked if the October 25th meeting could start early so the interviews could be conducted. The Commissioners said they could start by 5:30 p.m.

Snow suggested a rubrik of questions be developed for the interview.

Motion by LaForge to adjourn. Support by Snow. All ayes - motion carried.

Meeting adjourned at 9:27 p.m.

Respectfully submitted,



Jack Nadwornik, Secretary