

**ANN ARBOR CHARTER TOWNSHIP  
PLANNING COMMISSION MEETING MINUTES  
Township Hall – 3792 Pontiac Trail  
January 11, 2024 7:30 P.M.**

**I. ROLL CALL, ESTABLISH QUORUM**

Chair Kotila called the meeting to order at 7:30pm.

Present:                    John Allison  
                                 Richard Bunch  
                                 Lee Gorman  
                                 Peter Kotila  
                                 Jill Sweetman Lada  
                                 Randolph Perry

Absent:                    Karen Mendelson

Also Present:            Township Attorney Sarah Gabis; Township Planner Sally Elmiger;  
                                 Building Official and Zoning Administrator Peter Pace; Planning  
                                 Assistant Jennifer Morris; Supervisor Diane O’Connell

**II. CITIZEN PARTICIPATION - None**

**II. APPROVAL OF MINUTES**

**A. December 4, 2023 Draft Ann Arbor Charter Township Planning Commission Meeting Minutes**

**MOTION by Allison, support by Gorman, to approve the December 4, 2023 regular meeting minutes as submitted.**

**Motion passed unanimously by voice vote.**

**IV. COMMUNICATIONS**

**A. December 18, 2023 DRAFT Ann Arbor Charter Township Board of Trustees Meeting Minutes**

Commissioner Allison reviewed highlights of the December 18, 2023 Board of Trustees meeting.

**V. PUBLIC HEARINGS**

**A. Ordinance Amendments to 74-592 Mineral Mining**

**1. Closed Session pursuant to MCL 15.268.8(h)**

**MOTION by Kotila, support by Allison, that the Planning Commission enter into closed session pursuant of MCL 15.268.8(h) to consider material exempt from discussion or disclosure by state or federal statute, and to include participation by the Planning Consultant and other Township officials who are required to participate in the Township’s planning system.**

**Roll call vote:****Ayes – Gorman, Bunch, Perry, Allison, Lada, Kotila.****Nays – None.****Motion carried 6-0.**

The Board left the room for closed session at 7:41pm.

At 8:35pm the Board re-entered the room.

**MOTION by Kotila, support by Allison, to re-enter open session.****Motion passed unanimously by voice vote.**

Township Attorney Gabis explained that tonight there is a scheduled public hearing for amendments that have been proposed to the mineral mining provisions of the zoning ordinance. The amendments pertain to changes that the township attorneys and planning consultant had deemed prudent related to mining operations, particularly to dewatering operations, as recent dewatering operations have shown the aquifer is sensitive to that activity. Attorney Gabis noted that after vetting by the Township's legal team and the planning consultant, additional modifications to the amendments had been made, and those changes are also before the Planning Commission this evening.

Township Attorney Gabis further explained that mineral mining is a protected activity under the law. Natural resources like gravel, sand, etc., can only be found where they are located. The purpose of the law provides protections for mineral mining or mining of any valuable natural resource. The Township can only prohibit mining operations if it is not demonstrated by an applicant that "no very serious consequences" will occur. "No very serious consequences" is a specific term with a specific meaning under the law, and if there are "no very serious consequences", the mining has to be permitted.

Chair Kotila opened the public hearing.

Robin Kunkel, 2797 Trailwood Lane, thanked the Planning Commission for taking on changes to the zoning ordinance to deal with mineral mining in the Township. She asked the Planning Commission to take a straightforward "no loopholes" approach to the amendment language, specifically: 1) To not allow dewatering under any circumstances, 2) to spell out strong consequences for not adhering to any portion of the Conditional Use Permit (CUP) or for not adhering to methods described in the mining application, 3) to issue the CUP for one year only, and 4) to issue stronger language to assure reclamation. Ms. Kunkel made detailed comments relative to the proposed amendment language, and presented written comments to the Commission outlining her concerns and recommendations regarding the draft. Ms. Kunkel emphasized that residents had participated in a 2-year experiment on how much the present mining company can be trusted. She asked the Planning Commission to make the language so rigorous, clear, strict, and arduous that the company will not even think about using dewatering. She also referenced the 17 other conditions in the CUP that had been violated, including conditions regarding truck traffic, hours of operation, noise,

upkeep of roads, safety of pedestrian traffic, impact on traffic values, erosion and damage. She asked the Planning Commission to include language that spells out enforcement of the CUP agreement. Ms. Kunkel suggested adding conditions that stated if any of the aforementioned conditions are violated, or if any business entity is found to have acted outside the methods outlined in their application, their operation shall immediately cease.

Amy Olszewski, 2816 Warren Road, suggested that: 1) Research be done relative to other townships' ordinances regarding mining operations in their communities, such as Cambridge Township and Clyde Township. 2) A groundwater ordinance be written to protect residents from chemicals that may be dumped into the groundwater, and 3) The Township should belong to the Wellhead Protection Program.

Tanya Whelan, 4014 Earhart Road (corner of Earhart and Warren), said that she watched a gravel truck run through a stop sign this morning, shortly before one of the Dominican Sisters walked down the road. This morning there was heavy vibration and shaking because of the trucks. While the water table is a huge issue with the mining operation, it is not the only issue. The entire operation has very serious consequences for the Whelans, as they are impacted on a daily basis. While most trucks do not start before 7am, 7am is very early for someone to have to start feeling the vibrations from the trucks. She asked that hours of operation, noise, and vibration all be looked at as part of this amendment process.

John Petz, Domino's Farms, supported comments already made. He asked that clear parameters be communicated relative to the comprehensive hydrogeological study, and referenced an earlier proposed Domino's Farms project that had required a 72-hour pump test. The Township needs to establish criteria regarding these types of studies.

Mr. Petz continued that there needs to be a clearly identifiable criteria and timeframe relative to the process of allowing exceptions to the dewatering prohibition, and road conditions on the truck route need to be addressed by the applicant. He asked for greater emphasis and focus on funding road remediation.

Michael Watts, 4700 Grandeur Oaks, supported comments made. He emphasized the importance of having a 1-year CUP agreement in place, in order to do a thorough annual review. Mr. Watts said that a 3<sup>rd</sup> party 24 or 72 hour pump test is the only way to know whether the operation was pumping too much water, and this should be required of any hydrological study. He thought the bonds for reclamation were far too low, and would never cover the costs to fix the land.

Seeing that no other public indicated they wished to speak, Chair Kotila closed the public hearing and brought the matter back to the Commission.

Commission discussion:

- Commissioner Perry asked if the language for a comprehensive hydrogeological study could be defined further. Township Attorney Gabis said she would need to research this matter with the Township's Hydrogeology Consultant, Dr. Wright. However, the Township did have the discretion to tell an applicant that a submitted hydrological study was not comprehensive, or not comprehensive enough.

- Commissioner Allison said that currently the Township had the authority to limit dewatering, but the language was not very specific. The intent of tonight's amendment was to strengthen that language. He agreed with comments made that there were other things that should be part of a more comprehensive ordinance amendment. However, that would involve a multi-month process.
- In response to questions, Township Attorney Gabis said that the mining conditional use application could be limited to one year; this would be a policy decision. However, this was not her recommendation. She suggested putting stronger enforcement language including more frequent monitoring in the development agreement instead, with language specific to the site and operation that was the subject of the agreement.

Commissioners suggested that the idea of limiting the mining CUP to one year, or perhaps in any event shorter than 5 years, be part of the more comprehensive discussion mentioned earlier. Township Planner Elmiger agreed that this could appropriately be part of the wider discussion.

Commissioner Allison pointed out that the only Township CUP that had a time limit was for mining operations; other CUP agreements went with the land. He supported looking at other townships relative to how they regulated mining operations and following best practices.

- In response to a question from Commissioner Bunch, Township Attorney Gabis said that the Commission could accept or reject materials that were brought forward for this type of application, based on whether or not the materials met the test of *competent, material, and substantial evidence on the record*. This could be decided on a case-by-case basis, as each application will be site specific and may require different information. The Township or other interested parties could also bring their own evidence.
- Commissioner Perry said he was in favor of moving forward tonight on the draft language presented. As already discussed, this did not hinder the Commission from discussing broader issues and offering further modifications in the future.

After discussion of the proposed changes in the draft language, the following motion was offered:

**MOTION by Allison, support by Bunch, to recommend approval to the Ann Arbor Charter Township Board of Trustees RECOMMENDATION FOR AMENDMENTS TO ZONING CODE CHAPTER 74, SECTIONS 74-592 "MINERAL MINING," with the following changes:**

- Page 1,(a), 4<sup>th</sup> line, add after property,: that there is a need for the natural resources by the applicant or in the market served by the applicant and . . .
- Page 1, add: (7) The impact on other important natural resources, such as wetlands, lakes, watercourses, aquifers, natural habitats and similar environmental resources, the preservation of which is necessary for the public health, safety and welfare of the Township.

- Page 4, change (10)m to read: A comprehensive hydrogeological study, and certified statement by a qualified engineer, with supporting data and analysis, that demonstrates no adverse impacts to domestic water supply wells or natural resources; and
- Page 5, change (18)a. to read: A comprehensive hydrogeological study demonstrates with a high degree of confidence and to the satisfaction of the Township that no adverse impacts will occur due to the proposed dewatering operations or related discharges on or offsite, including but not limited to, adverse impacts to domestic water supply wells or natural resources.

**Motion passed unanimously by voice vote.**

## VI. **NEW BUSINESS**

### A. **Beztak – All Seasons Major Minor**

Zack Weiss was present on behalf of Beztak Companies, as was Mark Harris, BKV Architects.

Utilizing a PowerPoint presentation including renderings, the applicants presented the following:

- During the bidding specification process it came to their attention that the roof material for this type of senior living use had to be non-combustible. The change in materials necessitated a change in roof pitch, so that that roof has been lowered to a low-sloped, flat roof, bringing the roof down about 1.5’.
- They were proposing to modify the materials on the third-floor façade from brick to lap siding to better coordinate with the building in Phase 1.
- There was also a change in balcony distribution, with balconies split between traditional and Juliet balconies, and elimination of some balconies. This was appropriate given the residents who would be using these rooms.
- The developers believed these changes did not meet the criteria for a major change, and should therefore be deemed a minor change.

Referencing her December 29, 2023 memorandum, Township Planner Elmiger reviewed the proposed changes against the criteria in *Sec. 74-542(i) Amendment and Revision*, and offered her opinion that the proposed change does not meet the criteria for a “major” change, and therefore the proposed modifications were a minor change to the Final Site Plan.

**MOTION by Allison, support by Gorman, to approve CHARTER TOWNSHIP OF ANN ARBOR WASHTENAW COUNTY, MICHIGAN, RESOLUTION APPROVING MINOR CHANGE TO FINAL SIT PLAN FOR ALL SEASONS OF ANN ARBOR. DATE: January 11, 2024.**

**Motion passed unanimously by voice vote.**

### B. **AAWWTP – Facility Proposed Rooftop Solar Major Minor**

### C. **AAWWTP – UV Disinfection System Replacement Project Major Minor**

Simi Barr was present on behalf of the Ann Arbor Wastewater Treatment Plant and this

request for a major/minor determinations for Facility Proposed Rooftop Solar, and UV Disinfection System Replacement Project. Manny Mantaya and Anne Warrow were also present.

Mr. Barr explained that the Facility Proposed Rooftop Solar Project was for a rooftop system at the wastewater treatment plant. This would require no new facilities and no roof penetrations.

Referencing her December 29, 2023 memorandum regarding the Facility Proposed Rooftop Solar, Township Planner Elmiger said that a small scale solar energy system is defined as a permitted accessory use. After evaluation, her opinion was that the proposal does not meet the criteria for a major change. Therefore, she recommended the Planning Commission find the proposed modifications to the site plan to be a minor change.

Referencing her January 8, 2024 memorandum regarding the UV Disinfection System Replacement Project, which will be a metal building for new disinfectant that needs to be out of the elements, Township Planner Elmiger noted that the new building will be shorter than the existing carport structure and will not change the footprint. Township Planner Elmiger thought this project constituted a minor change.

**MOTION by Perry, support by Gorman, to approve the RESOLUTION REGARDING MINOR CHANGE DETERMINATION ANN ARBOR WASTEWATER TREATMENT PLANT (SOLAR PANELS), DATE: January 11, 2024.**

**Motion passed unanimously by voice vote.**

**MOTION by Bunch, support by Lada, to approve the RESOLUTION REGARDING MINOR CHANGE DETERMINATION ANN ARBOR WASTEWATER TREATMENT PLAN (ULTRAVIOLET DISINFECTANT EQUIPMENT), DATE: January 11, 2024.**

**Motion passed unanimously by voice vote.**

#### **D. Election of Officers**

**MOTION by Allison, support by Lada, to re-elect Peter Kotila as Chair, Rick Bunch as Vice Chair, and Lee Gorman as Secretary of the Planning Commission.**

**Motion passed unanimously by voice vote.**

### **VII. OLD BUSINESS**

#### **A. Fence-Gate Ordinance Revision**

Referencing her December 19, 2023 memorandum, Township Planner Elmiger provided the following information:

The Planning Commission discussed the proposed ordinance language regarding fences and gates across driveways at their December meeting. At that meeting, Planner Elmiger was asked to amend the ordinance language as follows:

- 1) Fence Permits.

This section was amended to require a Fence Permit for any perimeter fence, and for internal fences that are 8-feet tall or taller.

2) Modify the provisions for electric fences.

The language has been modified to prohibit an electric charge in a perimeter fence, except for a fence enclosing farmland. The warning signs regulations have been modified to only require warning signs on electric fences that abut a public right-of-way or that portion of an electric perimeter fence that is within 200 feet of a residential structure on an abutting property. New language has been added allowing internal fences on any property to have an electric charge, but they must also abide by the warning sign requirements

After discussion, and noting that a public hearing was held and changes were made as a result of public comment, the following motion was offered:

**MOTION by Bunch, support by Gorman, to recommend adoption to the Ann Arbor Charter Township Board of Trustees of Proposed Fence Ordinance Amendment as presented this evening (Sec. 74-2, Sec. 74-600, Sec. 74-426), with the following change:**

- **Sec. 74-600(h)(2), lines 7- 8, change sentence to read as follows: Internal fences on any property may contain an electric charge or current, ~~but shall include warning signs as described above.~~**

**Motion passed unanimously by voice vote.**

**VIII. ITEMS FOR DISCUSSION**

**A. Annual Update of Planning Commission Policies**

Moved to a future regular or workshop meeting.

**IX. INFORMATIONAL ITEMS - None**

**X. PUBLIC COMMENT - None**

**XI. ADJOURNMENT**

**MOTION by Gorman, support by Allison, to adjourn the meeting.**

**Motion passed unanimously by voice vote.**

The meeting was adjourned at 10:01pm.