

Shannon Schlegel
Chair

Mark Simon
Vice Chair

Kevin Kirk
Secretary

Members -
Patti Schafer
Roni Christmas
Adam Stacey (BOC Rep)
Willis Heisey

**CLINTON COUNTY
PLANNING COMMISSION**



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**PLANNING COMMISSION MEETING MINUTES
Special Meeting of June 27, 2019 - 7:00 P.M.
Clinton County Commissioners' Chambers, 2nd floor**

1. Call to Order and Roll Call -

The June 27, 2019 Special Planning Commission meeting was called to order at 7:00 p.m. with Chair Schlegel presiding. Roll was called, all members present, and a quorum was reported.

Planning Commission members present –Roni Christmas, Patti Schafer, Mark Simon (Vice-Chair), Shannon Schlegel (Chair), Kevin Kirk (Secretary), Adam Stacey (B.O.C. Representative), Willis Heisey

Staff present - Wendy Ward, Planning & Zoning Secretary, Doug Riley, Community Development Director, Dan Hufnagel, Building Inspector, Community Development Department

Visitor(s) present – Mark Schlegel, Faye DeMart, Kam Washburn, Matt Schlegel, David Schlegel, Jon Vanderberg, Shawn Middleton, Shannon Briggs, Chris Briggs

2. Pledge of Allegiance –

The pledge of allegiance was given to the flag of the United States of America.

3. Approval of Agenda -

PLANNING COMMISSION MOTION/ACTION

Motion by Commissioner Christmas, support by Vice-Chair Simon to approve the June 27, 2019 Planning Commission agenda. There being no further discussion, motion carried unanimously [Vote of 7-0, all in favor, none opposed].

4. Approval of Planning Commission Meeting Minutes – June 13, 2019

PLANNING COMMISSION MOTION/ACTION

Motion by Commissioner Christmas, support by Secretary Kirk, to approve the minutes with corrections, as discussed. There being no further discussion, motion carried unanimously [Vote of 7-0, all in favor, none opposed].

5. Communications –

There were no communications presented.

6. Public Comments –

There were no public comments presented.

7. Old Business –

There was no old business presented.

NOTE: Following an explanation of her family association, Planning Commission Chairperson Shannon Schlegel excused herself and stated that she will abstain from participating on the following two (2) agenda items to be reviewed this evening. She asks that the public silence their cell phones. She turned the floor over to Vice Chair (Acting Chair) Simon and left the room. Acting Chair Simon asked if any of the members had a conflict of interest or wished to abstain from either of the two agenda items. There being none, Acting Chair Simon proceeded.

8. New Business –

A. OR 151-19 (PC-14-19 MA)– Petition for Change of Zone / Map Amendment (Public Hearing)

A petition for change of zone / map amendment has been submitted by Carl Schlegel, Inc. (Mark Schlegel), requesting to rezone the following two (2) properties - Parcel ID #19-090-034-200-020-00 and Parcel ID #19-090-033-400-055-00, Sections 33 and 34, Greenbush Township, from A-2 (General Agriculture) to MR (Mineral Resource Extraction).

Doug Riley, Community Development Director, provided a brief review of the staff report. There are two (2) properties included in this rezone; located on Scott Road between Colony and Kinley Roads, southern Greenbush Township. These properties are also included on the site plan that will be reviewed by the Planning Commission following this map amendment review. If this rezone/map amendment is approved, the required/subsequent Site Plan for a permit to mine review for individual sites will require an approved haul route by the Road Commission before mining/hauling can begin. Any approval of the site plan should be conditioned upon final approval of this rezone by the County Board of Commissioners.

Township/Local Agency comments -

1) **Greenbush Township** – The Greenbush Township Board submitted correspondence dated June 24, 2019, indicating that they have no problems/concerns with this rezone request.

2) **Clinton County Drain Commissioner (CCDC)** - The CCDC office submitted correspondence dated June 12, 2019, indicating that they have no objection to the rezoning request of the indicated parcels. However, note that both parcels do have a County drain (Upton Drain for parcel 055 and Hayworth Drain for parcel 020) that runs along the north side of the property. These drains have a minimum of 66' easement associated with them. As such, their office will require its review and approval of any subsequent site plans for the sites.

3) **Clinton County Road Commission (CCRC)** – The CCRC submitted correspondence dated June 12, 2019 indicating that they have no objections to the rezoning request.

4) **Mid-Michigan District Health Department (MMDHD)** – The MMDHD submitted correspondence dated June 20, 2019, indicating that they have no issues with this rezone as it does not appear that the mining operations will encroach upon any on-site sewage disposal or water supply systems.

Director Riley provided three (3) motions for the Planning Commission to consider in the staff report (pages 7-8).

All property owners within 300' feet of the two properties were noticed by U.S. mail, notice was provided on the Clinton County website as well as legal notice published in the Clinton County News. As of tonight, we have received no written comments in regards to noticing of the project.

Mark Schlegel, applicant, was present on behalf of Carl Schlegel Inc. and approached the Commission. Discussion followed.

PLANNING COMMISSION MOTION/ACTION

Motion by Commissioner Schafer, support by Secretary Kirk to open the public hearing. There being no further discussion, motion carried unanimously [Vote of 6-0, all in favor, none opposed, 1 abstain].

Faye DeMark, 2945 Boulder Creek Drive, approached the Commission. She is a new resident to St. Johns. She is opposed to the granting of this rezoning. With a gravel pit in her backyard, it will lower her property value and it will not enhance her property or any of the surrounding properties. She feels that all landowners will pay the price. She feels there are enough gravel pits in our area.

Kam Washburn, 5201 E. French Road, Clinton County Commissioner, approached the Commission. He is present to speak, as a Commissioner and a resident, on both of the issues to be reviewed this evening; the rezoning request and the mining site plan. He is very knowledgeable and familiar with gravel pits. He also understands the concerns of the residents. These gravels pits play a large role in our economic development; including improved roads, jobs, construction, etc. and he strongly recommends approval of the rezone (and the final site plan).

PLANNING COMMISSION MOTION/ACTION

Motion by Commissioner Schafer, support by Commissioner Christmas to close the public hearing. There being no further discussion, motion carried [Vote of 6-0, all in favor, none opposed, 1 abstain].

PLANNING COMMISSION MOTION/ACTION

Motion by Secretary Kirk to recommend that the County Board of Commissioners approve petition OR 151-19 PC-14-19 MA, Carl Schlegel, Inc., to amend the Zoning Map from A-2 (General Agriculture) to MR (Mineral Resource Extraction District) for two properties located in southern Greenbush Township as legally described in the petition based on the reasoning that the seven (7) Findings of Fact outlined in Section 1605 as detailed in the staff report have been met. Support by Commissioner Schafer. Acting Chair Simon called for a roll call vote – those voting aye (6) – Heisey, Christmas, Schafer, Stacey, Kirk, Simon, those voting nay (0). There being no further discussion, motion carried [Vote of 6-0, all in favor, none opposed, 1 abstain vote].

B. PC-15-19 SP – Application for a Final Commercial Site Plan

An application for a final commercial site plan has been submitted by Carl Schlegel, Inc. (Mark Schlegel). Applicant is requesting final site plan approval to allow a sand and gravel excavation operation on the following properties located in Sections 33, 34 and 35 of Greenbush Township:

#090-034-200-020-00	#090-034-400-010-00
#090-034-300-005-00	#090-034-100-035-00
#090-034-300-010-00	#090-034-100-040-00
#090-034-400-015-00	#090-034-400-005-00
#090-033-100-010-50	#090-035-100-015-60
#090-033-400-010-00	#090-035-300-010-00
#090-033-400-015-50	#090-035-400-005-00
#090-033-400-055-00	#090-035-100-025-00
#090-034-200-030-00	#090-035-100-010-00

Director Riley provided a brief review of the staff report. The applicant is seeking site plan approval from the Planning Commission for a sand and gravel extraction operation. The properties are located between E. Colony Road and Avery/Kinley Road and Scott Road and Krepps Road. The portion of the project between Williams and Scott Road (both sides of Scott Road) is anticipated to be excavated in three (3) phases – Phase 1 encompasses 121.9 acres and is estimated to last from 2019–2024, Phase 2 encompasses approximately 58 acres and is estimated to last from 2024–2029, and Phase 3 encompasses approximately 198.7 acres and is estimated to last from 2029–2034. This can fluctuate over time and this is why there is a 5-year time frame to recheck and review. The Clinton County Road Commission (CCRC) will upgrade Kinley Road to an all-season road status for future truck traffic to get on / off the highway ramps easier and safer. Due to the connected/linked aspect of

these multiple properties, one of the key elements is that the proposed east/west 'cross-property' haul route limits truck and equipment traffic on the adjoining roadways to the maximum extent possible. The applicant has already executed a haul route agreement with the CCRC.

Township/Local Agency comments –

1) **Greenbush Township Board** – The Greenbush Township Board submitted correspondence dated June 24, 2019 indicating that they have no problems with this case.

2) **Bingham Township Board** – The Bingham Township Board was forwarded the application in case they wanted to provide comments (none of the parcels are located within Bingham Township; two areas about the Bingham Township line). No comments were received.

3) **Mid-Michigan District Health Department (MMDHD)** – The MMDHD submitted correspondence dated June 25, 2019 indicating that any surface water body created by the mining operation would need to remain 50' or more from residential on-site sewage disposal systems or 75' from non-residential sewage disposal systems. Created surface water bodies would need to remain 10' from a residential water well and 75' from a non-residential well. Any on-site sewage disposal systems, abandoned due to the mining operation taking place in the area of an on-site system, would need to be excavated and disposed of as a biohazard at a landfill approved for such waste materials. Any abandoned wells would need to be properly plugged.

4) **Clinton County Drain Commission (CCDC)** – The CCDC submitted correspondence dated June 20, 2019, indicating that they are not opposed to the proposed site plan; however, there are a number of potential implications to multiple county drains as the mining activities progress to the extent proposed upon completion. The CCDC provided a number of considerations/conditions/requirements that it requests be linked to the ongoing compliance and renewal of the site plan going forward by referring to the three (3) distinct areas (with drain implications) – Pit A, west side of Scott Road, Section 33, Pit B, located between Scott and Williams Roads, Section 34, and Pit C, located between Williams and Krepps Roads, Section 35, all in Greenbush Township. The CCDC requires that it give full consideration of the site plan at each subsequent renewal, anticipated to occur no less frequently than every five (5) years from the date of site plan approval (this 5-year review is very crucial). Such consideration will be determined (based on the extent and location of the excavation that has occurred and with consideration of anything that has transpired in that time frame) the required actions that are necessary to be implemented at that time relative to the pit drain implications (listed in the June 20th correspondence).

5) **Clinton County Road Commission (CCRC)** – The CCRC submitted correspondence dated June 13, 2019, indicating that they have reviewed the gravel pit sites submitted and the plan meets their approval. The haul route has been executed and utilizes previously agreed upon roads. The addition of the cross-county routes has been encouraged in the past and provides an option that keeps additional trucks off the road system. The CCRC will work with Mr. Schlegel through the driveway permit process to coordinate the crossings of Williams and Krepps Road.

Director Riley briefly reviewed Section 436 – the properties have to be zoned MR, Mineral Resource Extraction District. All but two of the properties are already zoned MR; two properties are currently zoned A-2, General Agriculture District and there is a pending rezoning request (County Commissioners will review this on July 30th) and that these parcels must receive final rezoning approval to MR prior to any excavation in these areas or the site plan must be amended to remove these parcels if the rezoning is not approved.

Director Riley reviewed the haul route agreement - a haul route maintenance agreement was executed on June 6th between the applicant and the CCRC. This haul route maintenance agreement includes provisions for repair of damages to Scott Road (from the pit entrance south to Kinley Road) and Haul Road (from Krepps Road east to the Martin Pit). This agreement also includes the applicant's contribution of \$100,000.00 of materials towards the resurfacing of Kinley Road from Old 27 to Scott Road and upon completion Kinley Road will be an all-season road and will allow truck traffic in this area to safely access US-27 at appropriate/safe entrance ramp locations.

Director Riley also discussed the completed hydrogeological report (on page 7 of the staff report) for this project that was completed by the applicant's licensed Engineer including the 'well location map and well logs' that were analyzed by the Engineer. They do not anticipate any impacts to the environment or impacts to existing or future water wells in the area as the mining operations will not include any dewatering operations. The wells plans are the 3rd plan included in your packet.

A brief discussion followed on -

- **Berming.** Because of the size of the project, the berms will be constructed in a progressive manner and will be constructed utilizing top soil materials during stripping operations (as noted on site plan). Director Riley recommended a condition of approval (#2 in staff report) that prior to any excavation of an area within 500' of a residential home, that the required berm be constructed.
- **Reclamation.** Standards appear capable of being met. Director Riley recommended a condition of approval (#3 in staff report) that, at the conclusion of operations, the applicant submits a letter/certification from a Michigan Licensed Engineer or Surveyor that the rehabilitation requirements of the Zoning Ordinance are achieved.
- **Financial Guarantee.** A surety bond or an irrevocable bank letter of credit or cash bond will be required before issuance of a permit. The amount of the guarantee will be based on the amount of acreage under the permit within a given district or overall project area (for each area of excavated ground, water and material storage, \$2,000.00 shall be bonded – listed under condition #4 of staff report).
- **Permit Term.** A permit to mine is valid for five (5) years. Based on the estimated time frame(s) for this operation, an extension of the site plan approval will need to be made by the applicant and approved by the Planning Commission at the end of the initial five year period (condition of approval #5 in staff report). This five year review by the Planning Commission will also evaluate any completed areas for reclamation for potential future uses.

There are three (3) motions to be considered in the staff report (pages 13-14). Director Riley offered six (6) recommended conditions of approval (pages 13-14 of the staff report) if the Planning Commission is inclined to approve this project and reviewed them out loud for the public record (as requested by the Planning Commission). A statement was added to Condition #5 – that this runs with the land in case of a change of ownership.

Any significant changes to the site plan or operational characteristics as a result of any of the permitting requirements submitted by the agencies, as is determined by staff, shall be resubmitted to the Planning Commission for review. The Planning Commission is the final decision authority on site plans.

All property owners within 300' feet of the site plan/property were noticed by the U.S. mail, notice was provided on the Clinton County website as well as legal notice published in the Clinton County News. No written comments other than those from the local agencies were received.

The Planning Commission and staff discussed project phasing estimates; berming requirements; fencing; and financial guarantees for the project.

Mark Schlegel, Carl Schlegel, Inc, applicant, was present and approached the Commission and provided an overview. A lengthy discussion followed. Mr. Schlegel provided clarification on concerns presented by the Commission –

- 5-year time frame; he doesn't know for sure where they will be in five years. There will be no dewatering here as it doesn't work for this area; they have reinvested in drag lines to excavate these parcels.
- Berming - he feels a berm should be placed only if the residents want it; he requests this flexibility from the Planning Commission; place berms on an 'as-needed' basis.

- What will this look like at the end – Mr. Schlegel it can be compared to Colony Road along Harmon Road; this is what it should look like when reclaimed.
- Financial Guarantees – Mr. Schlegel confirmed what Director Riley had stated - \$100,000 (CCRC) for the haul route maintenance agreement, \$2,000 (CCRC) for maintenance on Scott Road (for chloride, gravel, etc.) and the required surety/reclamation bond as per the zoning ordinance at \$2,000 /acre of utilized land.
- There will be no fencing proposed as there will be a berm.

The Commission presented questions on the hydrogeological report that was presented by Spicer Group with the application and questions were turned over to Shawn Middleton, Senior Project Manager, Spicer Group, Inc, representing Mr. Schlegel, who explained his findings.

Mr. Schlegel re-approached the Commission. He wanted to make a point that all the lakes in the whole area are a product of mining operations.

Acting Chair Simon opened the floor for public comment –

1) Jon Vanderberg, 3597 N. Krepps Road, approached the Commission. He inquired as to which phase his house would be in; Director Riley responded that his property is located in the area that the applicant has indicated that he doesn't have a predicted phase as of yet.

There being no other public comments, Acting Chair Simon closed the floor for public comment.

A discussion followed on the required berms; working with the residents or to continue to allow the applicant to work with staff and the zoning ordinance requirements. Director Riley responded that the berm is there for safety measures. Director Riley is concerned with passing on something that is to be mandated (can only be waived) by the Planning Commission (not the residents). We would need to change condition #2 or place this under condition #7 (additional conditions deemed necessary by the Planning Commission). Acting Chair Simon feels that there needs to be berms here and that he wants to follow our zoning ordinance; keep this consistent.

PLANNING COMMISSION MOTION/ACTION

Motion by Commissioner Schafer to approve Case PC-15-19 SP, an application for site plan approval for a mining operation in Sections 33, 34 and 35 of Greenbush Township submitted by Carl Schlegel, Inc. (Mark Schlegel) based on the following reasoning and subject to the conditions listed on pages 13 and 14 of the staff report and read aloud by Director Riley:

Reasoning:

1) The standards set forth under Sections 715 (final site plan requirements), Section 716 (standards for review) and Section 436 (permit to mine) as detailed in the staff report have been or can be met subject to the conditions set forth below.

Conditions:

- 1) Parcel #'s 090-034-200-020-00 and 090-033-400-055-00 must receive final rezoning approval to the MR (Mineral Resource Extraction) District prior to any excavation within those areas (and/or the site plan must be amended to remove those parcels if the rezoning is not approved).
- 2) Prior to any excavation within 500' of a residential home, the required berm shall be constructed along that boundary.
- 3) Compliance shall be maintained with the Clinton County Zoning Ordinance, including those provisions set forth under Section 436. At the conclusion of operations, the applicant shall submit a letter/certification from a Michigan Licensed Engineer or Surveyor that the rehabilitation requirements of the Zoning Ordinance have been achieved.
- 4) A financial guarantee shall be submitted to the Community Development Department prior to the

commencement of operations as required by Section 436.G of the Zoning Ordinance.

5) Under the terms of Section 436.K of the Zoning Ordinance, the initial permit (Site Plan approval) is valid for five (5) years. Prior to the expiration of the initial five year period, the applicant shall submit a request (and operational update) to the Planning Commission for an extension of the site plan approval for another five (5) year period. This review will also evaluate any completed areas for reclamation for potential future uses.

6) The applicant shall comply with the rules/conditions and permitting requirements of the CCDC, CCRC, MMDHD and MI Dept. of EGLE as applicable. Any substantive change to the site plan or operational characteristics as a result of these requirements, as determined by the Community Development Department, shall be resubmitted to the Planning Commission for their review and approval.

Support by Secretary Kirk. Acting Chair Simon called for a roll call vote. Those voting aye (6) – Heisey, Christmas, Stacey, Schafer, Kirk, Simon, those voting nay (0). There being no further discussion, motion carried [Vote of 6-0, all in favor, none opposed, 1 abstain vote].

Chair Schlegel returned and resumed control of the meeting.

9. Other Business

There was no other business presented.

10. Community Development Director's Report –

Directed Riley stated that the July 11, 2019 regularly scheduled Planning Commission has been canceled. There will be a meeting on August 8, 2019.

Case PC-10-19 SLU, Special Land Use submitted by Jeffrey & Julie Rule, in Eagle Township, was approved by the County Board of Commissioners on June 25, 2019.

11. Planning Commissioner Comments -

Commissioner Christmas provided a brief discussion on her first Parks & Green Space Commission meeting (June 14th). Discussion items from the meeting included - plans to start working on the 5 year Parks & Rec Plan, promoting Motz Park, there is a local news source that will make Motz Park part of a documentary about local area parks. At Motz Park, Green Space Commission is looking at new pavilions, a triathlon to be held there, a 319 grant, a Friends of the Maple River canoeing event, a lot of water shed plans, plans for evasive species.

12. Adjournment –

PLANNING COMMISSION MOTION/ACTION

Motion by Vice Chair Simon, support by Commissioner Christmas to adjourn the June 27th meeting. There being no further discussion, motion carried [Vote of 7-0, all in favor, none opposed].

With no further business to come before the Planning Commission, Chair Schlegel declared the meeting adjourned at 8:35 p.m.



Wendy Ward, Planning & Zoning Secretary

NOTE: These minutes were approved at the regularly scheduled meeting of August 8, 2019