

MINUTES OF THE REGULAR MEETING OF THE **GEORGETOWN CHARTER TOWNSHIP BOARD** HELD FERUARY 10, 2020.

The meeting was called to order by Chairman Jim Wierenga at 7:00 p.m.

Prayer for guidance by Richard VanderKlok

Pledge of Allegiance to the Flag

Roll Call

Members present: Jim Wierenga, Richard VanderKlok, Carol Scholma, Jason Minier, Becky Steele, John Schwalm, Michael Bosch

Also present: Daniel Carlton, Township Superintendent

Absent: None

#200210-01 - Agenda as presented for February 10, 2020

Moved by Richard VanderKlok, seconded by Becky Steele, to approve the agenda as presented.

MOTION CARRIED UNANIMOUSLY.

#200210-02 - Communications, letters and reports: Received for information, to be filed:

- a. [Letter](#) sent to Bend in the River mining companies for license renewal in 2020
- b. [February 5, 2020](#) Finance Committee meeting minutes
- c. [February 6, 2020](#) Services Committee meeting minutes
- d. JHA [January 2020](#) Newsletter
- e. JHA [November 2019](#) Minutes and JHA [Year End](#) Report
- f. [January 13, 2020](#) Utilities Committee meeting minutes
- g. [January 15, 2020](#) Planning Commission meeting minutes
- h. [January 2020](#) Investment Report
- i. [Email about Pickle Ball](#) from Fred Cole
- j. [Balance Sheet](#) and [GL Report](#)

#200210-03 – Public Hearing – (PUD2001) (Ordinance No. 2020-01) Revised Preliminary Plan (and final development plan) for Waterford Place/Sunset Retirement Communities, 725 Baldwin St. The request is for (rezoning from MDR Medium Density Residential to PUD) preliminary planned unit development (and final development) a14approval for Waterford Place, for residential uses, independent and assisted living community with associated commons, assisted living, housing for the elderly, associated uses, service area, parking, amenities and open space, on a parcel of land described as part of P.P. # 70-14-22-400-042, located at 1725 Port Sheldon, Georgetown Township, Ottawa County, Michigan.

Moved by Richard VanderKlok, seconded by Becky Steele, to open the public hearing.

MOTION CARRIED UNANIMOUSLY.

No one was present to make public comments at the public hearing

Moved by Carol Scholma, seconded by Becky Steele, to close the public hearing.

MOTION CARRIED UNANIMOUSLY.

**Georgetown Charter Township
Ottawa County, Michigan
(Ordinance No. 2020-01)**

At a regular meeting of the Georgetown Charter Township Board held at the Township offices on February 10, 2020, beginning at 7:00 p.m. and after the second public hearing was held, Township Board Member Richard VanderKlok made a motion to adopt the [staff report](#) as finding of fact and to adopt this Ordinance, as recommended by the Planning Commission, which motion was seconded by Township Board Member Carol Scholma:

**AN AMENDMENT TO THE GEORGETOWN CHARTER TOWNSHIP
ZONING ORDINANCE, AS AMENDED, AND MAP**

THE CHARTER TOWNSHIP OF GEORGETOWN (the “Township”) ORDAINS:

ARTICLE 1. The map of the Georgetown Charter Township Zoning Ordinance, as amended, is hereby amended to read as follows:

(PUD2001) (Ordinance No. 2020-01) Revised Preliminary Plan (and final development plan) for Waterford Place/Sunset Retirement Communities, 725 Baldwin St., including (rezoning from MDR Medium Density Residential to PUD) preliminary planned unit development (and final development) approval for Waterford Place, for residential uses, independent and assisted living community with associated commons, assisted living, housing for the elderly, associated uses, service area, parking, amenities and open space, on a parcel of land described as part of P.P. # 70-14-22-400-042, located at 1725 Port Sheldon, Georgetown Township, Ottawa County, Michigan, as shown on the following documents:

1. [Preliminary and Final Development Plan packet dated 12.11.19 REV](#)
2. [Application](#) and [narrative](#)

Based on the determinations that:

1. The proposal is consistent with the Master Plan.
2. The proposal meets the ordinance requirement for pedestrian walkways.
3. The proposal meets the ordinance requirement for architecture.
4. The proposal meets the ordinance requirement for traffic.
5. The proposal meets the ordinance requirement for open space.
6. The proposal meets the ordinance requirement for uses that are allowed.
7. The proposal meets the standards of approval.

Based on the findings that:

1. The qualifying conditions in Sec. 22.2 are met;
2. The information as per Sec. 22.5 is provided, and
3. The plan meets the ordinance requirements of Sec. 22.10 as follows:
 - a. The qualifying conditions in Sec. 22.2 are met;
 - b. The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development;
 - c. The proposed uses within the PUD will not possess conditions or effects that would be injurious to the public health, safety, or welfare of the community;
 - d. The proposed project is consistent with the spirit and intent of the PUD District, as described in Section 22.1 and represents an opportunity for improved or innovative development for the community that could not be achieved through conventional zoning;
 - e. The proposed PUD meets all the site plan requirements of Chapter 22 including Section 22.8, D.
 - f. The deviations, regulatory modification from traditional district requirements, are approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards, with deviations as a listed on the plan.

And with the following conditions:

1. **A Storm Water Drain Permit (written approval by the Drain Commissioner's office) shall be submitted to the Township prior to the submission of the first building permit application.**
2. **Utilities are to be coordinated with the DPW and Drain Commissioner's office.**
3. **As per Sec. 22.11, a recorded PUD agreement shall be submitted to the Township prior to the submission of the first building permit application, as noted on the plan.**
4. **Approved permits are required for all signs and all signs shall meet the details listed in the submittal documents or in the ordinance standards.**
5. **The approval of the final development plan is contingent upon the Board approving the preliminary plan with rezoning. The approval of the final development plan is effective upon the effective date of the rezoning.**

Except as expressly modified by the above, the balance of the Zoning Map of the Georgetown Charter Township Zoning Ordinance, as amended, shall remain unchanged and in full force and effect.

ARTICLE 2. Severability. In the event that any one or more sections, provisions, phrases, or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases, or other words of this Ordinance.

ARTICLE 3. Except as specified above, the balance of the Georgetown Charter Township Zoning Ordinance, as amended, and map shall remain unchanged and in full force and effect.

ARTICLE 4. Effective Date. The provisions of this Ordinance shall take effect upon the expiration of seven (7) days from the date of publication of this Ordinance or a summary of its provisions in accordance with the law.

The vote in favor of adopting this Ordinance was as follows:

Yeas: Jim Wierenga, Richard VanderKlok, Carol Scholma, Jason Minier, Becky Steele, John Schwalm, Michael Bosch
Nays: None
Absent: None

MOTION CARRIED UNANIMOUSLY AND ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance adopted by Georgetown Charter Township Board at the time, date, and place specified above pursuant to the required statutory procedures.

Respectfully submitted,

Dated: _____, 2020

By _____
Richard VanderKlok
Georgetown Charter Township Clerk

#200210-04 – Public Comments for items remaining on the agenda

There were public comments.

#200210-05 - Consent agenda

Moved by Richard VanderKlok, seconded by Becky Steele, to grant the following.

- a. Approval of minutes of the previous board meeting on [January 13, 2020](#).
- b. Approval of the regular monthly [bills for January 24, 2020](#), [bills for February 7, 2020](#), [utility bills](#) and [visa bills](#) for February 10, 2020.
- c. Approval to adopt the staff report as finding of fact and to grant tentative preliminary plat approval of [Cedar Lake No. 14](#), P.P. # 70-14-03-300-058, part of P.P. # 70-14-03-300-052 and part of P.P. # 70-14-03-300-055, located at 8955 Cedar Lake Dr. and 2126 Fillmore, zoned LDR (Low Density Residential) and RR (Rural Residential), Georgetown Township, Ottawa

County, Michigan, as shown on the drawing dated 11/08/2019, and with the following conditions, as recommended by the Planning Commission ([staff report](#)):

- 1) Building envelopes appear to meet ordinance requirements, but will be reviewed for exactness at the time a building permit application is submitted. Some lots are affected by drainage easements. These situations are noted to be self-created by the developer and would not, therefore, qualify to meet the standard in the ordinance regarding self-created situations should any time in the future a variance be requested based on those circumstances.
 - 2) All fees, including deferred assessments, shall be paid prior to the issuance of any building permits.
 - 3) If there is to be a plat entry sign, some type of legal instrument must be submitted for the maintenance of the sign.
 - 4) Attached garages with a minimum of 400 square feet shall be provided.
 - 5) Sidewalks will be provided by the individual property owner at the time a house is constructed.
 - 6) The lot created by the exception shall be connected to public water and sanitary sewer. Provide evidence (i.e. signed letter stating that the lot created by the exception shall be connected to public water and sanitary sewer prior to any development taking place on it).
- d. Approval to adopt the staff report as finding of fact and to grant tentative preliminary plat approval of the Preliminary Plat of [Two Oakes](#), P.P. # 70-14-09-300-006, located at 8225 28th Ave., zoned LMR Low/Medium Density Residential, Georgetown Township, Ottawa County, Michigan., as shown on the drawing dated 12/10/2019, as recommended by the Planning Commission, and with the following conditions ([staff report](#)):
- 1) Building envelopes appear to meet ordinance requirements, but will be reviewed for exactness at the time a building permit application is submitted. Lots 1 and 2 have rear yards affected by a detention pond easement and other lots are affected by a drainage easement. These are situations noted to be created by the developer and would be considered to be a self-created situation in case any variance requests are submitted in the future based on those circumstances.
 - 2) All fees, including deferred assessments, shall be paid prior to the issuance of any building permits.
 - 3) If there is to be a plat entry sign, some type of legal instrument must be submitted for the maintenance of the sign.
 - 4) Attached garages with a minimum of 400 square feet shall be provided.
 - 5) Sidewalks will be provided by the individual property owner at the time a house is constructed.
- e. Approval of the final preliminary (construction) plat of Two Oaks ([plat map](#)).
- f. Approval of the Sawyer Engine and Compressor sidewalk waiver request, as recommended by the Utilities Committee.

[Site plan](#)
[Grading plan](#)
[MDOT email](#)

[Landscaping street view](#)
[Aerial GIS map](#)
[Application](#)

- g. Approval of the [purchase](#) of the GPS units as requested by the DPW Department, as recommended by the Utilities Committee.
- h. Approval to replace the three overhead [light fixtures](#) in office lobby for a cost of \$8,805, as recommended by the Finance Committee.
- i. Approval of the three year preventative maintenance agreement for heating and cooling at the Township office and library from Pleune Service Company for the amount of \$21,085, as recommended by the Finance Committee.
- j. Approval to provide local [authorization](#) for the State license for A Veteran Helping Veteran Raffle License, as recommended by the Finance Committee.
- k. Approval to confirm the Supervisor's appointments of the following people to the EDC: Terri Prince; Ron VanSingel, and Eric Hartman, as recommended by the Finance Committee.
- l. Approval of the 8th Ave. Park Floodplain Mitigation Area [Plan](#), as recommended by the Services Committee.

MOTION CARRIED UNANIMOUSLY.

#200210-06 - Purchase Fire Department 2020 Pick-Up

Moved by Carol Scholma, seconded by John Schwalm, to approve the [purchase](#) of a 2020 pick-up for the Fire Department for the low bid of \$32,444.00 from Berger Chevrolet, as recommended by the Services Committee.

MOTION CARRIED UNANIMOUSLY.

#200210-07 - Mowing and Fertilizing Bid Packages

Moved by Carol Scholma, seconded by John Schwalm, to approve the following, as recommended by the Services Committee.

1. The low bid of \$21,250.00 for each year from Green Pro Landscape Mgmt. - [Fertilizing bid package](#) 2020 – 2022 ([specs](#)).
2. The low bid of \$5,800.00 for each year from Green Pro Landscape Mgmt. - [Mowing bid package #1](#) 2020 – 2022 ([specs](#)).
3. The low bid of \$54,500.00 for each year from Green Pro Landscape Mgmt. - [Mowing bid package #2](#) 2020 – 2022 ([specs](#)).
4. The bid of \$7,730 for each year from Green Pro Landscape Mgmt. - [Property maintenance](#) bid package 2020- - 2022 ([specs](#))

MOTION CARRIED UNANIMOUSLY.

#200210-08 – Liquor License (LIQ2001) for WM Family Fun LLC (Rebounders WM – Family Entertainment Center)

Moved by Becky Steele, seconded by Carol Scholma, to approve the [resolution](#) for the (LIQ2001) liquor license for WM Family Fun LLC (Rebounders WM – Family Entertainment Center), Richard VanDyke, 7500 Cottonwood, P.P. # 70-14-13-402-008, as recommended by the Finance Committee.

Note: all [necessary materials](#) have been submitted, including the [liquor license application](#).

Yeas: Jim Wierenga, Richard VanderKlok, Carol Scholma, Jason Minier, Becky Steele, John Schwalm Michael Bosch

Nays: None

Absent: None

MOTION CARRIED UNANIMOUSLY.

#200210-09 – Purchase DPW 2020 Pick-Up

Moved by Carol Scholma, seconded by John Schwalm, to approve purchase of the DPW 2020 pick-up for the low bid of \$26,498 from Crown Motors Chrysler Dodge Jeep, as recommended by the Finance Committee. ([Bid tabulation](#))

Note: to replace 2013 Ford F-150 with 135,000 miles.

MOTION CARRIED UNANIMOUSLY.

#200210-10 – Lakewood Construction 179D Study - [Allocation Letter](#) for Signature

Moved by Richard VanderKlok, seconded by Carol Scholma, to approve signing the Lakewood Construction 179D Study - [Allocation Letter](#), as recommended by the Finance Committee.

MOTION CARRIED UNANIMOUSLY.

#200210-11 – Unfinished Business Grand Rapids Gravel Appeal

Richard VanderKlok recused himself from discussion and voting because he already voted on the application at the Mining Board.

The Board reviewed a draft resolution that was prepared at the Board's direction following the public hearing held on January 13, 2020. The following was noted. This resolution does not prohibit excavation of materials from this Jenison site. A letter that was sent to the other Bend in the River mining companies requiring them to do the same things that GRG was required to do for their license renewals coming up in 2020, including to be prepared to provide a performance guarantee based on the number of acres remaining to be reclaimed, as a condition of approval of the mining license renewal. Grand Rapids Gravel would have been included in this mailing if their license had not already been approved in 2019.

**TOWNSHIP BOARD
GEORGETOWN CHARTER TOWNSHIP
OTTAWA COUNTY, MICHIGAN**

Motion by Becky Steele, seconded by Carol Scholma to adopt the following resolution:

RESOLUTION NO. 200210-11

A RESOLUTION AFFIRMING, ON APPEAL, THE MINERAL MINING REVIEW BOARD'S APPROVAL AND ISSUANCE OF MINERAL MINING LICENSE ML1902 TO GRAND RAPIDS GRAVEL, WITH CONDITIONS; MODIFICATION OF PERFORMANCE BOND REQUIREMENT

WHEREAS, Georgetown Charter Township ("Township") has adopted a Mineral Mining Ordinance ("Ordinance"), which governs the application, review, issuance, conditions, and other matters related to mineral mining licenses in the Township; and

WHEREAS, Grand Rapids Gravel ("GRG") of 2700 28th Street SW submitted an application for a new mineral mining license ("ML1902") for the following seven parcels of land in the Township:

- P.P. #70-14-03-200-003, located at 1625 Fillmore, zoned RR
- P.P. #70-14-02-100-001, located at 1600 Fillmore, zoned RR
- P.P. #70-14-02-100-008, located at 1600 Fillmore, zoned RR
- P.P. #70-14-02-100-004, located at 9301 12th Ave., zoned RR
- P.P. #70-14-02-100-007, located at 9225 12th Ave., zoned RR
- P.P. #70-14-03-400-028, located at 1606 Fillmore, zoned LDR (leased property)
- P.P. #70-14-02-300-009, located at 1405 Taylor, zoned LDR (leased property)

(collectively the "Site"); and

WHEREAS, following a public hearing held on October 16, 2019, the Georgetown Township Mineral Mining Review Board ("Review Board"), on November 20, 2019, adopted Resolution No. 191120-03 (attached as Exhibit A), approving the issuance of license ML1902 to GRG, with conditions; and

WHEREAS, the Ordinance permits a person aggrieved by a decision of the Review Board to appeal the decision to the Township Board ("Township Board"); and

WHEREAS, GRG appealed the Review Board's decision to the Township Board, which held a public hearing on the appeal on January 13, 2020; and

WHEREAS, the Township Board has the power under Section 26-84(e) of the Ordinance to reverse, affirm or modify the decision of the Review Board, and the decision of the Township Board shall be final. NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Township Board, after consideration of the record, the applicable standards and requirements provided by the Ordinance, and the written findings of the Review Board, hereby affirms the

decision of the Review Board approving the issuance of mineral mining license ML1902, with conditions, except as expressly set forth in this resolution.

2. At the outset, the Review Board found that except as otherwise provided in the Review Board Resolution, GRG had represented that it meets or will meet the minimum standards and requirements set forth in Ordinance Section 26-83 for the following: fencing and signs; screening; hours of operation; access to public roadways; on-site roads; transportation vehicle standards; lighting; location of excavation; drainage and erosion control; dust control; noise control; special land conditions; fueling of vehicles. The Review Board required, as a condition of approval, that GRG maintain compliance with these requirements as set forth in Section 26-83. GRG has not appealed this condition.

3. Similarly, the Review Board required, as a condition of approval, that GRG meets the requirements in Sections 26-83(p) (treatment of banks), Section 26-83(q) (vegetation), Section 26-83(r) (stockpiling and replacement of topsoil), and Section 26-83(s) (fill material). GRG has not appealed this condition.

4. GRG challenges the term of the license, claiming that it would prohibit GRG from excavating gravel on the Site.

5. GRG represented to the Review Board that it intended to excavate the remaining 25,000 tons located directly south of the pump on P.P. #70-14-02-100-004 and 80,000 tons located under Hopper and the extension of Fillmore on P.P. #70-14-02-100-008 and P.P. #70-14-03-200-003, by December 31, 2021.

6. GRG also represented to the Review Board that if the Michigan Department of Environment, Great Lakes & Energy (“EGLE”) permits it to cap and abandon the oil wells located on the peninsulas to the oil wells on P.P. #70-14-02-100-004, it would excavate the gravel on or at the access roads (approximately 80,000 tons) prior to August 1, 2021, and if EGLE does not permit the oil wells to be capped and abandoned, GRG would forego excavation of that area.

7. The Review Board found that December 31, 2021 was a reasonable the time frame for completing excavation of all on-site gravel, and the Township Board agrees, for the reasons set forth in the Review Board Resolution, and further based on GRG's admission that very limited excavation has occurred on the Site over past several years, that there is a limited amount of gravel left to be excavated on the overall Site, that the amount of gravel remaining on the Site can be excavated within the time period proposed by GRG and approved by the Review Board, and that reclamation is underway and anticipated (by GRG) to be completed within the next few years.

8. The term of the license also complies with the Ordinance, which states that a license may be issued for a period not to exceed five (5) years.

9. GRG claims that it proposed certain conditions, including certain end dates, "as a *quid pro quo* for permitting the continued importation of materials and not just an open-ended offer and when the Mining Board adopted those conditions, they had no basis for doing so...."

10. GRG states on appeal that if there is "no deal" allowing it to import 300,000 tons of gravel from Plainfield Township to the Site, GRG is not willing to forego the approximately 80,000 tons of gravel under the access roads in the area of the wells GRG is seeking to have capped and abandoned and "GRG rescinds the proposed timeline for a hard date of when all materials would be excavated on the site."

11. The Township Board finds that the Ordinance requires an applicant for a mineral mining license to provide, among other things, "[t]he estimated number of years to complete mining and reclamation operations at the site...."; thus, the Review Board properly relied upon and adopted GRG's representations regarding the estimated number of years to complete mining and reclamation operations at the Site.

12. The Township Board finds that GRG's request to allow it to operate at the Site without reference to a specific timeline because of the constraints imposed under GRG's voluntary agreement with Plainfield Township is unreasonable and would be in conflict with the Ordinance. The Township Board

further finds that if GRG presented an application without a proposed timeline for completing excavation and reclamation at the Site, the application would have been incomplete.

13. The Township Board further finds that the Review Board was not required to accept GRG's offer of a *quid pro quo* arrangement allowing GRG to import materials from Plainfield Township, nor was such an arrangement required under the Ordinance.

14. Further, nothing in the Review Board's decision or the Township Board's decision prohibits GRG from requesting a renewal of the license if, for example, the efforts with EGLE result in changed conditions requiring a reasonable extension to complete excavation at the Site. Any request for a renewal would be reviewed pursuant to the Ordinance and under the actual circumstances and conditions existing at the time.

15. GRG also challenges the condition that prohibits it from importing gravel from the Boulder Creek site in Plainfield Township, Kent County, to the Site.

16. GRG admits that it has "a specific timeline in which the company must abide by in Plainfield Township" and that it wishes to import gravel from the Boulder Creek site in Kent County to the Site in the Township "in order to run a sufficient business operation."

17. GRG argues that by prohibiting it from importing materials from Plainfield Township, Georgetown Township "is effectively making GRG abandon the gravel" in Plainfield Township. In that context, GRG argues that Georgetown Township cannot prevent GRG from importing gravel from Plainfield Township to the Site.

18. The Township Board finds that it is GRG's voluntary agreement with Plainfield Township—not any action by this Township—that prohibits GRG from processing gravel extracted from the Boulder Creek site at the Boulder Creek site.

19. Similarly, the Township Board finds that it is GRG's voluntary agreement with Plainfield Township—not any action by this Township—that prohibits GRG from extracting gravel from the Boulder Creek site after a certain date, thereby potentially causing GRG to abandon gravel on that site.

20. The Township Board finds that in prohibiting the importing and processing of material from the Boulder Creek site in Plainfield Township, the Review Board did not prevent the extraction, by mining, of valuable natural resources on the relevant property (i.e., the Site). To the contrary, the Review Board permitted the extraction, by mining, of valuable natural resources on the Site (i.e., on-site gravel) within the areas and time frame proposed by GRG.

21. Further, GRG admitted to the Review Board and this Board—and it is undisputed—that beginning in 2015, GRG's license expressly prohibited the importation of off-site materials to the Site. Thus, GRG knew or should have known that it would not be permitted to import materials from Plainfield Township to the Site. GRG's attempt to challenge the 2015 conditions is untimely.

22. The Township Board recognizes that concerns were voiced at the Mining Board and this Board regarding the highly-publicized, widespread, and undisputed presence of PFAS in Plainfield Township, including in the vicinity of the Boulder Creek site; however, the Township Board finds that the condition prohibiting the importation of materials from Plainfield Township was ultimately not based on or grounded in the detection of PFAS in Plainfield Township, or because of stigma as alleged by GRG, but because GRG's proposal regarding the importation of gravel from Plainfield Township would not further the public policy of permitting the extraction of natural resources at the Site and would result in an ongoing industrial operation on the Site in a residential district.

23. The Township Board also concludes that the Review Board correctly found that importing material from Plainfield Township would create more traffic to the Site, including more "heavy" (full) trucks operating on the roadways, which would have an additional impact on pedestrian and traffic safety along the proposed hauling route serving the Site. GRG represented to the Review Board that it would take

approximately 4,000 trucks trips to haul material to the Site from Plainfield Township. In its appeal, GRG claimed that “a very high percentage of the 4,000+ truck trips needed would not in fact increase the daily number of trucks on the haul route....” At the public hearing, GRG stated that it would take 5,500 trucks to import 300,000 tons of gravel from Plainfield Township over approximately 14 months, but that it is permitted by Plainfield Township to excavate gravel for a period of three (3) years.

24. The Township Board concludes that the Mining Board’s decision to allow the limited importation of gravel from the Cedar Valley site in the Township while prohibiting the importation of 300,000 tons of gravel from Plainfield Township was not arbitrary and capricious as GRG alleges.

25. GRG informed the Review Board that the Cedar Valley project, which is in close proximity to the Site, was expected to be completed in Spring 2020, at which time it would stop accepting materials from Cedar Valley. The Township Board finds the Review Board’s distinction between the importation of gravel from Cedar Valley and the importation of 300,000 tons of gravel from Plainfield Township until the proposed date of March 15, 2021, to be reasonable based on the proximity and impending completion of the Cedar Valley project.

26. GRG challenges the condition that prohibits it from operating a crushing operation on the Site.

27. With regard to the proposed crushing operation, the Township Board adopts the Review Board’s findings and conclusions as its own.

28. The Township Board concludes that the proposed crushing operation, like the use of the Site primarily for the importation and processing of material from the Boulder Creek site, would constitute an ongoing industrial operation that is not permitted in the residential zoning districts comprising the Site, and would be inconsistent with the Zoning Ordinance, the Master Plan, and the Ordinance.

29. GRG challenges the Review Board’s requirement of a performance guarantee, arguing (a) that no other mining operation has been required to provide a performance guarantee, and (b) that the

requirement for a \$200,000 performance guarantee is excessive and above the \$1,000 per acre standard utilized by Ottawa County.

30. The Township Board finds that, under Section 26-81 of the Ordinance, a performance guarantee shall be required as a condition of approval and that the amount of the performance bond shall be established by the Review Board. Based on the language in the Ordinance, the Township Board concludes that this a mandatory requirement.

31. However, the Township Board finds that GRG's request to reduce the performance guarantee to \$1,000 per acre is reasonable and hereby modifies the performance guarantee requirement accordingly.

32. Within ten (10) days, GRG shall present plans and other documentation as necessary depicting the acreage to be reclaimed, which shall be utilized in determining the amount of the performance bond required. If the Mining Official and GRG cannot agree on the amount of the performance bond, GRG may appear before the Review Board for a determination of the amount, which decision may be appealed to the Township Board pursuant to the Ordinance.

33. Nothing in this resolution prohibits GRG from appearing before the Review Board to request a pro-rata reduction in the amount of the performance guarantee for each acre restored and reclaimed, as permitted in the Ordinance.

34. Finally, GRG claims on appeal that no other mining operation has been held to the reclamation standard that is being imposed on GRG.

35. GRG represented to the Review Board and the Township Board that it has been meeting with the Ottawa County Parks and Recreation Commission to discuss reclamation of the Site. GRG informed the Township Board that GRG expects to continue its discussions with the County, and that there has been discussion of turning the property over to the County within two (2) years.

36. The Review Board determined that GRG shall reclaim the Site to the standards set forth in the Bend in the River Master Plan, as amended (i.e., the 2010 Bend Area Final Report), except as may be expressly approved in writing by the Ottawa County and/or the Ottawa County Parks and Recreation Commission in consultation with the Township (referred to hereinafter as the “Approved Reclamation Plan”).

37. The Township Board finds that the reclamation requirements are reasonable based on the proposal by GRG and the representations regarding the ongoing discussions between GRG and the Ottawa County Parks and Recreation Commission concerning the reclamation.

38. The Township Board adopts and incorporates the findings, conclusions, and conditions in Review Board Resolution No. 191120-03 (attached as Exhibit A hereto), and the findings and conclusions in the Staff Report dated October 2, 2019, which is incorporated therein, to the extent they do not conflict with this Resolution.

39. All resolutions and parts of resolutions in conflict herewith are, to the extent of such conflict, repealed.

Yeas: Jim Wierenga, Carol Scholma, Jason Minier, Becky Steele, John Schwalm
Nays: Michael Bosch
Abstained: Richard VanderKlok,

RESOLUTION NO. 200210-11 DECLARED ADOPTED

Georgetown Charter Township, a Michigan municipal corporation

Richard VanderKlok, Clerk

CERTIFICATION

I, Richard VanderKlok, the Clerk of Georgetown Charter Township, certify the foregoing is a true and complete copy of a resolution adopted by the Township Board at a regular meeting held on February 10, 2020, which was noticed and held in accordance with the Michigan Open Meetings Act, Public Act 267 of 1976.

Richard VanderKlok, Clerk

EXHIBIT A

Resolution No. 191120-03

Adopted by the Georgetown Township Mineral Mining Review Board

on November 20, 2019

**MINERAL MINING REVIEW BOARD
GEORGETOWN CHARTER TOWNSHIP
OTTAWA COUNTY, MICHIGAN**

RESOLUTION NO. 191120-03

**RESOLUTION APPROVING, WITH CONDITIONS, THE ISSUANCE OF
MINERAL MINING LICENSE ML1902 TO GRAND RAPIDS GRAVEL**

WHEREAS, Georgetown Charter Township (“Township”) has adopted a Mineral Mining Ordinance (“Ordinance”), which governs the application, review, issuance, conditions, and other matters related to mineral mining licenses in the Township; and

WHEREAS, Grand Rapids Gravel (“GRG” or “Licensee”) of 2700 28th Street SW submitted an application for a new mineral mining license (referred to as “ML1902”) for the following seven parcels of land in the Township

- P.P. #70-14-03-200-003, located at 1625 Fillmore, zoned RR
- P.P. #70-14-02-100-001, located at 1600 Fillmore, zoned RR
- P.P. #70-14-02-100-008, located at 1600 Fillmore, zoned RR
- P.P. #70-14-02-100-004, located at 9301 12th Ave., zoned RR
- P.P. #70-14-02-100-007, located at 9225 12th Ave., zoned RR
- P.P. #70-14-03-400-028, located at 1606 Fillmore, zoned LDR (leased property)
- P.P. #70-14-02-300-009, located at 1405 Taylor, zoned LDR (leased property)

(collectively the “Site”); and

WHEREAS, on October 16, 2019, the Township’s Mineral Mining Review Board (“Board”) held a public hearing on the application for ML1902, at which representatives of GRG and members of the public spoke about the application; and

WHEREAS, the Ordinance requires the Board to render a decision on an application within 60 days after the public hearing, and to incorporate its decision in statement of conclusions relative to the application under consideration, which shall specify the basis for the decision.

NOW, THEREFORE, BE IT RESOLVED that the Georgetown Charter Township Mineral Mining Review Board hereby approves the issuance of mineral mining license ML1902 subject to the findings, conclusions, and conditions set forth below:

1. The applicant, GRG, currently operates under active mineral mining licenses that are set to expire June 30, 2020.
2. The application under consideration was determined by the Mineral Mining Official (and the Board agrees) to be an application for a new license (ML1902) for the reasons that it would include (combine) parcels subject to existing licenses under one license and, if approved, would change or eliminate certain conditions of the existing licenses.
3. With the application under consideration, GRG is seeking a mineral mining license to (a) excavate and process on-site gravel; (b) process off-site gravel; (c) import GRG residual concrete for a limited crushing operation; and (d) reclaim the Site.
4. GRG has identified the following as the remaining on-site gravel and the Board accepts this as true based on GRG's representations and the site plan presented:
 - a. 25,000 tons located directly south of the pump on P.P. #70-14-02-100-004;
 - b. 80,000 tons located under Hopper and extension of Fillmore on P.P. #70-14-02-100-008 and P.P. No 70-14-03-200-003; and
 - c. 80,000 tons located on the peninsulas to the oil wells on P.P. #70-14-02-100-004 (mining is subject to capping/abandonment of the oil wells).
5. GRG has represented that it intends to excavate the 105,000 tons described in Paragraphs 4(a) and (b), above, during the excavation seasons of 2020 and 2021, with completion by December 31, 2021. The Board accepts GRG's representation as true and finds it to be a reasonable time frame in which to complete the excavation.
6. GRG has indicated that if it is permitted by the Michigan Department of Environment, Great Lakes & Energy ("EGLE") to have the oil wells on the peninsulas described in Paragraph 4(c) capped and abandoned, it will excavate the gravel on the access roads to the wells on what is referred to as the "DeWent piece" prior to August 1, 2021, and if EGLE does not permit the oil wells to be capped and abandoned, GRG would forego excavation of that area. The Board accepts GRG's representations as true and finds it to be a reasonable time frame in which to complete the excavation. The Board understands that GRG has offered

to forego excavation of the area of the wells if not approved by EGLE, and nothing in this Resolution shall be construed as prohibiting GRG from extracting the gravel by GRG's proposed December 31, 2021 deadline (discussed in more detail below) should EGLE approve the request.

7. GRG is seeking permission to continue processing materials from the local Cedar Valley site in the Township (which is being brought onto the Site pursuant to the Cedar Valley mineral mining license) until the Cedar Valley project is completed. GRG has indicated that the project is expected to be completed in Spring 2020, at which time it would stop accepting materials from Cedar Valley. The Board accepts GRG's representations as true and finds the request and anticipated completion date to be reasonable based on the proximity and impending completion of the Cedar Valley project.

8. GRG is also seeking permission to bring materials from outside of the Township, specifically from Plainfield Township in Kent County, onto the Site for processing. GRG has indicated that it entered into an agreement with Plainfield Township under which it agreed to cease all mining activities on property it owns in Plainfield Township (the "Boulder Creek Site") by a date certain (within approximately three years). Under the agreement, GRG voluntarily agreed that it would not process, crush, or stockpile bank run gravel at the Boulder Creek Site. GRG is thus requesting approval to bring approximately 300,000 tons of bank run gravel from the Boulder Creek Site to the Site in the Township for processing. GRG is seeking permission to import materials from the Boulder Creek Site until 300,000 tons is reached, or March 15, 2021, whichever is sooner.

9. The Board finds and GRG has acknowledged that GRG's current mineral mining license (issued in 2015) (ML1501) prohibits the importing of materials to the Site for processing. When the Township became aware that GRG was importing materials in February 2019, Township staff reminded GRG of the prohibition and GRG immediately stopped importing materials. GRG represents that it has not imported materials to the Site from outside of the Township since the occurrence in February 2019.

10. The Board also acknowledges that under Section 26-78, a license issued under the Ordinance “shall not relieve the licensee from complying with any other applicable statute, ordinance, rule or regulation.” The Site is located on property zoned Rural Residential (RR) and Low Density Residential (LDR). The Township Zoning Ordinance does not permit industrial uses in the RR or LDR districts and the Board finds that the proposed importing and processing of 300,000 tons of material from the Boulder Creek Site would constitute an industrial operation that is not permitted in the zoning districts comprising the Site. Such an ongoing industrial operation at the Site would be inconsistent with the Zoning Ordinance and the Master Plan.

11. The Board also finds that the proposed importing and processing of 300,000 tons of material from the Boulder Creek Site is not expressly contemplated in MCL 125.3205(3), which provides that:

An ordinance shall not prevent the extraction, by mining, of valuable natural resources from any property unless very serious consequences would result from the extraction of those natural resources. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.

12. The Board concludes that a condition of approval prohibiting the proposed importing and processing of 300,000 tons of material extracted from the Boulder Creek Site in Plainfield Township, Kent County, would not violate MCL 125.3205(3), as further evidenced by MCL 125.3205(4), which states that:

A person challenging a zoning decision under subsection (3) has the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources by the person or in the market served by the person, and that no very serious consequences would result from the extraction, by mining, of the natural resources.

In prohibiting the importing and processing of material from the Boulder Creek Site in Plainfield Township, the Board is not preventing the extraction, by mining, of valuable natural resources on the relevant property (i.e., the Site). To the contrary, the Board is permitting the extraction, by mining, of valuable natural resources on the Site (i.e., on-site gravel) within the areas and time frame proposed by GRG.

13. Because the Board’s decision does not prevent extraction of natural resources, it does not determine whether very serious consequences would result from the extraction under the factors in MCL

125.3205(5). Nevertheless, the Board finds and GRG acknowledges (in its September 3, 2019 memorandum) that importing the material from Plainfield Township would create more traffic to the Site, including more “heavy” (full) trucks operating on the roadways. When GRG originally proposed to import 200,000 tons of material from Plainfield Township, GRG estimated 3,750 trucks would be needed to complete the task. GRG has increased the number of tons proposed to 300,000 tons, which will result in even more truck (including heavy truck) traffic. This, in turn, has an impact on pedestrian and traffic safety along the proposed hauling route serving the Site. The Board also finds that while GRG has presented documentation showing negative tests for PFAS, Plainfield Township is at the center of extensive litigation over PFAS contamination, including at and around the Boulder Creek Site. GRG has indicated that PFAS testing is ongoing, but the Board finds no that no proof has been presented regarding the final extent of the PFAS contamination in Plainfield Township, nor are there any assurances that materials extracted site from the Boulder Creek Site, which are proposed to be brought onto the Site for processing, are not or will not be contaminated, or pose any of the health or public safety risks associated with PFAS.

14. For all of the above reasons, the Board states that as a condition of approval, no materials (with the exception of the limited material left to be received from the local Cedar Valley site by approximately Spring 2020) may be imported to the Site (including from Plainfield Township, Kent County) for processing or stockpiling.

15. With this application, as amended and supplemented by GRG, GRG is seeking approval to process on-site and off-site bank run gravel until it is completely processed or a firm date of December 31, 2021, whichever is sooner.

16. GRG has also represented to the Board (in a draft document called a Restrictive Covenant Agreement, which was prepared by GRG and submitted to the Board with its supplemental application materials) that it can “[f]inish and complete all mining, crushing, processing, stockpiling and other mining operations on or from the Property by December 31, 2021.”

17. GRG has also represented to the Board (in the same draft Restrictive Covenant Agreement), that it can remove all stockpiled materials from the Site on or before December 22, 2022:

All stockpiled materials (including, but not limited to, aggregate, sand, gravel, stones, etc.) must be entirely removed from the Property on or before December 31, 2022. However, if requested by The Ottawa County Parks Department, an undefined amount of 22-A gravel and sand may remain stockpiled on the Property to be used exclusively for trails, parking lots, and other construction and improvements associated with the construction of The Parks Property. Similarly, soil to be used exclusively for interim reclamation of the Property consistent with the approved end use plan and associated with the development on the Property (i.e., the soil shall not be available for sale to third parties), may be stored in the location shown on the approved plan if seeded to prevent dust and runoff.

18. Except with regard to the importing or processing of materials from outside of the Township (i.e., from Plainfield Township), which is expressly prohibited as a condition of approval, the Board finds that GRG's proposed timeline as it relates to extraction and processing is reasonable in light of the scope of operations and it, therefore, grants GRG's request, as a condition of approval, to:

- a. Receive materials extracted from the Cedar Valley site until the Cedar Valley project is completed, which is anticipated to be around Spring 2020;
- b. Complete excavation of all on-site bank run gravel by December 31, 2021;
- c. Process on-site bank run gravel until it is completely processed or December 31, 2021, whichever is sooner.
- d. Process bank run gravel extracted from the Cedar Valley site until it is completely processed or December 31, 2021, whichever is sooner.
- e. Finish and complete all mining, crushing, processing, stockpiling and other mining operation on or from the Site by December 31, 2021.
- f. Remove all stockpiled materials on or before December 31, 2022. Per Section 26-83(u), the approval to store and stockpile mined products for up to 12 months after cessation of mining activities shall not interfere with or excuse reclamation as otherwise required under the Ordinance and this Resolution. In no event shall any additional materials be added to the stockpiles.

19. With this application, as amended and supplemented by GRG, GRG has proposed the following schedule regarding the reclamation of the Site:

- a. GRG will work to certify the slopes on the North land mass of P.P. #70-14-03-200-003 (the shoreline just north of the sediment ponds) during the winter of 2019-2020.

- b. GRG will work during the low water season prior to December 31, 2021 to reclaim and certify the slopes on the peninsula that is referred to as the “DeWent piece.”
- c. From January 1, 2022 to June 30, 2022, GRG will reclaim P.P. #70-14-03-200-003, 70-14-02-100-001, 70-14-02-100-008, 70-14-02-100-004, and 70-14-02-100-007, which includes all of the property on the Site that is owned by GRG (north of Fillmore St.).
- d. From January 1, 2022 to December 31, 2022, GRG will:
 - i. Remove all stockpiled material that has been processed and remains on property on the Site that is leased from the Ottawa County Road Commission (P.P. #70-14-03-400-028 and 70-14-02-300-009);
 - ii. Break down and remove the processing plant located on said leased property; and
 - iii. Remove concrete under the processing plant and crush said concrete onsite in lieu of hauling all broken material offsite.
- e. By December 31, 2022, GRG commits to having all stockpiles removed, and the processing plant removed from the leased property (with the exception of material left solely for use by Ottawa County at the Site).
- f. During the period of January 1, 2023 and June 30, 2023, GRG will reclaim the leased property; and
- g. After the earlier of completion of the reclamation of the leased property or June 30, 2023, GRG will conclude all activities related to ML1902 on all seven parcels.

20. The Board accepts GRG’s reclamation schedule and finds it to be reasonable. In light of GRG’s representations and commitments regarding the reclamation schedule, the Board determines that an initial performance guarantee in the amount of \$200,000 is reasonable taking into consideration the factors in Section 26-81, including GRG’s proposal of a \$50,000 performance guarantee, staff recommendation, the scope of the project, potential court costs, and other (including administrative) expenses. The performance guarantee shall be provided as set forth in Section 26-81 of the Ordinance and, per that section, GRG may appear before the Board to request a pro-rata reduction in the amount of the performance guarantee for each acre restored and reclaimed.

21. GRG shall reclaim the Site to the standards set forth in the Bend in the River Master Plan, as amended (i.e., the 2010 Bend Area Final Report), except as may be expressly approved in writing by the

Ottawa County and/or the Ottawa County Parks and Recreation Commission in consultation with the Township (referred to hereinafter as the “Approved Reclamation Plan”).

22. If GRG fails to reclaim the site as required by the Approved Reclamation Plan, the Township may come upon the Site per Section 26-83(t) of the Ordinance and reclaim the land in accordance with the Approved Reclamation Plan and may use the proceeds of the performance guarantee required by the Ordinance and this Resolution to defray the costs of the reclamation.

23. The Board finds that except as otherwise provided in this Resolution, GRG has represented that it meets or will meet the minimum standards and requirements set forth in Ordinance Section 26-83 for the following: fencing and signs; screening; hours of operation; access to public roadways; on-site roads; transportation vehicle standards; lighting; location of excavation; drainage and erosion control; dust control; noise control; special land conditions; fueling of vehicles. GRG shall, as a condition of approval, maintain compliance with these requirements as set forth in Section 26-83.

24. GRG shall, as a condition of approval, ensure that it meets the requirements in Sections 26-83(p) (treatment of banks), Section 26-83(q) (vegetation), Section 26-83(r) (stockpiling and replacement of topsoil), and Section 26-83(s) (fill material).

25. With this application, GRG is also seeking approval to conduct a limited crushing operation at the Site. Specifically, GRG is requesting to haul residual concrete to the Site from its five (5) Redi-Mix locations. GRG has requested approval to bring residual concrete to the Site on an as-needed basis with crushing to occur within a two-week period annually during 2020 and 2021, and for one week during 2022 (to allow for the crushing of the concrete that is currently beneath the processing plant). Crushing is currently prohibited under the existing license and GRG is not currently operating a crushing operation at the site.

26. The Board finds that, as a condition of approval, crushing shall not be permitted at the Site, for the reasons that it is an industrial operation that is not permitted in the zoning districts comprising the Site, it is not necessary to the mining operations at the Site, it is currently prohibited under the existing

licenses (and is only currently permitted by the Township on industrial mining sites), it is not currently occurring at the Site, and GRG indicated at the public hearing that it would forego the crushing operation if it was objectionable.

27. The Board approves the site plan submitted by GRG, entitled “Bend in the River Mining Enlarged Site Plan – Grand Rapids Gravel Plant #16”, dated May 9, 2019; however, all notations on the site plan that are inconsistent with this Resolution shall be considered stricken from the site plan. In the event there is a conflict between the site plan and this Resolution, this Resolution shall control. In the event there is a conflict between the site plan and the Approved

28. Reclamation Plan, the Approved Reclamation Plan shall control.

29. The license is approved until and shall expire June 30, 2023, unless suspended or revoked earlier per the Ordinance.

30. The Board incorporates the findings and conclusions in the Staff Report dated October 2, 2019, to the extent they do not conflict with this Resolution.

31. This approval of ML1902, with conditions, supersedes the existing licenses pertaining to the subject parcels. The Site shall be operated in compliance with ML1902 and the conditions of approval so long as ML1902 is in effect.

32. GRG shall be considered the licensee for purposes of enforcing the Ordinance and the conditions of approval.

33. GRG shall comply with all federal, state, and local laws, regulations and ordinances, including the Ordinance.

At a meeting of the Georgetown Charter Township Mineral Mining Review Board held on November 20, 2019 at 7:40 p.m., this resolution was offered by Member VanderKlok, and supported by Member Samy.

YEAS: Smit, Ferguson, VanderKlok, Bolhouse, Samy, Healy

NAYS: Ulberg

ABSENT/ABSTAIN: None

RESOLUTION NO. 191120-03 DECLARED ADOPTED.

#200210-12 – Public Comment

There were public comments.

#200210-13 – Discussion and General information

#200210-14 - Meeting Adjourned

Moved by Richard VanderKlok, seconded by Becky Steele, to adjourn the meeting at 7:47 p.m.

MOTION CARRIED UNANIMOUSLY.

Jim Wierenga, Supervisor

Richard VanderKlok, Clerk