

**MINUTES**  
**HARVEY COUNTY REGIONAL PLANNING COMMISSION**  
**HARVEY COUNTY BOARD OF ZONING APPEALS**  
**Harvey County Courthouse**  
**Community Room**  
**June 7<sup>th</sup>, 2011**  
**7:00 PM**

**Members Present:** Clifford Kirk, Carroll Harder, Dorothy Thiessen, Wayne Alison, Jack Bender, Larry Goering, Ron Peters, Harlan Foraker, Al Heine, Larry Emmel & Alan Beam

**Members Absent:** William Wilson, Chad Fuqua, Robert TenEyck, & Bonnie Wendling

**Staff Present:** Scott Davies, Planning & Zoning Administrator

**Others Present:** See attached list

At 7:00 pm Chairman Kirk called the meeting in order.

Mr. Harder requested to add to the agenda to discuss the minimum setback regulations be reviewed.

Chairman Kirk asked for any additions or corrections to the May 3<sup>rd</sup>, 2011 minutes, Mr. Harder moved to approve the May minutes, Mr. Bender seconded, motion carried.

- 1. Request from the City of Newton to annex right of way.** Bob Meyers and Suzanne Loomis with the City of Newton gave presentation on annexation of road right of way from SE 36<sup>th</sup> and the interstate to Spencer Rd, then north to SE 12<sup>th</sup>, then east to S. Hillside, then south approximately ½ mile. Mr. Meyers discussed the joint efforts of the City of Newton and Harvey County to establish the Logistics Park. The annexation would allow for larger trucks to transport product from the park. He talked about Tyndall who should start construction early next year and the product they will manufacturer. He said the annexation would not include any private property, only the right of way.

Mr. Meyers said that according to state statutes, annexations of this type are to come from the planning commission as a recommendation to the county commission. The planning commission is to review the annexation in light of their planned uses for the location, he said.

Ms. Loomis talked about the type of road that is to be constructed; it will be a paved road that will be able to handle trucks with a very heavy load and long trailers. Some work has already been done at the I-135 and SE 36<sup>th</sup> intersection to widen ramps; more work on the bridge will be done in the next couple of years.

Mr. Emmel asked if it would be curbed and gutter, Ms. Loomis said no.

Mr. Foraker asked if intersections are wide enough, Mr. Meyers said that more right of way was acquired at the intersections to provide sufficient turning radius.

Mr. Bender asked who would be responsible for maintenance of the road, Mr. Meyers said that the City would be responsible for the road and would be policed by the City; the private land would still be the jurisdiction of the County Sheriff.

Mr. Bender asked staff what his opinion was concerning the annexation in relationship to the county's comprehensive plan. Staff said that this strip of right of way that the city wants to annex is located in the urban fringe area of the county's comprehensive plan. The urban fringe area is that area adjacent to

the cities in the county and basically allows cities to grow into that area, staff said. It was staff's opinion that the annexation is consistent with the county's plan.

Mr. Alison moved to recommend to the county commission that the annexation was consistent with the county's comprehensive plan and to recommend approval of the annexation, Mr. Foraker seconded the motion. The Chairman called for a vote, the vote was 10 in favor, 0 opposed, motion carried.

## **2. Public Hearing Case No. CUP 32-23-3W**

**Staff Report:** An application has been submitted by Terry Stanford for a conditional use permit to operate a RV Park and storage business in the A-1 Agricultural zoning district.

**Said property is located approximately ½ mile south of SW 24<sup>th</sup> St. on the east side of S. Wheat State Rd. Property address is 3124 S. Wheat State Rd.**

I have evaluated the request in light of the criteria to be reviewed when considering a conditional use permit and have the following comments.

All of the criteria require subjective judgments on the part of the Planning Commission.

### **A. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort, or general welfare.**

This particular proposed use should not be detrimental to or endanger the public health, safety, or general welfare.

### **B. The uses, values, and enjoyment of other property in the surrounding area or neighborhood for purposes already permitted shall in no foreseeable manner substantially be impaired or diminished by the conditional use.**

This is a very difficult determination to make in that it involves the perception of surrounding property owners. Some property owners may have no problem with such a use while others may be very much opposed to it. It is very difficult to determine whether such a use would have a negative effect upon property values. One potential buyer of a property may be put off by the use on an adjacent property, while another may not have a problem with that same use. There have been many instances in which someone has felt an adjacent use has diminished their property value, only to find that it has not impeded their ability to sell or diminished their selling price.

The proposed use would be unobtrusive as far as uses go. A building has been constructed and if the permit is approved the operation of the business would occur inside. Harvey County zoning regulations require all inoperable vehicles to be stored inside the building. There should be little increase in noise as a result of the business and if lighting is used, the applicant would be required to keep light directed on to their property and not shine on nearby residences. It is my opinion that the use would not impair the adjacent properties.

### **C. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district, and will not represent an invasion of an inappropriate use.**

The proposed use is located in the agricultural preservation area as designated by the adopted countywide comprehensive plan. Development in this area is to be restricted to very low-density residential uses and agricultural or agricultural related uses. I do not feel the use proposed would impede the normal and orderly development and improvement of the surrounding property for uses permitted in the A-1 zoning district.

It is felt the proposed use would not be an invasion of an inappropriate use since provision is made in the regulations for such a use provided a conditional use permit is obtained. As you are aware, the fact that such a use may be located within the agricultural zoning district does not mean it has to be allowed at any particular location. Each application should be considered on its own merits including a determination that the use is appropriate for the site requested.

**D. Adequate utilities, access roads, drainage and other necessary improvements are present on the site or planned to be made.**

The applicant will be responsible to provide all necessary utilities. An access road already exists, however the service drive will need to be extended to access area where the parking and storage building will be located.

**E. Adequate measures have been made or planned to provide ingress and egress designed so as to minimize traffic congestion in the public streets or highways.**

The site will be accessed from S. Wheat State Rd, which is a township unpaved road and will have some additional traffic as a result of the use, but the road should be adequate to handle any increased traffic. The applicant only plans to have 5 RV parking spots, however unless you place a limit on the number of lots that can be developed, the park could increase in numbers and result increased traffic on the roads. The existing drive will be used to serve both the existing residence and business.

**F. The conditional use shall conform to all applicable regulations of the district in which it is located.**

If approved, the conditional use must conform to all applicable regulations of the residential zoning district and with any additional conditions that are placed on it by the Planning Commission and Board of County Commissioners.

**SUMMARY:**

As you are aware, your task in evaluating a conditional use permit request is to determine if the proposed use is appropriate for any particular location. The fact that the regulations make provision for such a use does not necessarily mean a use has to be allowed at any location. I would remind you that whatever your decision is, it has to reflect the reasons for making that decision. Those reasons are to be based solely on those criteria outlined above, and any motion must document those reasons by including the appropriate criteria within it. I have included an aerial of the property, a map showing the location of the property in the county, the application, and specifications for the turbines.

**Staff Recommendation:** Staff recommends approval of the request with the condition that limits the number of RV parking stalls to a maximum of five.

**Discussion:** Mr. Foraker asked if there were adequate utilities. Staff said that if Mr. Stanford was planning to use the existing lagoon, it was too small for additional wastewater to be discharged into it, and that he would need to build a larger system.

Mr. Stanford presented his case. He said that he wanted a small number of RV stalls about 5 and a ministorage facility. He said with construction work in the area people needed a place to park their RV's. In addition, with Hutch Water Sports nearby, there was a need for those people to store items close by, he said. He said that RV's would only be there a short time possibly a week or 2. Mr. Stanford said he

had provided adequate electrical utilities for five RV stalls. He sits on top the Equus Beds so water is not an issue, he said.

Ms. Thiessen asked how many acres were there, Mr. Stanford said 40 acres. Mr. Peters commented that he would like to see the permit allow 10 RV stalls so the commission does not have to deal with it again in the near future. Mr. Stanford said he was going to start with five stalls and "test the waters" and if it was successful, then he might increase the number.

Ms. Thiessen asked about whether most the ground is pasture, Mr. Stanford said that 20 acres to the south is native prairie, the soil is very alkaline he said and difficult to grow much.

Mr. Stanford said he had about five acres fenced off where the RV stalls and storage facility would be located. He also said that the perimeter is surrounded by trees.

Mr. Kirk asked if Mr. Stanford lived here, Mr. Stanford said no, he said he lives about 6 miles south.

The Chairman opened up the discussion for public comment, there being none the public hearing was closed.

The Chairman asked for comment or discussion from the commission. Mr. Foraker asked about number of stalls, Mr. Stanford said he felt five stalls was a good start. Mr. Foraker commented that he would like to a site plan where the RV stalls would be, where the storage would be prior to approving the permit. Mr. Peters was concerned about the appearance of the storage units; staff commented that the permit could require all storage inside a building.

Mr. Foraker said he thought that staff could approve the plan before issuing the permit and that it would not need to come back to the planning commission.

Mr. Emmel moved to approve the request based on each of the criteria in staff report with the following conditions; that the RV stalls be limited to 10, that an approved wastewater treatment system be built, and that a detailed site plan be drawn before the permit was issued. Mr. Bender seconded.

Mr. Foraker moved to amend the motion to place another condition that the storage units be placed on the fenced five acre area, Mr. Bender seconded. The amendment carried.

The Chairman called for a vote of the amended motion, the vote was 10 for and 0 opposed. Motion carried.

### **3. Public Hearing: VAR 10-24-1E, Request from Cheri Weber for a variance from Article 9.07, minimum side yard setback for a principal structure.**

**Staff Report:** With this particular request you will be sitting as the Board of Zoning Appeals. The authority of the Board of Zoning Appeals is somewhat different from that of the planning commission in that actions taken are the final decision. These matters are not sent on to the Board of County Commissioners. The Board of Zoning Appeals is authorized to issue variances to the regulations in instances in which it is felt the variance would not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the zoning regulations would, in an individual case, result in an unnecessary hardship, provided the spirit of the regulations is observed, public safety and welfare secured, and substantial justice done.

An applicant must show that the property in question was acquired in good faith; and, where by reason of exceptional narrowness, shallowness, or shape of the specific piece of property at the time of the effective date of the district zoning regulations, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations

actually prevent the use of the property in the manner similar to that of other property in the zoning district where it is located.

In this particular instance, an application has been submitted by Cheri Weber for a variance from Article 9.07 of Harvey County's Unified Development Code (Zoning and Subdivision regulations). The applicant is requesting a variance from the requirement that a principal structure be setback from a side property line a minimum of 75 feet, the applicant is requesting a setback of 40 feet from the side (north) property line.

I have reviewed the application in light of the specific criteria to be considered for any variance request. Those criteria and my comments are as follows:

**1. *Whether or not the variance requested arises from such conditions which are unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant.***

This particular parcel is zoned A-1 for agricultural uses. The lot is part of Jester Creek Subdivision. This is not unique to this zoning district, all principal structures are to be located a minimum of 75 feet from a side property line. The applicant wishes to construct a single family residence, however because much of the property is located in a floodplain. The particular location the applicant wishes to construct her house is not in a floodplain.

**2. *Whether or not the granting of the variance will adversely affect the right of adjacent property owners or residents.***

An applicant can locate their residence 40 feet from a side property line if the adjacent landowner will sign a waiver allowing the residence to be a minimum of 40 feet rather than the required 75 feet from the property line. In this case, the adjacent landowner denied the request to allow the house 40 feet from the property line.

**3. *Whether or not the strict application of the provisions of the zoning regulations from which the variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.***

If the applicant chooses to build in the floodplain, then as required by our floodplain regulations the basement floor is to be one foot above the base flood elevation, this could mean elevating the house 8-10 feet (maybe more depending on the base flood elevation) above the existing grade. It is my opinion that this does create a hardship for the applicant.

**4. *Whether the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.***

The granting of the variance should not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare

**5. *Whether the granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.***

I feel the granting of the variance would not be opposed to the general spirit and intent of the zoning regulations because of the unique circumstances associated with this property.

In summary, I would have no objections to a variance being granted for the reasons stated above.

Enclosed is a copy of the application, an aerial showing the property, and a county map showing the location of the property in relation to the rest of the county.

**Discussion:**

A copy of a signed waiver from the property owner to the north was passed out. Staff said he received the waiver today and it was from the landowner to the north.

Mr. Emmel asked where the person lived who sent the letter in the packet. Staff said 5810, the house south of the Weber property. Chairman Kirk read a letter submitted by Ron Harder in favor of the variance.

Mr. Foraker asked if a variance was needed from the west line, staff said no. Mr. Goering asked about the tree row and commented that was the half mile line, staff said that was correct and there is no road going east along that line.

Mr. Harder said when they reviewed the plat for Jester Creek several years ago he had issues with it then and still does; he said he disapproved of the variance.

Mr. Foraker asked if the variance was being requested to stay out of the floodplain, staff said that was correct.

Mr. Emmel asked about the property to the south. Staff said it was a vacant property and was assigned an address several years ago because Ron Harder had paid the road impact fee for that lot and Ms. Weber's lot. This was to provide revenue to the township to improve the road, staff said. The Township rocked Spencer to the first the Smith's residence.

Keith Harrison, a home builder spoke on behalf of the applicant, he said that they had been trying to work with the landowner to the north to get a signed waiver for several months but he refused to sign because he wanted the township to rock the north half of Spencer Rd. between SW 48<sup>th</sup> and SW 60<sup>th</sup>. Mr. Harrison said that they had no authority over the township to have them rock that part of the road. As a result, he said they decided to apply for a variance. He said their wishes are to stay out of the floodplain with the house.

Mr. Bender asked Ms. Weber how long she had owned the property, Ms. Weber said 2 years. Mr. Bender asked is she was aware of the floodplain, Ms. Weber said that with the new maps, the size of the floodplain increased on her property after she purchased it. Mr. Bender asked if she had read the letter from the Smith's, property owners with a residence to the south of Ms. Weber. Ms. Weber said she had not. Mr. Bender gave her a copy of the letter for her to read and make any comment.

The Chairman opened up the public hearing for those speaking in favor; Sean Monigan a nearby landowner asked if they built up the lot would that change the floodplain? Staff said that if they planned to build in the floodplain and raise the lot more than one foot in height, then the Kansas Division of Water Resources may require engineering studies to see how it would impact the floodplain.

William Luzier spoke next against the variance. Mr. Luzier is an adjacent landowner, his objection was with the way Ron Harder sold the property, Mr. Luzier was told at the time he purchased his property that the development rights had been transferred to the lots in Jester Creek Estates. Mr. Luzier does not think that Mr. Harder can legally sell the properties because he never transferred the rights.

Mr. Bender asked staff to explain what Mr. Luzier was talking about. Staff explained the cluster development that is allowed in the agricultural district. Mr. Ron Harder received 3 lots because of the cluster development, in exchange at least 40 acres was to have the development rights removed, staff said. Those 40 acres that were to have the development rights were never designated on the final plat as Mr. Harder was instructed, staff went on to explain.

There was discussion about the letter from Mr. & Mrs. Smith. Mrs. Weber was surprised with the letter. Mr. Kirk felt like Mr. Smith was concerned about getting the road rocked and passable.

At this time the Chairman closed the public hearing.

Mr. Foraker asked if this property is platted, staff said yes. Mr. Foraker asked if the setbacks were on the plat, staff said yes.

Mr. Harder commented that the people to the south had to build their house up and feels the applicant should do the same, he said he was concerned others would want a variance as well.

Mr. Foraker asked if the lot was eligible for a permit. Staff said yes.

There was discussion about the transfer of development rights for the property Mr. Luzier has his house on.

Mr. Emmel commented on that the board needs to action on the variance requested, not to get sidetracked with other issues.

Mr. Foraker asked about setbacks for the sewer system, said that he had spent an hour with the contractor and layed out an area outside the floodplain for the sewer system.

Mr. Foraker felt like it was the lesser of two evils to approve the side setback to avoid building in the floodplain.

At this time Mr. Foraker moved to approve the request for the variance based on item # 3, hardship due to the floodplain, Mr. Goering seconded. The Chairman called for a vote, the vote was 8 in favor and 1 opposed. Motion Carried.

**4. Public Hearing: CUP 27-24-2E, Request from Leland Entz to operate a farm repair and a tire repair business in the A-1, Agricultural zoning district.**

**Staff Report:** An application has been submitted by Leland Entz for a conditional use permit to operate a farm repair and tire repair shop on property in the A-1 Agricultural zoning district.

The property in question is located on the southwest corner of SE 84<sup>th</sup> & S. Grace Hill Rd.

I have evaluated the request in light of the criteria to be reviewed when considering a conditional use permit and have the following comments.

All of the criteria require subjective judgments on the part of the Planning Commission.

**A. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort, or general welfare.**

This particular proposed use should not be detrimental to or endanger the public health, safety, comfort, or general welfare.

**B. The uses, values, and enjoyment of other property in the surrounding area or neighborhood for purposes already permitted shall in no foreseeable manner substantially be impaired or diminished by the conditional use.**

The property the applicant wishes to operate a farm and tire repair business on is zoned agricultural. The surrounding properties are also zoned agricultural. This should not be impaired by the issuance of the conditional use permit.

**C. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district, and will not represent an invasion of an inappropriate use.**

The proposed use is located in the Agricultural preservation area as designated in the county's comprehensive plan. This area, according to the comprehensive plan, allows either by right or condition agricultural uses in nature and other limited commercial enterprises. The surrounding properties are all agricultural in use; the nearest residence is across the road and owned by the applicant. I do not feel that the nature of this particular business should invade or be an inappropriate use for surrounding properties.

**D. Adequate utilities, access roads, drainage and other necessary improvements are present on the site or planned to be made.**

Access to the site is an existing drive off of SE 84<sup>th</sup>, which is an unpaved township road. The applicant plans to use an existing building to operate the business out of. No additional utilities will be needed.

**E. Adequate measures have been made or planned to provide ingress and egress designed so as to minimize traffic congestion in the public streets or highways.**

As mentioned previously the site will be accessed from SE 84<sup>th</sup>. The nature of the use is such that it will be a small number of customers delivering and picking up their equipment. There will be very little increase to traffic on the adjacent roads.

**F. The conditional use shall conform to all applicable regulations of the district in which it is located.**

If approved, the conditional use must conform to all applicable regulations of the A-1 zoning district and with any additional conditions that are placed on it by the Planning Commission and Board of County Commissioners.

**SUMMARY:**

As you are aware, your task in evaluating a conditional use permit request is to determine if the proposed use is appropriate for any particular location. The fact that the regulations make provision for such a use does not necessarily mean a use has to be allowed at any location. I would remind you that whatever your decision is, it has to reflect the reasons for making that decision. Those reasons are to be based solely on those criteria outlined above, and any motion must document those reasons by including the appropriate criteria within it.

**Staff Recommendation:** Staff recommends approval of the request.

Enclosed is the application, an aerial showing the location of the property, and a map showing the location in relation to the rest of the county.

**Discussion:** Mr. Bender asked how long had this been in business. Staff said he had become aware of it when the applicant needed to get a permit from the state to erect a sign on K-196; staff was not sure how long they had been in business.

Mr. Thiessen said that there was a need for s tire repair business in this area; the closest location is in Eldorado she said.

Next to speak for the request was Mrs. Leland Entz, she corrected the request and said they will not be doing farm repair, they will be doing tire sales and tire repair. They built a shop in 2010 to do repair of their own equipment and tire repair. She was not aware of the permit requirements.

Mr. Emmel requested clarification that the request is for only a tire repair and tire sales and not for farm equipment repair. Mrs. Entz said that was correct.

The Chairman opened up for a public hearing, having no one to speak for or against the request, the Chairman closed the public hearing.

Mr. Foraker asked if the building met the road setback requirement, staff said that he did not know, but if it hasn't, then there could be restrictions if they wished to expand the building.

Mr. Harder moved to recommend approval of the request for a conditional use permit to operate a tire repair and tires sales business, Mr. Emmel seconded, the vote was 9 in favor and 0 opposed, motion carried.

**5. Public Hearing: CUP 31-23-1W, Request from Waldon Becker to operate a soil extraction operation in the A-1, Agricultural zoning district.**

**Staff Report:** An application has been submitted by Walden Becker for a conditional use permit to operate a soil extraction operation on property in the A-1 Agricultural zoning district.

The property in question is located approximately ½ mile south of SW 24<sup>th</sup> and on the east side of S. Essex Heights.

I have evaluated the request in light of the criteria to be reviewed when considering a conditional use permit and have the following comments.

All of the criteria require subjective judgments on the part of the Planning Commission.

**A. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort, or general welfare.**

Because static water level is much deeper than what the deepest part of the pit will be, there will be no water in the mined area. There will be dust generated from the extraction process and transporting the soil on unpaved roads which might cause some visibility concerns. A train track and crossing is located immediately south of the property and could at certain times cause some visibility issues.

**B. The uses, values, and enjoyment of other property in the surrounding area or neighborhood for purposes already permitted shall in no foreseeable manner substantially be impaired or diminished by the conditional use.**

Dust and noise could be viewed as a detriment or impairment to those living in the Essex Heights subdivision just north of the mining operation.

**C. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district, and will not represent an invasion of an inappropriate use.**

The proposed use is located in the Agricultural preservation area as designated in the county's comprehensive plan. This area, according to the comprehensive plan, allows either by right or

condition agricultural uses in nature and other limited commercial enterprises. Mining is permitted with a conditional use permit in the Agricultural zoning district. The surrounding properties are agricultural and residential in use; as mentioned earlier, Essex Heights subdivision is located just north of the site.

**D. Adequate utilities, access roads, drainage and other necessary improvements are present on the site or planned to be made.**

Access to the site is an existing drive off of S Essex Heights, which is an unpaved township road. The applicant will need to obtain stormwater runoff permits from the state. No utilities will need to be installed.

**E. Adequate measures have been made or planned to provide ingress and egress designed so as to minimize traffic congestion in the public streets or highways.**

Adequate measures are in place to provide ingress and egress out of the property. There should be very little increase in traffic as a result of the operation.

**F. The conditional use shall conform to all applicable regulations of the district in which it is located.**

If approved, the conditional use must conform to all applicable regulations of the A-1 zoning district and with any additional conditions that are placed on it by the Planning Commission and Board of County Commissioners.

**SUMMARY:**

As you are aware, your task in evaluating a conditional use permit request is to determine if the proposed use is appropriate for any particular location. The fact that the regulations make provision for such a use does not necessarily mean a use has to be allowed at any location. I would remind you that whatever your decision is, it has to reflect the reasons for making that decision. Those reasons are to be based solely on those criteria outlined above, and any motion must document those reasons by including the appropriate criteria within it.

**Staff Recommendation:** Staff recommends approval of the request with the condition that the permit describe the boundaries of the mining operation and that the permit does not allow mining outside those specified boundaries.

Enclosed is the application, an aerial showing the location of the property, a map showing the location in relation to the rest of the county, and Section 16.11 of the Harvey County Unified Development Code, special regulations addressing mining and quarrying.

**Discussion:** Mr. Bender said he lived adjacent to the property; he pointed out several of the other adjacent landowners on the aerial. Mr. Bender describes some of the features on the property. He had seen an old pit but did not have water. He said that a neighbor had to install a drainage ditch on his property to get the water off his property. Mr. Bender said that in a tree area there were light poles and barrels.

The applicant, Walden "Wally" Becker said that pits are not uncommon in the county; he said he didn't think many of those were permitted. He purchased the property from his parents several years ago. He planned to mine a hill on the property; it was a good sandy soil for building sites. They had been removing soil for couple of years and using it for building sites such as the Halstead swimming pool and fire station. He addressed the dust issue and that should only be a problem when the wind blew. He visited with nearest neighbors and some of the concerns were that his drivers were hogging the road.

HCRPC  
June 7<sup>th</sup>, 2011

Mr. Becker said some of the issues were on another parcel and did not apply to this property. He said they are saving the topsoil and covering the area that is being mined. They will seed when they get done, it could be farmable when they are done.

Mr. Emmel asked how much hauling they will be doing. Mr. Becker said that in 2 years they have hauled maybe 40 days. He said it would come in bunches when they had a project they were working on.

Mr. Foraker asked if the soil would be for their own use or would they be selling it to the public, Mr. Becker said that they had no intention of selling it to the public. Mr. Foraker asked if the Township had any concerns with the trucks, he said he had talked with one of the township officials they did not have a problem with it.

The Chairman opened up for public hearing, first to speak in favor was Ken Stein; he said that they had been mining soil since the 30's. He said there was no addressing of the old pit, the pit blew in over time, its blow sand, there is a hard clay layer underneath so he can only go so far. He had no objections with it.

Next to speak in favor was Max Teeter, an adjacent landowner. He recommended that the commission support the request. He said the site was not good for agriculture. He said the Becker operation was very important to the community; they build a lot of the basements and foundations on the area. He said this would a good use of the property that there could be much worse uses. He said the truck issue is not much worse than harvest time. He suggested that the permit include a clause that the soil is only for business use and not for sale to the public.

Those to speak against: Mrs. Sondra Chesky, 2515 S. Essex Heights Rd, spoke against the request. Her main complaint were the trucks, she said most people driving the trucks obey the speed limit, but Mr. Becker's trucks drive very fast and come to fast stops at the stop sign. She followed them and estimated their speeds at 50 mph. She said that when they are hauling soil they come by every 15 minutes. She wished she knew when they would be hauling so she could take precautions.

The Chairman asked if Mr. Becker had a rebuttal, Mr. Becker said that he had stopped in and talked to Mrs. Chesky's husband, her husband said he did not have an objection to the operation.

At this time Mr. moved to recommend approval of the request and that the operation is to be confined to the 7.5 acres shown on the application. Mr. Bender said he was not opposed to the request but only that Mr. Becker complies with the regulations. Mr. Alison seconded.

Mr. Foraker commented that he was sensitive to Mrs. Chesky's concerns and would hope Mr. Becker took her comments into consideration.

The Chairman called for a vote, the vote was 9 in favor and 0 opposed. Motion carried.  
The meeting adjourned at 9:50 pm.