Denial of Gravel Pits in Michigan

"Very Serious Consequences"

A practical guide for citizens who oppose gravel/sand pit applications

Controlling State Law MCL 125.3205

If the costs imposed on the public by the proposed gravel/sand pit outweigh the benefits, the local government can deny the application on the grounds that “very serious consequences” would result. The legal standards applied by the planning commission for determining whether “very serious consequences” would result from grave/sand pit operations are as follows (MCL 125.3205(5)):

Public Costs

1. The relationship of extraction *and* associated activities with existing land uses
2. The impact on existing land uses in the vicinity of the property
3. The impact on property values in the vicinity of the property *and* along the proposed hauling route serving the property, based on credible evidence
4. The impact on pedestrian and traffic safety in the vicinity of the property *and* along the proposed hauling route serving the property
5. The impact on other identifiable health, safety and welfare(a) interests in the local unit of government

The above five items in the “very serious consequences test” must be applied with a cost-benefit analysis. The “cost” is based on public and government expenses resulting from the extraction. The “benefit” is based on the demand for gravel/sand.

Public Benefit

1. The overall public interest in the extraction of the specific natural resources on the property

What Can I Do?

Citizens who oppose a gravel/sand pit must convince their planning commission (in-person at a public meeting or in writing via a letter, fax or email) that "very serious consequences" would result. The "very serious consequences" must be confined to one or more of the five Public Costs items; no other consequences may be considered by the planning commission. You must use the phrase "very serious consequences" when communicating to the planning commission and limit to only the five Public Costs items. Make your case to the planning commission using evidence, logic and reason; it will become part of the public record, which may ultimately be relied upon by a circuit court judge down the road on any appeal.

There’s More!

In addition, those who oppose a gravel/sand pit are strongly advised to also comment on the single Public Benefit item in the law as it is a part of the cost-benefit analysis. A statement of one’s current and future plans for purchasing gravel/sand is very helpful for the planning commission to gauge the
“public interest” in having a local source for these materials. (i.e. “I do not have any current or future needs for sand or gravel. And if I did, I would not want nor require local gravel or sand.”) If there is no evidence in the record of local public interest in gravel or sand, then the planning commission may conclude locally sourced gravel or sand is not in the public interest.

Anything Else?
The only way for a gravel/sand pit special use application to be denied is for a planning commission to deny it. The only way a planning commission may deny the application is through finding “very serious consequences” which outweigh public’s interest in having access to the gravel/sand. The only way “very serious consequences” will be found is by residents and stakeholders (business owners) directly communicating these concerns to the planning commission. Likewise, the only way low public interest in gravel/sand can be established is directly communicating an explicit lack of need for gravel/sand to the planning commission.

If low public interest is affirmatively on the record, and if “very serious consequences” are extensive and prominent in the record, then the planning commission has very strong and compelling reasons to deny the special use permit for a gravel/sand pit.

Special note on welfare (a): According to Black’s Law Dictionary, in the case of Public Cost item #5, the legal definition of welfare is conditions needed for comfortable living. When we think of “welfare” (mentioned in the U.S. Constitution’s preamble and also in Article 1, Section 8), we should ask ourselves what part of welfare is not already a part of health and safety?…all the items one can contemplate in that thought exercise may be included in the planning commission’s evaluation of very serious consequences. Therefore, citizens who oppose gravel/sand pits are encouraged to voice their concerns regarding “very serious consequences” to their individual welfare (comfortable living) as part of the “health, safety, and welfare” clause in the governing state law. It is interesting to note that the Michigan Constitution in Article IV, Section 51, declares the general welfare of the people to be a matter of primary public concern.

“Public welfare” can be defined as the stewardship of human communities in order to enhance social, economic, psychological, cultural and physical functioning, now and in the future. If one believes “very serious consequences” will befall their “identifiable public welfare interests” or “identifiable individual welfare interests”, then it is advised to communicate this to the planning commission as well.

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