

**EATON COUNTY  
PLANNING COMMISSION MEETING  
July 9, 2019**

**Call to Order:** Brian Ross Chair of the Eaton County Planning Commission, called the meeting to order at 7:00 p.m. in the Board of Commissioners Room, Eaton County Courthouse, 1045 Independence Blvd., Charlotte, MI.

**Pledge:** The Pledge of Allegiance was given by all.

**Roll Call:** Brian Ross, Jeana Rohrs, Tim Catron, John Little, Barbara Rogers, Ben Tirrell, Jack Owens, and Blake Mulder

**Absent:** Tammy Halsey

**Staff Present:** Claudine Williams and Brandy Hatt

**Agenda Approval:** A motion was made by **Commissioner Rohrs** to approve the agenda for the July 9, 2019 meeting. **Commissioner Tirrell** supported. Motion carried.

**Minutes Approval:** A motion was made by **Commissioner Mulder** to approve the June 4, 2019 minutes as printed. **Commissioner Rogers** supported. Motion carried.

**Public Comments:** None

Postponed from May 7, 2019 Meeting:

**CU-6-18-8:** Request by Darrell Vanderstelt for a Change of Conditions to an existing Conditional Use Permit, which allows for the operation of an Open Air Storage (Ball Septic Tank Service) per Section 14.33 of the Ordinance, specifically to allow for construction of a storage tank and pole barn, and land application of materials at 2910 Hubbard Road (parcels 060-034-200-011-00 & 060-034-200-020-00, Section 34, Chester Township.

**Staff Report:** Ms. Williams read a memo sent to the Planning Commission with the May 7<sup>th</sup> Staff Report and a letter submitted by the applicant with his site plan into record. Ms. Williams offered to read the May 7<sup>th</sup> Staff Report into record. The Planning Commission said it was not necessary.

**Applicant Statement:** Mr. Brandon Eldrich, Manager for Ball Septic, stated they are requesting to construct a pole barn and storage tank. He stated the new site plan addresses the tree buffering; they are getting a well permit and looking into the lagoon system. Mr. Eldrich offered to answer questions.

**Commissioner Ross** asked about the Eaton County Road Commission Site Plan Review Comments. Mr. Eldrich stated Mr. Darrell Vanderstelt is meeting with Matt Hannahs of the Eaton County Road Commission on Thursday to discuss the concerns. Mr. Eldrich stated they placed the rocks in the ditch to prevent the culvert from becoming blocked. **Commissioner Owens** asked Mr. Eldrich if Mr. Vanderstelt is present this evening. Mr. Eldrich said no. **Commissioner Owens** asked Mr. Eldrich if he is the project manager. Mr. Eldrich said he is overseeing the project. Ms. Williams stated Mr. Eldrich has been involved in the permitting process from the beginning and is able to answer any Planning Commission questions.

**Commissioner Ross** invited any speaker in favor or opposition to the request to make public comment.

**Speakers in favor:** None

**Speakers in opposition:** Ms. Kristine Haley, 2566 N. Stine Road, stated she is giving her five minutes of speaking time to her son, Mr. Kevin Haley.

Mr. Jerry Haley, 2566 N. Stine Road, stated he is giving his five minutes of speaking time to his son, Mr. Kevin Haley.

Mr. Kevin Haley, 8606 Woodruff Drive SW, Byron Center, stated he would like to request that the materials that he has distributed to the Planning Commission tonight become part of the formal record for this hearing. He stated he is here this evening to request that the Planning Commission deny this application and that the previously approved Conditional Use Permit granted on June 12, 2018 be voided. He stated the specific finding of facts in this matter will show that an objective review of the legal requirements of the Ordinance requires denial of this application and voiding of the Conditional Use Permit because: 1. The ordinance is clear in that no permissiveness or discretion can be used to allow this particular Open-Air Storage to exist in this particular location. 2. Critical information contained in both the original April 18<sup>th</sup> 2018 application for the Conditional Use Permit and the March 19, 2019 current application is untrue, inaccurate, and incorrect. 3. The revised site plan is still incomplete. 4. The project and business are neither harmonious nor compatible with the existing natural features wetlands, streams, etc., on surrounding properties and will result in conditions that are detrimental to those natural features and those properties. 5. The project and the business are not currently designed to protect natural resources, or the health, safety, and welfare of the residents and landowners immediately adjacent to the proposed land use, or the community as a whole. Mr. Haley stated before he gets into the details of each of these five points, he thinks it is important that we are all working from the same set of definitions for a number of key words and phrases. He asked the Planning Commission to see Exhibit A in his packet for a list of the most relevant terms, their definitions, and the cited source for the definition, all per Section 5.2 of the Ordinance. Mr. Haley stated that the ordinance is clear in that no permissiveness or discretion can be used to allow this particular Open-Air Storage to exist in this location. He stated this commission has been incorrectly instructed on at least two occasions because Mr. Vanderstelt is requesting to operate an Open-Air Storage Business and not an Open-Air Business or Hazardous Materials Business items A, C and G under 14.33.2 do not apply. He asked the Planning Commission to see Exhibit B in his packet where this instruction appears in writing on page 4 in the staff comments from the June 12, 2018 meeting. He stated at the May 7, 2019 meeting, this same verbal instruction was given to the commission by Ms. Hatt when she was reading into the record Mr. Ruthruff's written comments. Mr. Haley stated Exhibit C of his packet is Section 14.33, in its entirety, taken directly from the Ordinance. He asked the Planning Commission to note that this also appears on page 2 of the staff comments in Exhibit B of his packet. Mr. Haley stated the Planning Commission can see, 14.33.2 G applies to both Open Air Businesses and Open-Air Storage. Mr. Haley stated the word shall appears throughout this section of the Ordinance. He stated going back to the definitions, shall means that it is always interpreted as mandatory and never as permissive or discretionary. Mr. Haley stated now that he has established that section 14.33.2 G does apply to Open Air Storage, we need to determine if this particular Open-Air Storage is dealing with something that meets the definition of a hazardous material as defined by the Ordinance. He asked the Planning Commission to note that there were comments at the May 7, 2019 meeting regarding whether or not septage meets the EPA or EGLE definition of hazardous waste. He stated those discussions and definitions are not relevant to this particular situation; we are tasked with understanding the definition of a hazardous material per the Ordinance. He again asked the Planning Commission to reference definitions in Exhibit A of his packet, hazardous materials shall include those materials whose injurious properties may be detrimental or deleterious to the health or safety of persons, property or the environment. Mr. Haley stated he doesn't think that anyone in this room believes that septage is not detrimental or deleterious to the health or safety of persons, property, or the environment, but it warrants formally establishing that it is. He stated a simple Google search turns up dozens of references related to the viral, bacterial, and parasitic hazards of septage, including some from the United States Environmental Protection Agency and EGLE. Mr. Haley stated rather than include all of those, he would like to call the Commission's attention to the following exhibits of his packet, both of which were obtained via a FOIA request of the Barry Eaton District Health Department, and both of which he believes Ms. Hatt has obtained via her own FOIA request: Exhibit D, a laboratory report from the Michigan Department of Health for a sample of water taken from the pipe coming out of the tile drain along the property line of this very business. He stated this report shows a fecal coliform organisms count of seventy per one-hundred milliliters. He stated the Planning Commission might recall Commissioner Mulder asked a specific question at the May 7, 2019 meeting related to coliform bacteria at this site. Exhibit E, a letter from James P. Schnackenberg, Director of Environmental Health, Barry Eaton District Health Department to Robert Deatruck at the Michigan DNR. Mr. Haley

stated in this letter Mr. Schnackenberg states that it is incumbent upon the licensing agency, in this case the DNR, to help ensure that the those undertaking the business of pumping and disposing of septage be of a character that the health and safety of the public will be protected. He stated Mr. Schnackenberg's credentials and expertise in this area are impeccable, and he is clearly indicating that septage is hazardous to the health and safety of the public. Mr. Haley stated he has now established that 14.33.2 G does apply to Open Air Storage and that septage does meet the Ordinance definition of a hazardous material. He stated he would like to draw the commission's attention back to Exhibit C of his packet, which is section 14.33 of the ordinance in its entirety, specifically section 14.33.2G.2. He stated this portion of the Ordinance mandates that the business shall be located on an all-season paved State Highway or an all-season paved county primary road. He stated we know from the definition in Exhibit A of his packet, as well as from the Eaton County Road Commission's written comments read into the record at the May 7, 2019 meeting, that Hubbard Road is not a paved county primary road nor is it likely to ever be one. Mr. Haley stated based upon that the ordinance specifically prohibits this particular Open-Air Storage business from operating at this location; because the word shall is used multiple times, and again referring to definitions in Exhibit A of his packet, no permissiveness or discretion can be used related to this part of the ordinance. Mr. Haley stated this business is prohibited from operating at this location. He stated there are two specific pieces of critical information contained in both the original April 18, 2018 application for the Conditional Use Permit, which is Exhibit F of his packet and the March 19, 2019 current application, which is Exhibit G of his packet, that are untrue, inaccurate, and incorrect; specifically, question number eight of the application asks, is the property located within five-hundred feet of a stream, drain, lake, pond, or seasonally flooded wetland. Mr. Haley stated Mr. Vanderstelt answered no to this question. He stated in fact, this property has a formal drain on it, a stream that is both on and adjacent to it, and it is located within one-hundred feet of two wetlands. He asked the Planning Commission to look at Exhibit H of his packet, which shows all of these water features. He stated the fact that this question was not answered truly, accurately, and correctly is critical because he has already established that this business is dealing with a hazardous material that can be detrimental or deleterious to the health or safety of persons, property or the environment. Mr. Haley stated this commission might question whether or not the potential does exist for septage from this operation to find its way into any of these water features. He stated in fact, he knows that it does exist. He asked the Planning Commission to view Exhibit I of his packet, it is a series of photos showing the apparent clean-up and aftermath of an event that occurred at or near the sewage lagoon on this property and where septage appears to have found its way into one of the wetlands on his property. He stated he would also like to draw the commission's attention back to Exhibit D of his packet, which is the laboratory report from the Michigan Department of Health showing a fecal coliform organism count from a sample of water taken from the pipe coming out of the tile drain, and emptying into the stream, along the property line of this very business. Mr. Haley stated question sixteen of the application asks in part how are supplies delivered/brought to the site, it was answered by Mr. Vanderstelt as light delivery trucks. He stated the primary supply being delivered to this site is septage and it is delivered via a Ball Septic pumper truck. He asked the Planning Commission to see Exhibit J of his packet showing the vehicle weight classes & categories as defined by both the Federal Highway Administration and the United States Environmental Protection Agency and note that Ball Septic pumper trucks weigh in excess of twenty-thousand pounds when fully loaded. He stated the fact that this question was not answered truly, accurately, and correctly is critical because I have already established that this business is operating in violation of the Ordinance on an unpaved non-primary road using trucks that far exceed the weight limit definitions for a light delivery truck. Mr. Haley stated the revised site plan is still inaccurate and incomplete in that it fails to show a stream that is both on and adjacent to the site. He stated the fact that the site plan does not include the stream is critical because he has already established that this business is dealing with a hazardous material that can be detrimental or deleterious to the health or safety of persons, property or the environment. He stated this commission might question whether or not the potential exists for septage to really get into this stream; he would again call the commission's attention to Exhibit D of his packet, which is the laboratory report from the Michigan Department of Health showing a fecal coliform organism count from a sample of water taken from the pipe coming out of the tile drain along the property line of this very business. He stated the water coming out of that pipe goes directly into the stream that is missing from the site plan. He stated additionally, on May 21, 2019, a video was taken that appears to show septage

overflowing from the existing Ball Septic enclosed storage tank and flowing towards the stream. He asked the Planning Commission to view Exhibit K of his packet for a series of photos taken from that video. He noted that this is a relatively small and enclosed storage tank it is not difficult to envision the magnitude of an overflow from the 1.5 million gallon open storage tank being considered for approval this evening. Mr. Haley stated it is incumbent upon all of us to determine if this project and business are harmonious and compatible with the existing natural features on surrounding properties and whether or not it will result in conditions that are detrimental to those natural features and those properties. He also stated we need to determine if the project and business are designed to protect natural resources, and the health, safety, and welfare of the residents and landowners immediately adjacent to the proposed land use, and the community as a whole. Mr. Haley stated in Mr. Vanderstelt's written comments that were read at the May 7, 2019 meeting, Mr. Vanderstelt indicated that the video showing the intentional illegal dumping of septage was an isolated incident; he further indicated that decisions made by this commission should not be made based solely upon that incident. He stated we now know that the original video was not an isolated incident, there is a clear pattern of behavior from this business that shows that the project and business are neither harmonious nor compatible with the existing natural features on surrounding properties and that it will result in conditions that are detrimental to those natural features and those properties. He stated further, that pattern of behavior clearly shows that the project and the business are not currently designed to protect natural resources, or the health, safety, and welfare of the residents and landowners immediately adjacent to the proposed land use, or the community as a whole. Mr. Haley stated he is asking the commission to deny this application and is also asking that the previously approved Conditional Use Permit granted on June 12, 2018 be voided. A correct interpretation of the ordinance and facts in evidence requires the denial of this application and voiding of the previous permit. He stated he has established the following, all of which support his request: 1. The ordinance is clear in that no permissiveness or discretion can be used to allow this particular Open-Air Storage to exist in this particular location. 2. Critical information contained in both applications is untrue, inaccurate, and incorrect. In the case where the application is found to not be true, accurate and correct, the legal language of the application states that the application and any approvals are void. Note that the verbiage from the application states that any approvals are void, not that they may be void. 3. The revised site plan is incomplete in that it does not show the stream on the property. 4. The project and business are neither harmonious nor compatible with the existing natural features on surrounding properties and will result in conditions that are detrimental to those natural features and those properties. 5. The project and the business are not currently designed to protect natural resources, or the health, safety, and welfare of the residents and landowners immediately adjacent to the proposed land use, or the community as a whole.

Mr. Rob Piercefield, Eaton County Commissioner, District 1, stated his concerns mirror those of the nearby residents regarding the possibility of septage entering the stream or water supply. He stated he knows the Planning Commission does not have regulation over the land application permit from EGLE or the permit of the proposed septage tank, however, he would urge due diligence in considering this application because of the risk to the ground water in the area.

Ms. Nancy Shaver, 3050 Lamie Highway, stated she and her husband are adjacent property owners to Ball Septic Service. She stated the stream that has been mentioned flows down to their property; there is a twenty-two foot elevation difference, the result is the river overflows onto their property. She said she is concerned about the seasonal flooding that comes onto their property and into their pond. Ms. Shaver stated she is asking the Planning Commission to not approve the application before them and that the Conditional Use Permit be revoked due to the location.

Mr. Brian Droscha, Eaton County Commissioner, District 9, stated the presentation given by Mr. Haley was outstanding, he stated if the Planning Commission has not read his information they should. Mr. Droscha stated the Conditional Use Permit should not have been granted in the first place. He stated there are a lot of concerns in Eaton County regarding the quality of water, he noted his family farm is at the head of a watershed area. He stated they have good practices in place for the storage and

placement of manure on their farm to ensure there are no issues. Mr. Droscha stated here we have a business that is contaminating the watershed. He asked the Planning Commission to deny the request.

Mr. Andy Shaver 2802 N. Stine Road, stated he lives to the west of this property; the stream that runs through the property also runs through his property. He stated he has five children and noted he grew up in the area. Mr. Shaver said he was not able to be present for Mr. Haley's comments. He stated Ball Septic was given an after the fact permit, he was not even sure they had a valid permit until a couple of months ago. He stated it seems Mr. Ball was given a permit so he could sell the building and Mr. Vanderstelt is now working on expanding. Mr. Shaver stated the permit should be revoked, as it is not in the best interest of the county or our neighborhood. Mr. Shaver stated he is advocating that the work not be expanded on the site. He said it is not clear on the site plan if they are looking to use a retention pond; this is not the best use of land in or neighborhood. He stated they would like more farms and families, not manure, especially human manure. He is concerned about the PFAS and septage being spread on the field. Mr. Shaver stated this business might have more of an effect on the surrounding area than we are able to predict. He stated he would like the current application to be denied and with any power that they have to look backwards at things being approved without due process. He stated he is getting ready to build a deck and is required to get a permit and follow the process.

Mr. Derek Ruthruff, 2808 Hubbard Road, stated his home is located to the south of Ball Septic. He stated the stream that comes from Ball Septic's property comes onto his property. Mr. Ruthruff stated he did a test of the running water and got positive results for bacteria. He said he showed the results to the Barry-Eaton District Health Department, but they refused to do their own test unless he paid for it. He stated he spoke with Mr. Vanderstelt about other property he owns where this business could be operated from. Mr. Ruthruff stated one of those properties might be more appropriate for this business.

Ms. Shaver asked Commissioner Ross if she could speak again because she did not use her entire five minutes. **Commissioner Ross** said yes, but asked that she keep it brief.

Ms. Shaver stated she has been working with Ms. Sue Spagnuolo of the Eaton Conservation District. She stated Ms. Spagnuolo was hoping to be here this evening, but she is not. Ms. Shaver stated Ms. Spagnuolo informed her there is a likelihood of E.coli present in the water, but that her department is not the governing body. She stated Ms. Spagnuolo expressed concerns regarding the quality of water and the protection of the watershed.

**Public hearing closed:** 7:36 p.m.

**Commissioner Ross** invited Mr. Jeremy Hoeh, of the Michigan Department of Environment, Great Lakes, and Energy (EGLE) to speak with the Planning Commission. Mr. Hoeh stated the Septage program is one of the programs he supervises. He stated he has not received an application from Ball Septic for the proposed storage tank, as they require this local approval first. Mr. Hoeh offered to answer questions regarding the EGLE Septage Program.

**Commissioner Tirrell** asked Mr. Hoeh if he could talk about the risk regarding storage of septage. Mr. Hoeh stated Part 117 Collaborative covers septage storage for less than twenty-thousand gallons and all regulations look at soils and water. He stated septage storage tanks that hold more than twenty-thousand gallons of waste have more stringent requirements; they are required to be designed by a licensed engineer and the prints are required to be sealed. Mr. Hoeh stated they will review the odor foot print if the proposed tank is an open tank. He stated the other concerns and safety of the system are reviewed during the engineer plan review. **Commissioner Tirrell** asked if NRCS Part 313 is used during the review. Mr. Hoeh said yes, the engineer is required to spell out that the proposed tank will comply with those requirements. He stated EGLE contracts with local Health Departments to conduct annual reviews of storage tanks and vehicles.

**Commissioner Mulder** stated there has been a lot of discussion regarding the definition of hazardous materials. Mr. Hoeh stated septage waste is not included in the hazardous waste definition in Part 117.

**Commissioner Catron** stated the designs for the septage storage tanks are required to include impervious linings. Mr. Hoeh stated that is correct; in addition, there are structure requirements and monitoring requirements to be followed and met. He stated each individual business proposes how they will comply and their proposals are reviewed by EGLE for compliance. **Commissioner Catron** asked Mr. Hoeh to give an example secondary containment. Mr. Hoeh stated the secondary containment is to protect the surrounding areas in the event of a leak or spill. He stated the secondary containment could be a berm or other methods, to prevent contact of the waste to the water in the event of a failure.

**Commissioner Owens** asked if sewage is not a hazardous material, does that mean the video of them dumping is not illegal. Mr. Hoeh said it depends, but it is illegal without approval. **Commissioner Owens** asked if it is also illegal because it was not injected into the ground. Mr. Hoeh stated there are different methods of application. **Commissioner Owens** asked if it is similar to the methods used by dairy farmers. Mr. Hoeh said yes, but they also have to submit a cropping plan, they look at the soils and phosphorous levels as well. **Commissioner Owens** asked Mr. Hoeh how many discharge sites are located in Michigan; is this a common way for the State of Michigan to handle waste; there are porta potties are most events. Mr. Hoeh stated they currently have one-hundred thirty to one-hundred forty land application sites throughout the state. He stated the land application sites are more remote and are less likely to have access to a wastewater treatment plant. **Commissioner Owens** asked how many septage storage tank facilities are located in the state. Mr. Hoeh stated they have thirty to forty facilities since the law changed in 2004. He stated there are smaller facilities that were permitted through the local health departments.

**Commissioner Mulder** asked if there are resting periods for properties that have septage applied. Mr. Hoeh stated every business has their own plan and many have multiple site so they can rotate and always have land available. He said once the septage is land applied crops must be planted within a year he added septage cannot be land applied during the winter months. He explained the septage may be applied in the summer and winter wheat could be planted in the winter. He stated for land application to take place, the plants have to be able to take in the nutrients placed in the soil.

**Commissioner Catron** asked if there is an issue with the stream on the property. Mr. Hoeh stated there are isolation distances for both land application and storage tanks for how far they can be from water, wells, and structures. He stated the isolation distances for land application are called out in the law. **Commissioner Tirrell** asked Mr. Hoeh if land application can be done without local approval. Mr. Hoeh stated the law says notifications have to be made to neighbors and local unit of government. **Commissioner Tirrell** asked if a local unit of government may enact an ordinance for land application. Mr. Hoeh said yes, however, the local unit of government would have to have a waste water plant to collect the septage.

**Commissioner Rogers** asked if the current and new system would be under the guidelines of the local health department. Mr. Hoeh stated EGLE contracts with the local health departments for the annual inspections; the permits and licenses for the facility and vehicles will come from EGLE.

**Commissioner Owens** asked Mr. Hoeh if there are different specifications for land application and storage; specifically, he asked what distance is required for the storage tank to open water. Mr. Hoeh stated he does not have the guidance document with him, but believes the tank is required to be two-hundred feet from open water.

**Commissioner Mulder** said if EGLE looks at a project like this, it would be inspected and someone would make sure all of the processes and procedures are followed. Mr. Hoeh said the project is required to meet state law and EGLE would make sure the application meets the requirements.

**Commissioner Mulder** asked if it is reasonable to assume a new system would be safer than one in use for twenty or thirty years. Mr. Hoeh said yes.

**Commissioner Rogers** asked if the systems are inspected periodically. Mr. Hoeh said yes. **Commissioner Rogers** asked if the inspections are announced. Mr. Hoeh stated that is up to the local health department.

**Commissioner Ross** asked if there were any further questions for Mr. Hoeh. Commissioner Ross thanked Mr. Hoeh for the information he provided and for attending this evening.

**Commissioner Mulder** stated at the last meeting the Planning Commission requested the applicant submit information that is more detailed. He stated the applicant took the time to get a surveyor and engineer and the Planning Commission now has something to look at and understand.

**Commissioner Rohrs** stated she was not present when the application was first heard; she asked about the concern of Mr. Haley regarding the business not being on a major road. She stated the Ordinance does use the word shall. Ms. Williams read Section 14.33.G.2 of the Zoning Ordinance for the Planning Commission.

**Commissioner Rohrs** asked if there were complaints made regarding the business when Mr. Ball owned it. Ms. Williams said not that she or Ms. Hatt is aware of. Ms. Hatt stated she was not aware the business was in operation until Mr. Vanderstelt had inquired about purchasing the business and had not received any complaints regarding the business until Mr. Vanderstelt applied for his change of conditions. Ms. Williams explained Mr. Ball told staff he thought he had the county approval to operate the business because he went through a public process and had approval health department and DNR.

**Commissioner Tirrell** asked Mr. Hoeh about the older model used by EGLE; he stated it appears they are using the distance and open surface area with the prevailing winds. Mr. Hoeh stated they ask the applicants to address the odor distances in their application showing the closest distance to the nearest home. He stated they receive more complaints regarding land application rather than the storage tanks. Mr. Hoeh stated part of the odor of a septage storage tank is also how the septage is held and how it is put into the tank. He noted a lot of this information would be compiled by an engineer.

**Commissioner Mulder** asked Mr. Hoeh how the proposed tank would be classified. Mr. Hoeh stated he really could not say without an application. He stated last week EGLE approved two slurry systems that hold five-hundred seventy gallons; there are only three to five systems in the state that hold over a millions gallons.

**Commissioner Owens** stated he believes odor is the biggest issue; odor is overwhelming near the chicken farm in Ionia County. **Commissioner Tirrell** stated based on the odor graph and distances, the proposed tank is well within the approvable range. **Commissioner Owens** asked Commissioner Tirrell to explain further. **Commissioner Tirrell** stated based on the odor calculations, the odor should only be noticed about five percent of the time. Ms. Williams stated per the last staff report, the proposed tank is twelve feet deep and will hold one and a half million gallons.

**Commissioner Ross** stated he feels better with the business doing the updates and being more closely regulated than they were. **Commissioner Tirrell** stated buffering could also help with the odor. **Commissioner Catron** asked Commissioner Tirrell if he is recommending additional buffering. **Commissioner Tirrell** stated the Planning Commission could discuss buffering if they decide to move forward.

**Commissioner Mulder** stated he is not in favor of shutting an existing business down. He stated there is a new owner who appears more cautious; as for the expansion, he does not see any justification to stop them. **Commissioner Mulder** stated the application would be sent through to EGLE to regulate and must comply with all of their rules and regulations. If it is approved at this size or not is not for the

Planning Commission to decide. He stated he understands the business may not have had a Conditional Use Permit to begin with and the application could stop here, but he believes the use falls within the ordinance to approve and he see no grounds to deny.

**Commissioner Tirrell** stated he believes the Planning Commission first needs to determine if the 2018 approval is valid. He stated he does not believe septage meets the definition of a hazardous material, therefore, he believes the 2018 approval of the Conditional Use Permit is valid.

**Commissioner Owens** stated the Planning Commission should take the people who live in the area into consideration. He stated he is not in favor of the expansion, yes he would like to see the corrections, but is concerned when there are this many issues.

**Commissioner Catron** stated he looked at the engineering sample submitted by the applicant. He stated it is a well designed tank and adding a secondary containment system would be a good improvement; he would prefer it to what is on the property now. **Commissioner Tirrell** stated he agrees, it is a permitted use, we can set conditions, but it is still a permitted use.

**Commissioner Mulder moved to approve CU-6-18-8 (Darrell Vanderstelt)** for a Change of Conditions to an existing Conditional Use Permit, which allows for the operation of an Open Air Storage (Ball Septic Tank Service) per Section 14.33 of the Ordinance, specifically to allow for construction of a storage tank and pole barn at 2910 Hubbard Road (parcels 060-034-200-011-00 & 060-034-200-020-00, Section 34, Chester Township;

1. Requirements of all other local, state and federal agencies must be met, including but not limited to: Eaton County Road Commission, Chester Township, Barry-Eaton District Health Department, Michigan Department of Environment, Great Lakes, and Energy, Eaton County Construction Code Department, Eaton County Central Dispatch and Eaton County Drain Commissioner.
2. This Conditional Use Permit is granted to Darrell Vanderstelt for above described use only. It is not transferable per the Zoning Ordinance.

**Commissioner Catron** supported.

**Discussion:**

**Commissioner Tirrell** stated he would like to see an additional bufferyard installed property line; he also stated the storage tank should have a six-foot opaque fence installed around the entire perimeter. **Commission Mulder** stated the existing buffering is located on the applicant's property. Ms. Hatt stated there are trees present on the applicant's property and the applicant is aware the buffering is required to be thirty feet in width and shall screen the property. Ms. Hatt stated the applicant is aware she will be inspecting the site to confirm compliance with Ordinance requirements. **Commissioner Tirrell** stated he thought additional buffering was needed on the north property line. Ms. Hatt showed Commissioner Tirrell an aerial photo of the property to compare to the submitted site plan. **Commissioner Tirrell** stated the north property line does not need additional buffering, but he would like to require additional buffering to be installed on the south property line to be even with the east side of the proposed storage tank.

**Commissioner Mulder amended his motion to include:**

3. An opaque fence of not less than six feet in height shall be installed around the entire perimeter of the proposed storage tank.
4. In addition to the landscape buffering proposed on the site plan, additional landscape buffering shall be installed on the south property line to extend to the east side of the proposed storage tank to meet the intent of the Zoning Ordinance. The landscape plan shall be submitted to the Community Development Department for review and approval.

**Commissioner Catron** supported. A roll call was taken with six (6) voting aye and two (2) voting nay. Motion carried.

**CU-11-92:** Request by Michael Davis for a Change of Conditions to an existing Conditional Use Permit, which allows for the operation of a Construction Contractors Establishment and Storage of Heavy Equipment per Article 14.29 of the Ordinance, specifically to allow for construction of a new building at 3245 W. Grand Ledge Hwy., Section 9, Roxand Township.

**Staff Report:** Ms. Williams read the staff report and Site Plan Review responses from Eaton Conservation District and EGLE into record.

**Commissioner Mulder** asked if the Drain Commissioner made any comments regarding any drainage issues and possible corrections. Ms. Williams said no.

**Applicant Statement:** Mr. Michael Davis stated he does not have anything to add to the staff report, but offered to answer questions.

**Commissioner Mulder** stated he had mentioned the drainage on his property because there is water that comes off from Mr. Davis's property onto the road, but the proposed building does not interfere with the wet area. Mr. Davis stated he has never seen water over the road. **Commissioner Mulder** stated he was concerned there may be drainage issues that may have needed to be corrected.

**Commissioner Ross** invited any speaker in favor or opposition to the request to make public comment.

**Speakers in favor:** Mr. Rob Piercefield, Eaton County Commissioner, District 1, stated there were concerns from a neighboring property owner regarding the wetlands, but he believes the concerns have been addressed and the neighbors have no objections to the building. Mr. Piercefield stated he is also a neighbor, this is a good business and Mr. Davis is a good neighbor. He stated he hopes they can build the building.

**Speakers in opposition:** None  
**Public hearing closed:** 8:39 p.m.

**Commissioner Mulder** stated he knows the property and would like to see the barn constructed so Mr. Davis could store more of his items inside a building.

**Commissioner Mulder moved to approve CU-11-92 (Michael Davis)** for a Change of Conditions to an existing Conditional Use Permit, which allows for the operation of a Construction Contractors Establishment and Storage of Heavy Equipment per Article 14.29 of the Ordinance, specifically to allow for construction of a new building at 3245 W. Grand Ledge Hwy., Section 9, Roxand Township;

1. Requirements of all other local, state and federal agencies must be met, including but not limited to: Eaton County Road Commission, Roxand Township, Barry-Eaton District Health Department, Michigan Department of Environment, Great Lakes, and Energy, Eaton County Construction Code Department, Eaton County Central Dispatch and Eaton County Drain Commissioner.
2. This Conditional Use Permit is granted to Michael Davis for above described use only. It is not transferable per the Zoning Ordinance.

**Commissioner Little** supported. A roll call was taken with eight (8) voting aye and none (0) voting nay. Motion carried.

**Other Business:** Ms. Williams stated the Eaton County Master Plan is required to be reviewed every five years; it is not required to be updated, but is required to be reviewed. She stated she would like a recommendation from the Planning Commission on whether the Master Plan should be reviewed or updated. **Commissioner Ross** asked if there is money budgeted for the update. Ms. Williams said yes. **Commissioner Mulder** asked if a consultant would be used if the Planning Commission recommends an update. Ms. Williams said yes; she stated items such as the goals and objectives and census data would be part of the review and updated accordingly. Ms. Williams stated the Master Plan is on the Eaton County Website. She asked the Planning Commission to review the current document and discuss how they would like to move forward next month.

**Reports:** Ms. Williams informed the Planning Commission they received communication from the City of Pottersville, regarding the distribution of their Master Plan for review. She stated their Master Plan is posted on their website.

Ms. Williams reported the Eaton County Board of Appeals met this evening; they denied one variance application and approved another variance application for a lesser amount than requested.

**Upcoming Cases:** Ms. Williams informed the Planning Commission there is one application to be heard at their August 6, 2019 meeting.

**Commissioner Rohrs** stated she will not be able to be at the August 6, 2019 Planning Commission Meeting.

**Public Comments:** **Commissioner Owens** stated he stayed at a nice campground recently and noticed an odor. The next morning realized it was located next to the local sewer treatment facility/lagoon.

A motion was made by **Commissioner Rohrs** to adjourn the meeting. **Commissioner Owens** supported. The meeting adjourned at 8:52 p.m.