

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (this “*Agreement*”) is made this __ day of November, 2019 (“*Effective Date*”), by and among Friends of Grass Lake Township, a Michigan nonprofit corporation (the “Friends”), Grass Lake Charter Township of Michigan (the “Township”), and L&L Development, Ltd, a Michigan corporation.

WHEREAS, L&L Development, Ltd. filed an application for a Special Use Permit for an aggregate mining operation and/or gravel pit extraction site on property located at Norvell Road, Grass Lake, Michigan, and described as follows:

Situated in the Township of Grass Lake, County of Jackson, State of Michigan, to wit:

The South ½ of the Northeast ¼ of Section 9, Town 3 South, Range 2 East, Grass Lake Township, Jackson County, Michigan

Parcel ID No. 000-15-09-200-002-00

(the “Property”);

WHEREAS, the Grass Lake Charter Township Planning Commission held a hearing on October 12, 2017, with a properly constituted quorum of Commission Members, to review L&L Development, Ltd.’s application for a Special Use Permit on the Property;

WHEREAS, the Grass Lake Charter Township Planning Commission issued a written Final Decision on October 12, 2017 (the “Final Decision”) approving L&L Development, Ltd.’s application for a Special Use Permit;

WHEREAS, the Friends appealed the Final Decision by filing a Claim of Appeal on November 13, 2017 in the Circuit Court for the County of Jackson (the “Circuit Court”), Case No. 17-3036-AA;

WHEREAS, the Circuit Court issued an Opinion and Order closing the case on April 1, 2019;

WHEREAS, the Circuit Court held that it had appellate jurisdiction to review the issuance of the Final Decision;

WHEREAS, the Circuit Court held that the Friends had proper legal standing in this lawsuit;

WHEREAS, the Circuit Court held that, while the proposed mining operation was not per se unlawful, the central problem with the Special Use Permit was the proposed location of the project;

WHEREAS, the Circuit Court identified concerns with the proximity of the project to a school and other concerns related to the geographic location of the project in relation to existing uses;

WHEREAS, the Circuit Court granted the appeal and denied approval of mining on the Property;

WHEREAS, on April 22, 2019, the Township and L&L Development, Ltd. (collectively, “Appellants”) filed applications for leave to appeal the Circuit Court’s April 1, 2019 Opinion and Order;

WHEREAS, the Circuit Court entered an Order to Show Cause on August 5, 2019;

WHEREAS, on August 29, 2019, the Court of Appeals granted Appellants’ application for leave to appeal the Circuit Court’s April 1, 2019 Opinion and Order;

WHEREAS, the Friends, the Township, and L&L Development, Ltd. wish to reach an amicable resolution, and this Agreement assumes that each party will act in a professional and amicable manner with regard to such resolution; and

WHEREAS, the parties desire to settle all claims and issues that have, or could have been raised, on the terms set forth below.

NOW, THEREFORE, in consideration of the promises, agreements, covenants and representations contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The Property.

a. Residential Development. The Property shall be developed for residential purposes only, in accordance with the existing R-1 zoning classification, or its equivalent. Until the Property is developed pursuant to the existing R-1 zoning classification, or its equivalent, the Property may be used for agricultural purposes, in full or in part, until its development is complete. The development will be consistent with the Concept Plan, Project No. 190728, Figure No. 1, dated September 24, 2019, attached as **Exhibit A**. The parties acknowledge that approvals for the Concept Plan may require modifications such as are ordinary in the course of project development, but that the development will adhere as closely as possible to the Concept Plan. L&L Development, Ltd. will not seek, and the Township will not grant, any zoning reclassifications, special use permits, zoning variances, or any other exceptions to the current R-1 zoning designations, or their equivalent, except as set forth in this Agreement.

b. No Mining. There shall be no mining of any soil, sand, gravel, or other aggregate from the Property. The parties acknowledge that earthmoving and excavation is necessary for the development of a residential subdivision, and expressly contemplate such excavation and earthmoving which is regular and customary in the development of a residential subdivision. However, the parties acknowledge that no earthmoving or excavation shall occur on the Property until the Township grants final site plan approval. Further, the parties acknowledge that materials may be brought onto the Property as necessary for the development and construction of residences and development infrastructure as contemplated by the Concept Plan.

c. Building and Use Restrictions. The parties agree to the following restrictions (collectively, the “Restrictions”): (1) the Property can be used for agricultural purposes, in full or in part, until it is developed for residential purposes, in accordance with the current R-1 zoning classification, or its equivalent; and (2) no sand, gravel, or other aggregate mining can take place on the Property, either

whole or subdivided. The Restrictions shall be a covenant, running with the land, and shall be binding on all subsequent owners of any part of the Property, their heirs, successors, and assigns. Each person or entity accepting a deed in the future or other conveyance of any part of all of the Property would take subject to the Restrictions specified in the document to be recorded with the Jackson County Register of Deeds, attached as **Exhibit B**.

2. Approval of Development

a. The Friends agree that it will not oppose any applications needed by L&L to obtain the permits necessary to effectuate development in accordance with Paragraph 1 of this Agreement.

b. The Township will not oppose any permits necessary to effectuate development in accordance with Paragraph 1 of this Agreement, unless for cause. This agreement does not affect the ability of any elected official of the Township to vote in any way, but rather is an agreement that the Township personnel will not, unless for cause, advocate in opposition to the permits.

3. Resolution of Litigation and Appeals.

a. Voluntary Dismissal of Appeals. Upon entry of the Stipulation described in Paragraph 3(c), the Appellants shall voluntarily dismiss, with prejudice, all pending appeals of all parties.

b. Voluntary Withdrawal of Pending Motions. The Friends shall voluntarily withdraw and dismiss the pending Motion for Show Cause and contempt proceeding, with prejudice and without costs to either party.

c. Circuit Court Opinion and Order. The Parties will file a joint Stipulation, in the form attached as **Exhibit C**, which will: (1) vacate the Court’s April 1, 2019, Opinion and Order; (2) dismiss with prejudice the Motion for Show Cause; and (3) dismiss with prejudice the Order to Show Cause.

4. Mutual Release. The Friends unconditionally, irrevocably and absolutely releases and discharges the Township and L&L Development, Ltd., and any of their respective parents, subsidiaries and affiliates, and their respective directors, managers, officers, executives, shareholders, members, partners, joint venture partners, heirs, beneficiaries, relatives, executors, trustees, employees, agents, representatives, insurers, predecessors, attorneys, successors or assigns, absolutely and forever, (collectively, the “Friends Released Parties”), from any and all actions, proceedings, causes of action, claims, debts, liens, liabilities, damages, losses of any kind, costs, fees, attorney’s fees and costs, suits at law or equity, judgments, and demands whatsoever of all kinds and nature, whether known or unknown, suspected or unsuspected, related to the Property, including, without limitation, all claims raised before the Circuit Court or the Court of Appeals. The Township and L&L Development, Ltd. unconditionally, irrevocably and absolutely release and discharge the Friends, along with its parents, subsidiaries and affiliates, and respective directors, managers, officers, executives, shareholders, members, partners, joint venture partners, heirs, beneficiaries, relatives, executors, trustees, employees, agents, representatives, insurers, predecessors, attorneys, successors or assigns, absolutely and forever, (collectively, the “Township Released Parties”), from any and all actions, proceedings, causes of action, claims, debts, liens, liabilities, damages, losses of any kind, costs, fees, attorney’s fees and costs, suits at law or equity,

judgments, and demands whatsoever of all kinds and nature, whether known or unknown, suspected or unsuspected, related to the Property, including, without limitation, all claims raised before the Circuit Court or the Court of Appeals. This Mutual Release is intended to have the broadest possible application and includes, but is not limited to, any tort, contract, common law, constitutional or other statutory claims.

5. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of each party.

6. Modification. Any modification to this Agreement must be made in writing and signed by all parties hereto.

7. Counterparts. This Agreement may be executed in any number of identical counterparts and via facsimile, electronic or digital signature, each of which shall be deemed to be an original for all purposes.

8. Construction. This Agreement shall not be construed more strictly against one party than against another by virtue of the fact that this Agreement may have been drafted or prepared by counsel for one of the parties, it being recognized that all parties to this Agreement have contributed substantially and materially to the preparation of this Agreement.

9. Captions. The titles or captions of the paragraphs or sections contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, extend or describe the scope of this Agreement or the intent or meaning of any provision hereof.

10. Independent Counsel. Each of the parties have been provided with an opportunity to consult with its own counsel and tax advisors with respect to this Agreement. The parties further represent that they have read this Agreement and are entering into this Agreement freely and voluntarily.

11. Authority. Each person whose signature appears hereon individually represents and warrants to all parties hereto that he or she has been duly authorized, and has full authority, to execute this Agreement on behalf of the entity on whose behalf this Agreement is executed.

12. Resolution of All Claims. The parties hereby agree and acknowledge that the terms of this Agreement have been agreed upon as a settlement of disputed claims, that none of the parties admit or concede liability to any other party on any basis, and that this Agreement resolves all issues between the parties to their mutual satisfaction. This Agreement constitutes the complete, exclusive, and final agreement between the parties concerning the subject matter hereof, and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied, between the parties hereto or any of their agents, representatives or attorneys. The parties acknowledge that they have not relied on any representations, inducements, promises, agreements, or warranties, oral or otherwise, which are not expressly embodied in this Agreement. Rather, the parties relied entirely upon their own judgment, beliefs and interest and the advice of their own counsel, and had a reasonable period of time to consider this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement effective on the date first set forth above.

Name:
FRIENDS OF GRASS LAKE TOWNSHIP

Date: _____

Name:
GRASS LAKE CHARTER TOWNSHIP

Date: _____

Name:
L&L DEVELOPMENT, LTD.

Date: _____