

H&K Group Conditional Use Application
Summary of Procedure

I. Receipt of Conditional Use Application

- a. The Township has 60 days to schedule a first hearing following receipt of a conditional use application.
- b. Due to the emergency disaster, Act 15 of 2020 tolled the 60 day hearing requirement and we must now hold a hearing by July 19, 2020.

II. Planning Commission Review

- a. Article 8 of Springfield's Zoning Ordinance addresses conditional uses and provides: "The Board of Supervisors may allow or deny conditional uses . . . after receiving recommendation from the Township Planning Commission pursuant to standards set forth in this Ordinance."
- b. The Zoning Ordinance requires the Township to supply the PC with the application for review.
- c. The Township has scheduled a PC meeting for June 18, 2020 to review the application. The Applicant will attend the PC meeting with consultants, supply a presentation and answer questions.
- d. As with all public meetings, public comment will be received at the PC meeting.

III. BOS Conditional Use Hearing

- a. A conditional use hearing is a formal hearing process involving the introduction of evidence and a decision by the Board of Supervisors to approve the use (with conditions) or deny the use. If an applicant establishes the conditional use standards set forth at Section 802 of the Zoning Ordinance and it complies with the use requirements, then the use must be approved. The BOS may attach reasonable conditions and safeguards to ensure the public health, safety and welfare is protected.
- b. Hearing Related Issues:
 - i. Hearing Protocol – At the beginning of the hearing, I will summarize the application and give instructions to the public concerning how they may participate.
 - 1. Party Status – members of the public wishing to participate as a party, must formally request party status. I will provide instructions concerning this. The Municipalities Planning Code allows anyone who is "affected" by the application to receive party status. Ordinarily, party status is limited to those individuals who reside within 500' of the property

limits, but it can be extended further. Becoming a party means that an individual can cross-examine witnesses, present evidence, provide argument and participate in an appeal.

2. Public Comment – all members of the public can provide comment on the application. This does not mean they are permitted to ask questions of the applicant or of the Board, but, some municipalities will allow for that. Public comment occurs after all of the evidence is received.
 - ii. Proof of Advertising and Public Notice – After completing party status requests, I will mark and introduce numerous exhibits at the start of the hearing to establish compliance with the Municipalities Planning Code advertising and public notice requirements.
 - iii. Applicant's Case – Applicant will often present an opening statement to summarize the application and then will call witnesses to establish its case. After the Applicant's attorney questions a witness, I must allow for each party to cross examine the witness. The Board and I then have the opportunity to ask questions of the witness. The applicant will then call additional witnesses and the same process is followed, until all witnesses have been called and the applicant rests.
 - iv. Parties Cases – I must allow for any other parties to present witnesses and evidence. They or their witnesses will also be subject to cross-examination and questions from the Applicant, the BOS and me.
 - v. Township Case – If the Township was taking a specific position opposing the application, the Township would present witnesses and evidence. In this case, the Township will likely introduce its engineer's review of the proposal and reports from a retained hydrogeologist. It would be preferable to introduce these documents before the hearing starts, so that the Applicant can address them during its case in chief. Otherwise, the Applicant will likely seek time to present rebuttal evidence.
 - vi. Closing Arguments
 - vii. Public Comment
 - viii. Deliberations – the BOS is permitted to deliberate in executive session concerning its decision. I would recommend that you do so in this case.
- c. Conditional Use Standards – pursuant to Section 802 of the Zoning Ordinance, the BOS must make the following findings:
1. The Board of Supervisors shall determine that access to the site is safe and may refuse to permit a conditional use where insufficient distance between a curb cut and a street intersection is provided, or

require combining of access with an adjoining land use. The Board of Supervisors may require off-site traffic improvements where a hazardous condition would otherwise be created, if authorized by State law.

2. The Board shall require that the proposed use be developed in a manner that is compatible with the surrounding existing uses. Conditions controlling planting of shade trees, evergreen buffers, and planted berms may be imposed to create a buffer beyond the normal requirements of this Ordinance.

3. The Board shall impose conditions on lighting and signs to insure that glare does not disrupt residential areas, distract motorists, or intrude in the background near traffic lights.

4. The application shall not be approved unless the Board shall make favorable findings on all of the following:

A. The proposal is appropriate to the tract in question and will not disrupt or destroy the character of stable residential neighborhoods.

B. The proposal provides for adequate access to public roads, without creating hazardous conditions at intersections or areas of poor road alignment, and without creating undue congestion. Where a Traffic Impact Analysis is required by the Subdivision and Land Development Ordinance, it shall be submitted with the conditional use application.

C. The applicant has provided credible evidence that the proposal conforms to all applicable requirements of this Ordinance.

D. The proposed water supply and sewage systems will be adequate and meet applicable requirements. Where applicable, a certificate of adequacy of sewage and water facilities shall be provided. Where a utility or stormwater matter will be required to be addressed under the Township Subdivision and Land Development Ordinance, Stormwater Ordinance or another Township ordinance, the Board of Supervisors may defer detailed consideration of such matters and instead place a condition on the conditional use approval to require evidence of compliance with such ordinances to be provided when such matters will be before the Township.

E. The effects of the proposed change will result in the most appropriate use of land, the conservation of the value of buildings, safety from fire, panic and other dangers; adequacy of light and air, the prevention of overcrowding of land and congestion of population, and the adequacy of public and community services.

F. The proposed use will be suitable for the site, considering the disturbance of steep slopes, mature woodland, wetlands, floodplains, lake, pond, watercourse or wetland buffers, springs, seeps, vernal pools, and other important natural features, and considering measures that the applicant proposes to conserve such features as a condition of approval.

G. The proposed use shall not result in a change in water quality designation or special protection status of any water body in the Township.

d. G-7 Quarry Requirements

Section 404.G-7 of the Zoning Ordinance contains the Quarry Use requirements as follows:

(7) *G-7 Quarry*. Shall include extraction of materials from the ground, such as sand, clay, shale, gravel, topsoil, stone and similar materials.

(a) *General Requirements*.

1) All applications for zoning permits or annual renewal permits for quarries shall be made in writing by the owner, tenant, vendee under contract of sale on a form supplied by the Township, which shall be filed with the Zoning Officer. The applications shall be accompanied by plans and other materials to show compliance with the following provisions and regulations:

a) There shall be a berm of minimum height of 15 feet and maximum height of 50 feet surrounding the entire property site. Berms will be required along existing quarry faces to the extent which the Board of Supervisors determines is feasible. The slope of the sides of the berm shall not exceed a 3:1 ratio. Berms shall be planted and dusted, and erosion control measures shall be taken as may be approved by the County Conservation District. Berms shall begin at a point no closer to a street than the ultimate right-of-way line. No berms shall be constructed closer than 15 feet to a district in which extraction operations are not permitted. Planting of the berms and yard areas shall be sufficient to screen the quarry extraction operations. Both planting and berm construction shall be according to a plan approved by the Board of Supervisors which shall include a reasonable timetable for completion. Such planting shall consist of evergreens of such species and size as will produce, within 3 years, a complete all season visual screen of at least 8 feet in height.

b) A chain link type fence at least 8 feet in height surmounted by three strands of barbed wire, shall be required to surround the entire within the setback area at a point no closer than the ultimate right-of-way line to be maintained in a constant state of good repair. Appropriate warning signs shall be mounted or posted along the fence at intervals of not more than 100 feet.

c) An adequate internal circulation pattern of driveways shall be maintained between the excavation sites and processing areas. Use of public streets shall not be permitted for hauling between extractive and processing areas except where required in connection with such pattern, or for weighing or for access of vehicular traffic originating from or destined to points beyond the limits of such excavation sites and processing areas. Access shall be regulated in accordance with the Township Subdivision and Land Development Ordinance.

d) No slope shall be maintained exceeding the normal limiting angle of slippage of the material in which the excavation or extraction is being made. No undercutting shall be permitted within the setback area.

e) All operations shall be conducted with sufficient lateral support to be safe with respect to: (i) hazard to persons, (ii) physical damage to adjacent lands or improvements, or (iii) damage to any street, sidewalk, parking area, or utility by reason of slide, sinking, or collapse.

f) Stock piles shall not exceed 75 feet in height from the original ground surface and shall not be located within the setback provided for in this Ordinance. All reasonable precautions shall be taken to prevent any materials or waste deposited upon any stock pile from being washed, blown, or otherwise transferred off the site by normal causes or forces.

g) All drainage from the site of extraction operations shall be controlled by dikes, barriers, or drainage structures sufficient to prevent any silt, debris, or other loose materials from filling any existing drainage course or encroaching on streets or adjacent property, or entering into any stream, pond, well, subterranean stream or other body of water.

h) The use shall prove compliance with State blasting regulations.

i) All off-street parking spaces shall be provided as the Township Board of Supervisors shall determine as adequate to serve customers, employees, visitors, and vehicles normally parked on the premises. No parking shall be permitted in the front, side or rear yards except parking shall be permitted behind any berm.

j) All trucks carrying stone which travel on public roads shall be covered so as to prevent stones from falling onto and damaging public roads.

2) Any application for a zoning permit or an annual renewal permit as hereinafter provided shall be accompanied by plans and other information to satisfy the criteria set forth in clause (a) above and in addition shall depict:

a) Plan of general area within a ½ mile radius of the site at scale of 500 feet or less to the inch with a 50-foot or less contour interval to show:

i. Existing data, including location of proposed site.

ii. Land use pattern including building locations and historical site of buildings, if any.

iii. Roads, indicating major roads and showing width, weight loads, types of surfaces and traffic data.

iv. Existing and proposed uses of neighboring facilities including:

v. Subdivisions.

vi. Parks, schools and places of worship.

vii. Streets (new and reconstructed).

viii. Other uses potentially affecting or affected by the proposed extraction operation.

b) Plan of proposed site at the scale of 100 feet or less to the inch with a 10 feet or less contour interval to show:

i. Basic data.

ii. Soils and geology, with particular attention to carbonate geology, if present.

iii. Groundwater data and water courses.

iv. Vegetation—with dominant species.

v. Wind data—directions and percentage of time.

vi. Proposed usage.

vii. Final grading by contours.

viii. Interior road pattern, its relation to operation yard and points of ingress and egress to State and Township roads.

ix. Location and estimated amount and description of aggregate and overburden to be removed.

- x. Location of stock piles and present or proposed heights.
- xi. Ultimate use and ownership of site after completion of operation.
- xii. Source and amount of water if the proposal will use water, as well as water pumping rates and associated cones of depression.
- xiii. Plan of operation showing—proposed tree screen locations. Soil embankments for noise, dust and visual barriers and heights of soil mounds method of and provision for disposition of excess water during operation location and typical schedule of blasting machinery—type and noise. Safety measures—monitoring of complaints.

3) Any application for an initial permit or for an annual renewal permit as hereinafter provided shall be initially referred to the Planning Commission for review and to the Township Engineer for review prior to final action by the Board of Supervisors. The Board of Supervisors in acting upon any original permit application or annual renewal permit application shall take into account the following:

a) Compliance with the requirements set forth in subclause 1)a) and b) above.

b) The impact that the proposed operations would have upon the health, safety and welfare of the community including specifically the finding that the use will not impact adversely upon the following.

c) Ground water and surface water supply impacts outside the subject property.

d) Ground vibrations.

e) Noise.

f) Dust dissemination.

g) Ground, ground water, surface water and air contamination by toxic, hazardous or other deleterious substances.

4) No permit for any extraction operation shall issue until the applicant shall have first demonstrated to the Board of Supervisors that it has obtained all other permits and approvals required from any other regulatory agencies to conduct the extraction operation.

(b) *Annual Renewal Permit.*

1) Each operator/owner of extraction operations within the Quarry District shall be required to apply for and obtain an annual renewal permit during each year of its operation.

2) The renewal permit application must be received by the Township along with the appropriate fee not less than 45 days prior to the expiration of the then current permit.

3) The application shall include updated plans and other materials showing the information required for the issuance of an original permit.

4) The annual renewal permit shall issue upon the Board of Supervisors' being satisfied that the applicant has satisfied all of the obligations required of the owner/operator for an original issue permit and provided further that the criteria set forth in subclause 1) above are satisfied.

(c) *Fees.* Applicants for zoning permits and annual renewal permits for extraction operations shall pay a fee which shall be in accordance with the fee schedule as may be from time to time adopted and amended by the Township, provided, however, that the fee for the zoning permit or annual renewal permit for extraction

operations may not be increased by more than 10 percent per annum over the fee in effect during the previous year.

(d) *Rehabilitation and Conservation Requirements.* The following provisions shall apply to all extraction operations:

1) The owner, operator, lessee of any extraction operation shall, at the time of application for a zoning permit submit to the Township its reclamation plan as submitted to DEP. No permit shall issue where said reclamation plan provides for quarrying in areas of the site not permitted by this Ordinance.

2) Along with said plan, the applicant shall include a timetable for the reclamation proposed for the site in general with an actual timetable for the reclamation proposed for the site in general with an actual timetable for reclamation of slopes as may be found reasonable by the Board of Supervisors within the setback areas.

3) The owner, lessee, or operator of any extraction operation within the Township shall, within 6 months from the date of this Ordinance or receipt of a zoning permit authorizing said extraction operation, whichever is the latter, submit a plan which shall include descriptions and plans for suitable after-conditions or after-uses for all the land affected.

4) Plans for the rehabilitation uses may include the following after-uses among others:

a) Open areas suitably graded and covered with suitable shrubs, grasses, or trees.

b) Recreational land, ponds, and lakes.

c) Agriculture of any type.

d) Sites for residential use.

5) Rehabilitation shall commence within 1 year following the completion or the discontinuance for a period of 1 year of any extraction operation (or the completion of the excavation of a portion of an entire operation which can feasibly be restored separately from other portions of the operation and which is not necessary to the operation). Such rehabilitation shall be completed within 5 years from the date rehabilitation commenced except where a longer period of time is specifically authorized as part of the rehabilitation program. Normal benching operations for sloping purposes shall not be construed as requiring the commencement of rehabilitation.

6) Rehabilitation shall include removal of all debris, temporary structures, and stock piles.

7) A layer of arable soil of sufficient depth to sustain grass, shrubs, and trees shall be provided. Grass, shrubs, and trees native to the area shall be planted thereon within 6 months after the providing of arable soil.

8) Where the extraction operations are to be filled as part of the rehabilitation process, no material shall be used for fill purposes other than earth, stone, sand or concrete.

9) Water accumulation upon the site may be retained after the completion of such operations where the excavation cannot be reasonably drained by gravity flow, provided that adequate provision shall be made to avoid stagnation, pollution and the danger of improperly controlled release of such waters from the site.

10) Upon receipt of the rehabilitation plans, the Township shall review the plans to insure compliance with all provisions of this performance standard. Upon

approval thereof, the Township shall issue a certificate indicating approval of the plans as submitted or amended, and the approved plans shall be permanently filed in the official records of the Township.

11) Plans may be amended from time to time by approval of the Township upon application of the owners.

12) *Environmental Impacts.* An environmental impact assessment shall be submitted to the Township that details potential impacts to human health and the environment from all aspects of the use, including, but not limited to:

- a) Ground water and surface water.
- b) Air quality (particulate and toxic substances).
- c) Noise and odor beyond the property line.
- d) Vehicle traffic, particularly to consider the ability of the road system to handle the truck traffic.

e) Soil quality.

13) A performance bond or other financial security acceptable to the Township shall be required by the Township. The amount of such security shall be determined by the Township to be sufficient to insure the rehabilitation of the affected site in accordance and compliance with the standards for the issuance of any original permit or annual renewal permit in accordance with the provisions of the plan of rehabilitation as submitted pursuant to this Ordinance, if the bond posted with DEP or other agency is not kept in force or if the Township is not named therein. The Township may require that the bond posted with any State agency may not be withdrawn or reclaimed without Township approval.

14) A traffic impact study shall be submitted at the time of the conditional use application. Such study shall meet the requirements of the Subdivision and Land Development Ordinance and shall analyze the ability of the road base and widths of existing public streets to handle the resulting traffic.

15) If blasting will be used, a pre-blast survey shall be conducted of existing conditions of buildings and streets in the vicinity. A copy of such survey shall be submitted to the Township.

(e) *Inspection.* To insure that the provisions of the above Sections of this Ordinance are strictly satisfied, the Township shall have the right to inspect any extraction operation within its boundaries. Such inspection or inspections, as the Township may deem necessary, may be conducted on any working day of the year, during regular business hours.

(f) *Hours of Operation.* No extraction operation or machinery connected with processing, shipping or crushing shall operate between the hours of 10 p.m. and 6 a.m.

(g) *Area and Dimensional Requirements.*

Minimum lot area	25 acres
Maximum building coverage	.25
Maximum impervious surface ratio	.25
Minimum lot width at building setback line	300 feet

Yards:	
Front	125 feet*
Side (each/total)	125 feet**
Rear	125 feet**
Maximum building height	40 feet***
Notes:	
*The front yard shall be measured from the ultimate right-of-way line. No part of the front yard may be sloped or cut in any fashion except as necessary for access roads.	
**The side and rear yard setbacks may be sloped beginning at a point no closer than 50 feet from any boundary line to a point 125 feet from said boundary line. The slope shall not exceed a 3:1 slope and shall be reclaimed by seeding and planting in accordance with a plan and timetable approved by the Board of Supervisors.	
***Building height shall be applicable only to those buildings or structures having a permanent fixed foundation or location on the ground and shall not include machinery or other temporary structures necessary to the operation of extraction operations, asphalt plants, or ready mix concrete plants.	

(h) Asphalt plants and ready mix concrete plants are permitted as accessory uses to quarries, provided that the following standards are met:

1) Hereafter an asphalt plant or ready mix concrete plant may not be established until a zoning permit is issued from the Board of Supervisors. In determining whether a zoning permit shall issue for an asphalt plant or a ready mix concrete plant, the said application shall be referred to the Planning Commission and the Township Engineer for review. The Planning Commission and Engineer shall make a report to the Township Supervisors who shall then issue a permit upon its finding that the regulations pertinent to the said use have been satisfied and its further finding that the said use meets the criteria set forth herein.

2) Any application for a use permit for an asphalt plant or ready mix concrete plant shall be accompanied by the following plans and materials:

a) Plot plan of the site at a scale of 100 feet to the inch showing the location and dimensions of the plant in relation to the operation and boundaries.

b) Any and all permits necessary from any State or other governmental agency which may now or in the future regulate such operation.

c) Satisfactory proof that all State and other governmental regulations and guidelines pertinent to the use have been satisfied.

d) A plan demonstrating or illustrating the methods by which noise, dust, and the spread of toxic or hazardous waste will be controlled to meet the requirements of this Ordinance and to control nuisances.

3) *Regulations for Asphalt Plant and Ready Mix Concrete Plants.*

a) No asphalt plant or ready mix concrete plant or related processing, shipping or crushing shall operate between the hours of 9 p.m. and 6 a.m.

b) The asphalt plant or ready mix concrete plant shall be located such that the land surrounding the plant shall be bermed in such a fashion that the asphalt plant or ready mix concrete plant is not visible at the property line.

c) Prior to commencement of asphalt plant and/or ready mix concrete plant operations, all screening and berming shall be completed to totally screen the operation from view at the property line.

4) *Environmental Impacts*. An environmental impact assessment shall be submitted to the Township that details potential impacts to human health and the environment from all aspects of the use, including, but not limited to:

a) Ground water and surface water.

b) Air quality (particulate and toxic substances).

c) Noise and odor beyond the property line.

d) Vehicle traffic, particularly to consider the ability of the road system to handle the truck traffic.

e) Soil quality.

(i) See the carbonate geology requirements in § [509.2.1](#) of this Ordinance.