

MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY PLANNING COMMISSION HELD THURSDAY, APRIL 11, 2019, ST. LOUIS COUNTY PUBLIC WORKS, LOWER-LEVEL TRAINING ROOM, VIRGINIA, MN.

9:00 A.M. – 10:47 A.M.

Planning Commission members in attendance: Steve Filipovich
Daniel Manick
Sonya Pineo, Chair
Dave Pollock
Roger Skraba
Ray Svatos
Diana Werschay

Planning Commission members absent: David Anderson
Commissioner Keith Nelson

Decision/Minutes for the following public hearing matters are attached:

NEW BUSINESS:

- A. KGM Contractors Inc., a conditional use permit for a general purpose borrow pit as an Extractive Use - Class II.
- B. Nick Clattenburg, a conditional use permit for a general purpose borrow pit as an Extractive Use - Class II.
- C. Peterson Excavating & Landscaping LLC, a conditional use permit for a general purpose borrow pit as an Extractive Use - Class II.

OTHER BUSINESS:

Motion by Skraba/Manick to approve the minutes of the March 14, 2019 meeting.

In Favor: Manick, Pineo, Pollock, Skraba, Svatos - 5

Opposed: None – 0

Abstained: Filipovich, Werschay - 2

Motion carried 5-0-2

NEW BUSINESS:

KGM Contractors, Inc.

The first hearing item is for KGM Contractors, Inc., a conditional use permit for a general purpose borrow pit as an Extractive Use - Class II, located in S19, T58N, R15W (White). *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is proposing a general purpose borrow pit to include crushing, washing, portable hot mix and recycling of concrete and asphalt.
- B. There will be an average of up to six trucks per day.

- C. The borrow pit will follow the standard hours of operation. The standard hours of operation are from 7:00 a.m. until 8:00 p.m. Monday through Saturday with no Sunday hours and no holidays.
- D. This is a remote, rural area with few residences.

Mark Lindhorst reviewed staff facts and findings as follows:

A. Plans and Official Controls:

- 1. Zoning Ordinance 62, Article V, Section 5.6 A., indicates general purpose borrow pits are an allowed use with a conditional use permit.
- 2. The St. Louis County Comprehensive Land Use Plan under Objective LU-4.5 states that the development of new general purpose borrow pits should be directed to areas designated as Forest and Agriculture (FA) on the Future Land Use Map. The proposed site is zoned Forest Agriculture Management that allows general purpose borrow pits with a conditional use permit.

B. Neighborhood Compatibility:

- 1. The area consists of large parcels of forested land. There are no residential structures within one quarter mile of the proposal. The Town of White also uses a portion of the proposed haul road for access to a township borrow pit.

C. Orderly Development:

- 1. This is a rural area consisting of primarily large undeveloped parcels. The subject property was issued a public works borrow pit permit in 2018. The haul road is located away from residential properties and accesses onto a paved public road that is able to handle the anticipated traffic.

D. Desired Pattern of Development:

- 1. The location and character of the proposal is consistent with a desirable pattern of development because the proposed use is located in a rural area with low density development. The proposed use will not affect the management of the forest resource that is predominant in the area which meets Goal NE-1 of the St. Louis County Comprehensive Land Use Plan. Objective NE-1.1 states the county approvals related to land use, development and management will be made to address current needs without compromising the ability to meet future needs.

Mark Lindhorst noted no items of correspondence.

STAFF RECOMMENDATION

In the event that the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit to allow a general purpose borrow pit as an Extractive Use-Class II in the NW1/4 of the NE1/4, S19, T58, R15W, the following conditions shall apply:

Condition Precedent:

- 1. The applicant shall obtain access approval from the appropriate road authority.

Conditions Concurrent:

1. All minimum extractive use standards shall be followed.
2. Borrow pit excavation shall be limited to less than 40 acres.
3. The applicant shall comply with all county, state and federal regulations.

Edward Kippley, White Township Supervisor, stated that the township has a borrow pit that works in conjunction with St. Louis County. Two years ago, Stepetz Road was utilized as a detour around County Road 100. A majority of the road is gravel. This year, Stepetz Road is being rebuilt. White Township is building their portion of the road while the county is rebuilding the rest. The township is concerned with heavy truck traffic and dust control on the gravel section of road. They are not against the borrow pit, but they are concerned that the trucks would be hauling material too heavy for Stepetz Road.

Heath Line, for KGM Contractors, stated that he has talked with the county engineer regarding the road projects. While they do not have a current project, they would like to utilize this gravel pit to be competitive when jobs do come up. They will have to abide by all of the road requirements.

One member of the audience spoke with concerns:

William Warren, 5717 Stepetz Road, asked if there would be a hot mix plant and is concerned about the smell.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. *Mark Lindhorst* stated that a portable hot mix plant is being proposed. This is an allowed use in any general purpose borrow pit. If the road project comes in, a portable hot mix plant would allow them to use the plant to mix material and be done within a few weeks.
- B. Inquired if one of the approval standards for a general purpose borrow pit includes the road. *Mark Lindhorst* stated that this is why there is a condition that the applicant seek approval from the appropriate road authority. If there was an issue with the road, the applicant may not be able to use it.

DECISION

Motion by Skraba/Manick to approve a conditional use permit to allow a general purpose borrow pit as an Extractive Use - Class II in the NW1/4 of the NE1/4, S19, T58, R15W, based on the following facts and findings:

- A. Plans and Official Controls:
 1. Zoning Ordinance 62, Article V, Section 5.6 A., indicates general purpose borrow pits are an allowed use with a conditional use permit.
 2. The St. Louis County Comprehensive Land Use Plan under Objective LU-4.5 states that the development of new general purpose borrow pits should be directed to areas designated as Forest and Agriculture (FA) on the Future Land Use Map. The proposed site is zoned Forest Agriculture Management that allows general purpose borrow pits with a conditional use permit.

3. The use does conform to the land use plan based on the facts mentioned above.

B. Neighborhood Compatibility:

1. The area consists of large parcels of forested land. There are no residential structures within one quarter mile of the proposal. The Town of White also uses a portion of the proposed haul road for access to a township borrow pit.
2. The proposal is compatible with the existing neighborhood as there are other gravel pits in the area.

C. Orderly Development:

1. This is a rural area consisting of primarily large undeveloped parcels. The subject property was issued a public works borrow pit permit in 2018. The haul road is located away from residential properties and accesses onto a paved public road that is able to handle the anticipated traffic.
2. The use will not impede the normal and orderly development to surrounding area as the subject gravel pit is already established.

D. Desired Pattern of Development:

1. The location and character of the proposal is consistent with a desirable pattern of development because the proposed use is located in a rural area with low density development. The proposed use will not affect the management of the forest resource that is predominant in the area which meets Goal NE-1 of the St. Louis County Comprehensive Land Use Plan. Objective NE-1.1 states the county approvals related to land use, development and management will be made to address current needs without compromising the ability to meet future needs.
2. The location of the proposed use is consistent with a desirable pattern of development because once the pit is depleted, it will be reclaimed and can be used for other types of development in the future.

The following conditions shall apply:

Condition Precedent:

1. The applicant shall obtain access approval from the appropriate road authority.

Conditions Concurrent:

1. All minimum extractive use standards shall be followed.
2. Borrow pit excavation shall be limited to less than 40 acres.
3. The applicant shall comply with all county, state and federal regulations.

In Favor: Filipovich, Manick, Pineo, Pollock, Skraba, Svatos, Werschay - 7

Opposed: None – 0

Motion carries 7-0

Nick Clattenburg

The second hearing item is for Nick Clattenburg, a conditional use permit for a general purpose borrow pit as an Extractive Use – Class II, located in S6, T51N, R16W (Grand Lake). *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is proposing a general purpose borrow pit to include crushing and screening.
- B. There will be up to 30 trucks per day.
- C. The borrow pit will follow the standard hours of operation. The standard hours of operation are from 7:00 a.m. until 8:00 p.m. Monday through Saturday with no Sunday hours and no holidays.
- D. The applicant has an easement to access the property through tax-forfeit property.
- E. There are wetlands located on the property. The applicant will maintain the 50 foot buffer setback.

Mark Lindhorst reviewed staff facts and findings as follows:

A. Plans and Official Controls:

- 1. Zoning Ordinance 62, Article V, Section 5.6 A, indicates general purpose borrow pits are an allowed use with a conditional use permit.
- 2. The St. Louis County Comprehensive Land Use Plan under Objective LU-4.5 states that the development of new general purpose borrow pits should be directed to areas designated as Forest and Agriculture (FA) on the Future Land Use Map. The proposed site is zoned Multiple Use which allows general purpose borrow pits with a conditional use permit.
- 3. St. Louis County Comprehensive Land Use Plan under Objective LU-7.1 states to encourage commercial opportunities in existing commercial corridors along collector or arterial routes.

B. Neighborhood Compatibility:

- 1. The proposed borrow pit is located along the Highway 53 corridor which is zoned appropriately as Multiple Use.
- 2. There are three residences located within 600 feet of the proposed borrow pit. There are three borrow pits located within one-half mile of the proposal.

C. Orderly Development:

- 1. The existing neighborhood consists of large tracts of forested land with several smaller residential parcels located adjacent to Highway 53. The proposal will use an existing access road that was used by the Land Department for a county borrow pit.

D. Desired Pattern of Development:

- 1. The subject parcel as well as the majority of the surrounding area is zoned Multiple Use (MU)-4.
- 2. Multiple Use zone districts allow a wide range of uses including borrow pits.

E. Other Factor:

- 1. The proposal will use an existing access that was established for a borrow pit on state land. The access will be located on Highway 53 which is an arterial road that is able to handle that anticipated truck traffic.

Mark Lindhorst noted two items of correspondence from Grand Lake Township and Rick Wetterlind in support of the proposed use. It should be noted these items of correspondence were provided to the Planning Commission prior to the hearing.

STAFF RECOMMENDATION

In the event that the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit to allow a general purpose borrow pit as an Extractive Use-Class II on the NE1/4 of the SE1/4, except for that portion lying NE of a strip of land 225 feet in width and the SW1/4 of the NE1/4, except that portion lying NE of a strip of land 225 feet in width, located in S6, T51N, R16W, the following conditions shall apply:

Condition Precedent:

1. The applicant shall obtain access approval from the appropriate road authority.

Conditions Concurrent:

1. Wetland Conservation Act requirements shall be followed.
2. All minimum extractive use standards shall be followed.
3. The applicant shall comply with all county, state and federal regulations.

Dewey Johnson, Grand Lake Township Supervisor, stated the township was originally opposed to this because of the portable hot mix issue. The township now supports this project.

Nick Clattenburg, the applicant, stated that this pit will be used for small projects.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *Filipovich* inquired if the applicant can use both sides of the property. *Mark Lindhorst* stated there were only two sections from the legal description included in the request. The applicant cannot go beyond the boundaries for extractive use.
- B. Inquired about portable hot mix. *Mark Lindhorst* stated that if the intention is to have portable hot mix, it should be added to the conditional use application. That way, the use can be addressed in the public hearing.

DECISION

Motion by Skraba/Svatos to approve a conditional use permit for a general purpose borrow pit as an Extractive Use – Class II on the NE1/4 of the SE1/4, except for that portion lying NE of a strip of land 225 feet in width and the SW1/4 of the NE1/4, except that portion lying NE of a strip of land 225 feet in width, located in S6, T51N, R16W, based on the following facts and findings:

- A. Plans and Official Controls:
 1. Zoning Ordinance 62, Article V, Section 5.6 A, indicates general purpose borrow pits are an allowed use with a conditional use permit.
 2. The St. Louis County Comprehensive Land Use Plan under Objective LU-4.5 states that the development of new general purpose borrow pits should be directed to areas designated as Forest and Agriculture (FA) on the Future Land Use Map. The

proposed site is zoned Multiple Use which allows general purpose borrow pits with a conditional use permit.

3. St. Louis County Comprehensive Land Use Plan under Objective LU-7.1 states to encourage commercial opportunities in existing commercial corridors along collector or arterial routes.

B. Neighborhood Compatibility:

1. The proposed borrow pit is located along the Highway 53 corridor which is zoned appropriately as Multiple Use.
2. There are three residences located within 600 feet of the proposed borrow pit. There are three borrow pits located within one-half mile of the proposal.

C. Orderly Development:

1. The existing neighborhood consists of large tracts of forested land with several smaller residential parcels located adjacent to Highway 53. The proposal will use an existing access road that was used by the Land Department for a county borrow pit.

D. Desired Pattern of Development:

1. The subject parcel as well as the majority of the surrounding area is zoned Multiple Use (MU)-4.
2. Multiple Use zone districts allow a wide range of uses including borrow pits.

E. Other Factor:

1. The proposal will use an existing access that was established for a borrow pit on state land. The access will be located on Highway 53 which is an arterial road that is able to handle that anticipated truck traffic.

The following conditions shall apply:

Condition Precedent:

1. The applicant shall obtain access approval from the appropriate road authority.

Conditions Concurrent:

1. Wetland Conservation Act requirements shall be followed.
2. All minimum extractive use standards shall be followed.
3. The applicant shall comply with all county, state and federal regulations.

In Favor: Filipovich, Manick, Pineo, Pollock, Skraba, Svatos, Werschay - 7

Opposed: None – 0

Motion carries 7-0

Peterson Excavating & Landscaping LLC

The third hearing item is for Peterson Excavating & Landscaping LLC, a conditional use permit for a general purpose borrow pit as an Extractive Use – Class II, located in S6, T51N, R16W (Grand Lake). *Stephen Erickson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for a general purpose borrow pit to include crushing and screening.
- B. On average 10 trucks will leave the pit per day.
- C. The hours of operation will meet the standard hours of operation per Zoning Ordinance 62. The standard hours of operation are from 7:00 a.m. until 8:00 p.m. Monday through Saturday with no Sunday hours and no holidays.
- D. The applicant runs a small excavating company and would use the proposed pit to provide material for projects such as building septic systems, landscaping and backfilling basements.
- E. The applicant stated that he would like to have a pile of class 5 crushed, which would last an estimated 6 to 8 years.
- F. The applicant is proposing to use an existing pit entrance off of Midway Road. This access will require approval from both St. Louis County Land and Minerals Department and Canosia Township.
- G. An alternative access would be off of Kehtel Road through a residential parcel that is also owned by the applicant. This access would require Canosia Township approval (as Kehtel Road is a township road) and a waiver by the Planning Commission from Zoning Ordinance 62, Article VI, Section 6.22G (b) to impact wetlands.
- H. There is a small area of wetlands on the applicant's residential property that would require crossing.
- I. There are five gravel pits located within a mile of the proposed borrow pit.

Stephen Erickson reviewed staff facts and findings as follows:

- A. Plans and Official Controls:
 - 1. Zoning Ordinance 62, Article V, Section 5.6 B., indicates general purpose borrow pits are an allowed use with a conditional use permit.
 - 2. The St. Louis County Comprehensive Land Use Plan under Objective LU-4.5 states that the development of new general purpose borrow pits should be directed to areas designated as Forest and Agriculture (FA) on the Future Land Use Map.
 - 3. The applicant's parcel is designated as FA within Planning Area 6 on the Future Land Use Map.
- B. Neighborhood Compatibility:
 - 1. There are five residential dwellings within 1,900 feet of the proposed pit boundary. Two of the five dwellings are owned by the applicant.
 - 2. The proposed pit location is on the north half of the parcel, setback away from the adjoining parcels with residential dwellings.
 - 3. The parcels to the north, west and east of the pit are larger mostly undeveloped parcels. The parcels to the south are smaller in size and mostly residential.
 - 4. There are five existing borrow pits within one mile of the proposed pit, with the closest located on the neighboring parcel to the north.

C. Orderly Development:

1. The majority of the development along Kehtel Road and Midway Road is residential.
2. The proposed use is bordered by a county borrow pit to the north.

D. Desired Pattern of Development:

1. The subject parcel, along with parcels to the north, south and east are zoned Multiple Use (MU)-5.
 - a. Multiple Use zone districts are intended to accommodate a wide range of uses.
 - b. A general purpose borrow pit is an allowed use in a Multiple Use district with a conditional use permit.
2. The area is zoned MU-5 requiring 2.5 acres. A majority of the parcels in the area are larger than what the density allows.

E. Other Factors:

1. Canosia Township previously denied a conditional use permit request for a borrow pit on this parcel in 2009. The denied request included crushing, recycling of concrete and asphalt, and a hot mix plant. The proposed access was to be off of Midway Road. The previous proposal was for a large scale commercial general purpose borrow pit, whereas the current proposal is for a smaller scale borrow pit operation for residential landscaping and septic system installation. Staff recommends that crushing, recycling of concrete and asphalt and hot mix only be allowed for Public Works road projects and require an Extractive Use-Class I permit, which would limit the timeframe for which such uses would be allowed.
2. The denial had the following concerns: public safety on Midway Road, residents' concerns and there is suitable access to existing pits.

Stephen Erickson noted three items of correspondence from Tom and Dorothy Ferguson, Sandra McRae and Ryan and Hillary Creurer in opposition to the proposed use. It should be noted these items of correspondence were provided to the Planning Commission prior to the hearing.

STAFF RECOMMENDATION

In the event that the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit to allow a general purpose borrow pit as an Extractive Use - Class II, the following conditions shall apply:

Conditions Precedent:

1. The applicant shall obtain access approval from the appropriate road authority.
2. Applicant shall provide documentation of legal access to the parcel.
3. A wetland delineation shall be completed.
4. All Wetland Conservation Act Requirements shall be followed.
5. Crushing, recycling of concrete and asphalt and hot mix shall only be allowed for Public Works road projects and require an Extractive Use-Class I permit, which would limit the timeframe for which such uses would be allowed.
6. There shall only be one access road into the pit.

Conditions Concurrent:

1. All minimum extractive use standards shall be followed.
2. Borrow pit excavation shall be limited to less than 40 acres.

Jason Peterson, 5797 Kehtel Road, the applicant, clarified that the Land and Minerals Department has not yet denied use of the county pit road off of the Midway Road. He would rather use the existing haul road rather than use Kehtel Road. He added that most of the pits in the area are depleted or do not use the same material he will use. His pit will be used for sand projects and will not be a large operation. His projects are more residential and not road projects. As he does not intend to do road projects, he will likely not require a Public Works Extractive Use-Class I permit. He did request that crushing be allowed with this pit.

The *Planning Commission* discussed the following:

- A. Inquired about the Extractive Use-Class I permits. *Jenny Bourbonais*, Acting Secretary, stated that this permit is only for a specific road project. The process is similar to a performance standard permit where the applicant would have a list of specific requirements to follow and there are notifications sent to adjoining landowners around the pit. The permit would not require a public hearing.
- B. Inquired about the Land Department's letter stating there will be no access allowed. *Stephen Erickson* stated that the applicant has been working with that department.
- C. Inquired about crushing as an allowed use. *Jenny Bourbonais* stated it is an allowed use and that there could be a condition placed to allow a one-time use for crushing.
- D. Inquired who would be the point of contact if there are any issues with the pit. *Jenny Bourbonais* stated the Planning and Community Development Department would be that contact.
- E. Commission member *Skraba* discussed that crushing should be allowed in this gravel pit since the proposal is smaller in scale for residential uses and there will be less use and truck traffic than larger operations.

DECISION

Motion by Skraba/Manick to approve a conditional use permit for a general purpose borrow pit as an Extractive Use – Class II, based on the following facts and findings:

- A. Plans and Official Controls:
 1. Zoning Ordinance 62, Article V, Section 5.6 B., indicates general purpose borrow pits are an allowed use with a conditional use permit.
 2. The St. Louis County Comprehensive Land Use Plan under Objective LU-4.5 states that the development of new general purpose borrow pits should be directed to areas designated as Forest and Agriculture (FA) on the Future Land Use Map.
 3. The applicant's parcel is designated as FA within Planning Area 6 on the Future Land Use Map.
 4. The use conforms to the land use plan because it is an allowed use with a conditional use permit. In addition, it also conforms due to size and scale of the project.
- B. Neighborhood Compatibility:
 1. There are five residential dwellings within 1,900 feet of the proposed pit boundary. Two of the five dwellings are owned by the applicant.

2. The proposed pit location is on the north half of the parcel, setback away from the adjoining parcels with residential dwellings.
3. The parcels to the north, west and east of the pit are larger mostly undeveloped parcels. The parcels to the south are smaller in size and mostly residential.
4. There are five existing borrow pits within one mile of the proposed pit, with the closest located on the neighboring parcel to the north.
5. The use would be more compatible with the existing neighborhood if the applicant used the existing St. Louis County Land and Minerals haul road as an access route. The Planning Commission encourages the Land and Minerals Department to work with the applicant on using the established haul road rather than building a new access.

C. Orderly Development:

1. The majority of the development along Kehtel Road and Midway Road is residential.
2. The proposed use is bordered by a county borrow pit to the north.
3. The use will not impede the normal development of the surrounding area because even though there is residential development nearby, the area north of the residents is currently used for similar borrow pit activity.

D. Desired Pattern of Development:

1. The subject parcel, along with parcels to the north, south and east are zoned Multiple Use (MU)-5.
 - a. Multiple Use zone districts are intended to accommodate a wide range of uses.
 - b. A general purpose borrow pit is an allowed use in a Multiple Use district with a conditional use permit.
2. The area is zoned MU-5 requiring 2.5 acres, a majority of the parcels in the area are larger than what the density allows.

E. Other Factors:

1. Canosia Township previously denied a conditional use permit request for a borrow pit on this parcel in 2009. The denied request included crushing, recycling of concrete and asphalt, and a hot mix plant. The proposed access was to be off of Midway Road. The previous proposal was for a large scale commercial general purpose borrow pit, whereas the current proposal is for a smaller scale borrow pit operation for residential landscaping and septic system installation. Staff recommends that crushing, recycling of concrete and asphalt and hot mix only be allowed for Public Works road projects and require an Extractive Use-Class I permit, which would limit the timeframe for which such uses would be allowed.
2. The denial had the following concerns: public safety on Midway Road, residents' concerns and there is suitable access to existing pits.

The following conditions shall apply:

Conditions Precedent:

1. The applicant shall obtain access approval from the appropriate road authority.
2. Applicant shall provide documentation of legal access to the parcel.

3. A wetland delineation shall be completed.
4. All Wetland Conservation Act Requirements shall be followed.
5. Recycling of concrete and asphalt and hot mix shall only be allowed for Public Works road projects and require an Extractive Use-Class I permit, which would limit the timeframe for which such uses would be allowed.
6. There shall only be one access road into the pit.

Conditions Concurrent:

1. All minimum extractive use standards shall be followed.
2. Borrow pit excavation shall be limited to less than 40 acres.

In Favor: Filipovich, Manick, Pineo, Pollock, Skraba, Svatos, Werschay - 7

Opposed: None – 0

Motion carries 7-0

Motion to adjourn by Pollock. The meeting was adjourned at 10:47 a.m.