

MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY PLANNING COMMISSION HELD VIRTUALLY VIA WEBEX AND IN-PERSON AT THE ST. LOUIS COUNTY GOVERNMENT SERVICES CENTER, LIZ PREBICH ROOM, VIRGINIA, MN ON THURSDAY, APRIL 13, 2023.

9:00 AM – 11:13 AM

Planning Commission members in attendance: Tom Coombe
Dan Manick
Pat McKenzie, Chair
Commissioner Keith Nelson
David Pollock
Ray Svatos
Diana Werschay

Planning Commission members absent: Steve Filipovich

Also present: Matthew Johnson, Director of Planning and Community Development.

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. LTI Holdings LLC., a conditional use permit for an expansion of an existing Extractive Use-Class II to include recycling of concrete and bituminous.
- C. Christine Wyrobek, a zoning map amendment involving parcels 250-0040-00520, 250-0040-00525, 250-0020-02040, 250-0020-02041, 250-0020-02042 within T63N, R18W. The proposed zoning change is from Residential-5 to Shoreland Multiple Use-5 and from Residential-7 to Shoreland Multiple Use-7.

OTHER BUSINESS:

Motion by Svatos/Nelson to approve the minutes of the March 9, 2023 meeting.

In Favor: Coombe, Manick, McKenzie, Nelson, Pollock, Svatos, Werschay - 7

Opposed: None - 0

Motion carried 7-0

Jenny Bourbonais, Land Use Manager, introduced one of the newer Land Use Planners, Paul Butler, who will likely be presenting cases in the future.

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. The property is located in S17, T60N, R16W (Pike). *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting a general purpose borrow pit to include crushing, screening, washing, portable hot mix, recycling of asphalt, and concrete.
- B. It is estimated 5,000 to 10,000 cubic yards of material will be removed each year.
- C. The applicant is requesting the standard hours of operation from 7:00 a.m. until 8:00 p.m., Monday through Saturday.
- D. An estimated six to eight trucks will be leaving the pit per day.
- E. There are wetlands on the parcel and applicant has indicated they will meet all setbacks. Due to the extent of wetlands on the property, it is recommended that a wetland delineation be completed.

Mark Lindhorst 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 applicant's parcel is designated as FA within Planning Area 2 on the Future Land Use Map.
 - 3. 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.
 - 4. The FA category typically consists of large tracts of land that are not intended for future urban or rural development.
- B. Neighborhood Compatibility:
 - 1. The area consists primarily of large tracts of undeveloped forest and agricultural land. These large tracts of land are under both private and public ownership.
 - a. Surrounding area is zoned Multiple Use (MU)-4, Forest and Agriculture Management (FAM)-3, and FAM-1
 - 2. The development density in this area is very low with only a few residences.
 - 3. There are no dwellings on the applicant's parcel.
 - a. The nearest residential dwelling is 100 feet from the haul road and 1,200 feet from the pit location.
 - 4. There is an existing general purpose borrow pit on Hilda Road within 0.5 miles.
 - a. The applicant is proposing to use the same county road to access the parcel where the new borrow pit will be located.
- C. Orderly Development:
 - 1. This is a rural area consisting of primarily large undeveloped parcels.
 - 2. The request for a borrow pit should have little to no effect on the future development of the surrounding area.
 - 3. The proposed use is not new to the area as there is an existing general purpose borrow pit located on the same county road within 0.5 miles.
- D. Desired Pattern of Development:
 - 1. There is not a high level of future growth anticipated in the area.
 - 2. The FA designation of the parcel specifically identifies these areas for extractive use.
 - 3. The area is not intended for future urban or rural development.

E. Other Factors:

1. The applicant has obtained legal access to the property.
2. The total pit area to be excavated is 15 acres.

Mark Lindhorst noted no items of correspondence.

RECOMMENDED CONDITIONS

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. A wetland delineation shall be completed.

Conditions Concurrent:

1. All minimum extractive use standards shall be followed.
2. The extractive use activity shall be limited to less than 40 acres.
3. The applicant shall adhere to all local, county, state, and federal regulations.
4. The Wetland Conservation Act shall be followed.

Heath Line, KGM Contractors, the applicant, stated they are a highway contractor in the area and wanted a borrow resource in this area for upcoming future projects.

Two audience members spoke.

Wayne Pohia, 8754 Unity Drive, Mountain Iron, stated he has no additional comment. He did send notice he would abate the 50 foot buffer on his property line.

Ryan Denzel, 3831 Highway 7, Iron, stated he owns eighty acres north of the proposed borrow pit. He asked if there is legal access to the property through the first 40 acres. He asked if there is any way to move the easement. *Mark Lindhorst* stated that a deed with easement language was submitted with the application. *Heath Line* stated the easement should show the exact language. He stated they could talk about the easement later.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *Svatos* asked if the area has been cleared. *Mark Lindhorst* stated that the previous landowner likely had the area logged off. There was no excavation done on this site.
- B. Commission member *Manick* asked if it matters how many acres are excavated as long as the amount is under 40 acres. *Mark Lindhorst* stated the applicant is requesting 15 acres because that is the amount of upland on the property. The rest of the property is wetlands.

If the applicants want to excavate beyond 15 acres, there are other considerations needed such as the Wetland Conservation Act.

- C. Commission member *Coombe* asked if there is the possibility of a hot mix plant. *Heath Line* stated they have a portable hot mix plant and could operate it within this pit as projects come up. Commission member *Coombe* commented that the average number of trucks per day may increase if there is a batch plant located on this site. *Heath Line* stated that the six to eight trucks per day is an average. However, they may not be in this pit for more than a year depending on the project. They could have up to 12 trucks per day or more.
- D. Commission member *Manick* asked about recycling products and if these products are stored on site or if they will be used to mix with other materials. *Heath Line* stated they will crush asphalt with gravel to make a road base. The recycled asphalt will be recycled into bituminous as well. They have other gravel pits where they have recycled asphalt. This is a valuable product for them more often now than years ago.
- E. Commission member *McKenzie* asked if KGM has spoken with neighboring property owners. *Heath Line* stated they spoke with the neighbor to the east regarding the property line buffer. The neighbor was willing to allow KGM to excavate up to the property line.
- F. Commissioner *Nelson* asked if KGM intends to update the road. *Heath Line* stated KGM can look at the road to see if it can handle their equipment and if it needs upgrading, they will do that so they can use the road.
- G. Commissioner *Nelson* stated he would be concerned about the access road and its impact on other landowners in the area. However, KGM has a good reputation for working with people and he has no concerns about this.

DECISION

Motion by Manick/Svatos to approve a conditional use permit to allow a general purpose borrow pit as an Extractive Use - Class II, based on the following staff 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 applicant's parcel is designated as FA within Planning Area 2 on the Future Land Use Map.
 - 3. 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.
 - 4. The FA category typically consists of large tracts of land that are not intended for future urban or rural development.
 - 5. The use conforms to the land use plan.
- B. Neighborhood Compatibility:
 - 1. The area consists primarily of large tracts of undeveloped forest and agricultural land. These large tracts of land are under both private and public ownership.
 - a. Surrounding area is zoned Multiple Use (MU)-4, Forest and Agriculture Management (FAM)-3, and FAM-1
 - 2. The development density in this area is very low with only a few residences.
 - 3. There are no dwellings on the applicant's parcel.

- a. The nearest residential dwelling is 100 feet from the haul road and 1,200 feet from the pit location.
4. There is an existing general purpose borrow pit on Hilda Road within 0.5 miles.
 - a. The applicant is proposing to use the same county road to access the parcel where the new borrow pit will be located.
5. The use is compatible with the existing neighborhood.

C. Orderly Development:

1. This is a rural area consisting of primarily large undeveloped parcels.
2. The request for a borrow pit should have little to no effect on the future development of the surrounding area.
3. The proposed use is not new to the area as there is an existing general purpose borrow pit located on the same county road within 0.5 miles.
4. The use will not impede the normal and orderly development and improvement of the surrounding area.

D. Desired Pattern of Development:

1. There is not a high level of future growth anticipated in the area.
2. The FA designation of the parcel specifically identifies these areas for extractive use.
3. The area is not intended for future urban or rural development.
4. The location and character of the proposed use is considered consistent with a desirable pattern of development.

E. Other Factors:

1. The applicant has obtained legal access to the property.
2. The total pit area to be excavated is 15 acres.

The following conditions shall apply:

Conditions Precedent:

1. The applicant shall obtain access approval from the appropriate road authority.
2. A wetland delineation shall be completed.

Conditions Concurrent:

1. All minimum extractive use standards shall be followed.
2. The extractive use activity shall be limited to less than 40 acres.
3. The applicant shall adhere to all local, county, state, and federal regulations.
4. The Wetland Conservation Act shall be followed.

In Favor: Coombe, Manick, McKenzie, Nelson, Pollock, Svatos, Werschay - 7

Opposed: None - 0

Motion carried 7-0

LTI Holdings, LLC

The second hearing item is for LTI Holdings LLC., a conditional use permit for an expansion of an existing Extractive Use-Class II to include recycling of concrete and bituminous. The property is located in S34, T52N R15W (Fredenberg). Commission Chair *McKenzie* stated that audience

members received a copy of the hearing process and testimony process and added that any testimony would be limited to three minutes. *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting a conditional use permit for an expansion of an existing Extractive Use-Class II to include recycling of concrete and bituminous.
- B. The applicant owns and operates an existing general purpose borrow pit on the subject property.
- C. The existing use was approved by Fredenberg Township.
- D. The original proposal did not include recycling of concrete and bituminous which requires additional Planning Commission approval as an expansion of the use.
- E. The original proposal was for a general purpose borrow pit which included excavation, crushing, and hauling of aggregate material.
- F. The property is developed with an existing borrow pit with associated equipment and structures.
- G. The applicant is proposing the hours of operation to remain consistent with the Extractive Use standard hours of operation.
- H. There are some wetlands on the property. It is recommended that a wetland delineation be completed to ensure Wetland Conservation Act requirements are met. Wetland Conservation Act regulations were not in effect at the time of the original conditional use permit approval for the extractive use.

Mark Lindhorst 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. The request is for an expansion of use of the existing permitted borrow pit.
 - 2. The proposed site falls within the Lakeshore Development Area (LDA) of the St. Louis County Comprehensive Land Use Plan. This area is intended for rural development next to lakes including infill, new and redevelopment of residential properties, as well as commercial and mixed uses that are allowed within the zone district. The proposed request is to expand an existing commercial extractive use.
- B. Neighborhood Compatibility:
 - 1. There are approximately 30 residential properties within one-quarter mile.
 - 2. The nearest residential dwelling is located approximately 80 feet from the existing, permitted haul road.
 - 3. The area consists of both large and small tracts of forested and residential development. Shoreland development exists to the north approximately 1,200 feet from the current extractive use.
- C. Orderly Development:
 - 1. Due to the zone districts of the area and the future land use map, future development could include a variety of uses including new and expansion of extractive uses.
 - 2. The extractive use has been established on the property since the 1980's.
- D. Desired Pattern of Development:

1. The future land use map identifies the proposed area within the Lakeshore Development Area. The LDA is given flexibility necessary to allow for evolving nature of the rural economy which includes allowances for businesses that are essential to the ability to live and work in rural areas that are allowed within the zone district.

E. Other Factors:

1. This is a request to expand a permitted extractive use to include recycling of concrete and bituminous only.
2. The extractive use was reviewed by St. Louis County and meets all minimum extractive use standards.
3. Fredenberg Township provided a letter dated November 4, 2022, accepting all inspection reports of extractive uses within their township.
4. There are wetlands located on the property. It is recommended that a wetland delineation be completed to ensure compliance with the Wetland Conservation Act.

Mark Lindhorst noted three items of correspondence from Rachel Wexler (Eagles Nest Resort) and Town of Fredenberg in support of the request, and from LuAnn Lennartson with concerns about the request. These items were provided to the Planning Commission prior to the hearing.

RECOMMENDED CONDITIONS

If the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit, the following conditions shall apply:

Condition Precedent:

1. A wetland delineation shall be completed.

Conditions Concurrent:

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

Steve Kaneski, 6035 Lavaque Road, the applicant, stated they have been doing this use and did not think they were doing anything wrong. They bring asphalt in when they are working on a project, such as asphalt driveways. There are only small amounts like 100 yards that will be crushed up and then it is gone. There is usually a waiting list to obtain the asphalt.

Six audience members spoke.

Clayton Cich, 4955 Vista Bay Drive, Duluth, stated he is a Fredenberg Township board member. He wants to speak about the county inspections. LTI Holdings owns and operates two borrow pits in Fredenberg Township. Its other borrow pit has not been inspected despite many asking for an inspection of that pit. They have gone to the St. Louis County Board to keep asking. In his opinion, they are in violation. He feels that LTI Holdings is not taking care of their problems and now they are applying for another use. It is not difficult to see into that pit as the snowmobile trail passes right by it.

Bonnie Anderson, 4929 Fish Lake Road, Duluth, stated on August 4, 2022, a letter was sent to Todd Kaneski from Matthew Johnson, Director of Planning and Community Development, that stated the following: The following items will need to be addressed for your borrow pit to continue operation. During the site visit, staff indicated that stockpiling concrete and bituminous was not an approved activity as part of your conditional use permit (CUP). Removal of the bituminous and concrete is required or an application for expansion of the CUP shall be submitted for the additional use.

A site visit is not an inspection. There has been no inspection of this borrow pit since 2008. This is only one parcel where there are several parcels that comprise this borrow pit. This new application is the result of yet another violation being committed by LTI Holdings. Rather than insisting the stockpile material be removed, an inapplicable second choice was given to recycle this concrete and bituminous material. Per Zoning Ordinance 62, Article 8.1B., and Article 6.22 B.4., no permit application shall be accepted for landowners or their agents on property of which there are current or past unresolved violations of any St. Louis County ordinance unless St. Louis County determines that the permit is a part of resolving the previous violations. No permits shall be issued to an operator/owner that has not reclaimed a previously approved extractive use permit or is in violation of a condition on their permit.

What assurance do they have that LTI Holdings will be compliant in this conditional use permit application for expansion or that St. Louis County will ensure ordinances and laws are being followed? LTI Holdings has shown little consideration to follow the laws of extractive use borrow pit mining and St. Louis County has little inclination to enforce those laws. Rather than allowing increased opportunity for more violations and lax enforcement, the stockpile of concrete and bituminous products should be removed, not recycled.

Bruce Anderson, 4929 Fish Lake Road, Duluth, stated per Zoning Ordinance 62, Article 6.22, Section G.4., crushing is allowed and shall be limited to the permitted timeline for which the use was authorized. Section G.6., states recycling of asphalt and concrete is allowed and shall be limited to the permitted timeline for which the use was authorized. There were no timelines indicated in the application. St. Louis County is not following Zoning Ordinance 62. There are violations with LTI Holdings with borrow pit reclamation issues. He asked the Planning Commission to follow Ordinance 62; if followed, this conditional use permit will be denied. Per Zoning Ordinance 62, Article 6.22, Section B.4., no permits shall be issued to an operator/owner who has not reclaimed a previously approved extractive use or is in violation of the conditions of their permit. If there are violations now, how are they protected from future violations? They are not protected by St. Louis County. What are the plans to keep this 85 acre site in good health? It is the purpose of this ordinance to protect, preserve, and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms, and open spaces of St. Louis County. How does this application support that?

Melissa Bell, 6382 Beaver River Road, handed out correspondence to the Planning Commission. She stated that she has an issue with the reclamation plan of the other LTI Holdings borrow pit, the McKeever pit. Included in her correspondence packet were aerial maps of the McKeever pit which show that a 2:1 slope for non-working walls has not occurred, which proves that reclamation

has not yet occurred. These measurements were taken using the County Land Explorer. There are also spots where they have crossed the no disturbance buffer. There are four main pits in their area. All but the LTI Holdings pits have all parcel numbers listed in the site inspection report. Staff reports also previously included an inspection date and no longer do. They are asking for facts, truth, and fairness. LTI Holdings needs to fix their McKeever pit permit first.

Janet Olson, 4931 Fish Lake Road, stated she has lived on the property for over 20 years. She expressed surprise that more of their neighbors do not show up to these hearings. She knows some are afraid of retaliation and intimidation and threats made against them. On Easter evening, she was approached by the president of Lakehead Trucking and was spoken to in a threatening tone to stop talking about this. This was meant to intimidate them. Fredenberg Township is a beautiful place to live with lakes and tranquility. All of this will be destroyed if the county keeps rubber stamping borrow pits and expanding them. She asked the Planning Commission to not destroy their community and to deny the application.

Oly Olson, 4931 Fish Lake Road, stated their area is a place of great quiet which is why they chose to live there. It is their way of life and a standard of living. This is being taken down by the Planning Commission. It is time to start doing inspections on current gravel pits. It is time to make people accountable. It is time that anyone gets permission instead of letting things go on for many years and then they say they did not know and ask for forgiveness. He worked for LTI Holdings and hauled loads of asphalt and concrete into this location. One of their biggest jobs was Graymont in Superior. These pits are out of compliance. They should not get another pit or expansion or conditional use permit if they do not follow the rules with the conditional use permit they already have.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *Svatos* asked when the first conditional use permit was issued. *Mark Lindhorst* stated the conditional use permit was issued in the 1990's.
- B. Commission member *Werschay* asked if the applicants are already doing this pit activity in their borrow pit. *Mark Lindhorst* stated that this activity was occurring when staff did their site inspection. The applicants were told they would need to apply for an expansion to include these uses or they would need to remove them from the property.
- C. Commission member *Coombe* asked about Fredenberg Township's letter dated November 4, 2022. *Mark Lindhorst* stated this was a specific request asked of the Planning Department to review the borrow pits in Fredenberg Township. This included pits that were in compliance and those not in compliance. This borrow pit was included in the inspection. This information was provided to the township and Fredenberg Township submitted this letter.
- D. Commission member *Coombe* asked if the applicant will be hauling in millings or if this site will be used as a batch plant. *Steve Kaneski* stated no. Their current jobs are small and include parking lots and driveways. They have never done road jobs. This is done during the summer and once the crusher is done, it is gone.
- E. Commission member *McKenzie* asked if there is both bituminous and concrete crushing. *Steve Kaneski* stated they learned how to crush concrete and that is a timely process. It is

quite expensive and there is no market for recycled concrete. Most of what they had was sold over the winter and the rest will be used up. They have no plans going forward to crush concrete. They will crush asphalt.

- F. Commission member *Svatos* asked how many days, on average, the applicant crushes bituminous. *Steve Kaneski* stated a crusher comes in, crushes the class 5, and they clean it up and then run the blacktop through.
- G. Commission member *Manick* stated the application indicated they will recycle concrete. *Steve Kaneski* stated the application boxes were all in the same area. They have no plans to crush concrete. *Jenny Bourbonais*, Acting Secretary, stated that a condition could be added if crushing concrete is not necessary.
- H. Commission member *McKenzie* stated the application mentioned a dwelling 80 feet from the borrow pit. He asked if that home is owned by Greg Kaneski. *Steve Kaneski* stated that this is the old homestead and the home is owned by Greg Kaneski.
- I. Commission member *McKenzie* asked if crushing asphalt is quieter than crushing concrete. *Steve Kaneski* stated that it is. Commission member *McKenzie* asked if LTI Holdings owns a crusher. *Steve Kaneski* stated they do not, and they hire it out. Commission member *McKenzie* asked how frequently they hire a crusher. *Steve Kaneski* stated that they hire once a year unless it was necessary to run a crusher again. They ran a crusher during deer hunting season. They will likely make another pile in May. This will be a two-week process. They will only hire the crusher in the fall if they need product through the winter.
- J. Commission member *McKenzie* asked if the applicant would address a rumor that they were going to build another road through this property in order to access a second road. *Steve Kaneski* stated he spoke with a number of people regarding what this meeting was about, and that road rumor is what they heard. They are using all of the same entrances and exits, and they are planning on adding nothing other than the expanded use of their permit they already do. They will not utilize township roads for the borrow pit. He added that a black top plant was also a rumor. Commission member *Manick* added that the borrow pit is just expanding its use, not its borders.
- K. Commission member *Manick* asked if staff does inspections when staff does a site visit. *Mark Lindhorst* stated staff do site visits. The line on the staff report that reads inspection date is the date that staff reviews the site. The staff report line that read inspection was removed during the time when site visits were not possible in winter. It was during a site visit in the summer of 2022 that staff found out there was bituminous and asphalt in this pit. Per the ordinance, a conditional use permit is allowed if the permit brings the property into compliance. Commission member *Manick* asked if there would have been site inspection reports. *Mark Lindhorst* stated that borrow pits are not normally inspected unless there was a condition that specifically requested a review time frame. They are only inspected on a case-by-case basis. In this case, the pit was inspected, the issues were found, a letter was written to the applicant, and they chose to move forward with a conditional use permit application. Commission member *Manick* asked if this application could be tied into any potential compliance issues on the McKeever pit owned and operated by the same applicant. *Jenny Bourbonais* stated if there is a compliance issue found after a permit is issued on a property, staff would deal with the compliance issue at that time. One way to deal with this would be to bring that back before the Planning Commission for their consideration.

- L. Commission member *McKenzie* asked if the violation in one applicant's borrow pit would extend to the other pits owned by the applicant. *Jenny Bourbonais* stated that those conditional use permits were already granted, and staff would deal with them on a pit-by-pit basis. *Mark Lindhorst* added that in the case of the McKeever pit, that pit activity is ongoing with material being removed. There will be open banks with the ongoing activity. In the areas where there is no activity, the applicants should begin re-sloping. In this pit, there was some re-sloping done with trees growing out of the banks. But this is still an active pit with open banks.
- M. Commission member *McKenzie* asked when reclamation was first instituted. *Mark Lindhorst* stated the old 1993 ordinance had reclamation standards in it. The county came up with their own reclamation standards where landowners could use their own reclamation but would need to meet minimum standards. In 1995 or 1996, reclamation standards were in place for St. Louis County. It is not known when Fredenberg Township had reclamation standards. Commission member *McKenzie* asked if modern reclamation standards would not apply to an abandoned borrow pit. *Mark Lindhorst* agreed and added that if someone wanted to operate a borrow pit out of an abandoned pit now, they would need to complete reclamation.
- N. Commission member *Coombe* asked if the only violation on the property is the addition of blacktop and concrete. *Steve Kaneski* stated yes as that material is already crushed and could be gone fast. Commission member *Coombe* stated he is trying to find the harm of what the applicant has done.
- O. Commission member *Pollock* asked why staff did their site visit of this pit. *Mark Lindhorst* stated that staff was asked to review all the borrow pits in Fredenberg Township. *Jenny Bourbonais* added that the township made this request. Commission member *Pollock* stated this feels after-the-fact where the applicant is already doing this activity and now, they want to get it approved.
- P. Commission member *Pollock* asked if staff are aware of the McKeever pit violations. *Jenny Bourbonais* stated that the staff is not aware of any McKeever pit violations. The only violations staff are aware of are the violations that would be resolved with this current request. While others would counter this with their information, from the county's perspective things are in compliance from the staff reviews they have done. Fredenberg Township has received all of this information and has accepted the compliance.
- Q. Commission member *Pollock* asked if the compliance was from 2008, would staff handle that the same way. *Jenny Bourbonais* stated yes. Staff would review the situation, reach out to the landowner and work through the compliance issues. Sometimes compliance does take a long time.
- R. Commission member *Werschay* asked how accurate measurements are taken from the County Land Explorer. *Mark Lindhorst* stated it depends on the area. Without an official survey, they cannot guarantee where the actual property lines are. Commission member *McKenzie* added that the County Land Explorer is not survey-grade.
- S. Commission member *Pollock* asked what Clayton Cich, a member of the Fredenberg Town Board, is looking for as a resolution. *Clayton Cich* stated there was a 3-2 vote to accept the inspections. But there was no inspection done. This was a site visit on two other operating borrow pits which were extensive. They filed the report and these the Older and Durfee pit had to do reclamation. The Older pit and the LTI Holdings pit share a lot. This is not difficult to see the differences between the two pits on that lot. The LTI Holdings pit does

not have any soil remediation. They want LTI Holdings to fix the McKeever pit. As for the current request, is the Planning Commission creating an 80 acre industrial zone inside Fredenberg Township?

- T. Commission member *Pollock* said there is a way to remedy these issues. *Jenny Bourbonais* added that staff would work through each compliance issue as they are brought up.
- U. Commission member *McKenzie* stated this is a narrow request that would fix a narrow problem. The applicant has been cooperative in doing what needs to be done to be in compliance.
- V. Commission member *Manick* asked about striking recycling concrete from the approval. This was just a box that was checked and was never going to be done. Commission member *Coombe* added that if concrete is mixed in with the asphalt, he does not want the applicant to get in trouble.

DECISION

Motion by Nelson/Coombe to approve a conditional use permit for an expansion of an existing Extractive Use-Class II to include recycling of bituminous, based on the following staff 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. The request is for an expansion of use of the existing permitted borrow pit.
- 2. The proposed site falls within the Lakeshore Development Area (LDA) of the St. Louis County Comprehensive Land Use Plan. This area is intended for rural development next to lakes including infill, new and redevelopment of residential properties, as well as commercial and mixed uses that are allowed within the zone district. The proposed request is to expand an existing commercial extractive use.
- 3. The use conforms to the land use plan.

B. Neighborhood Compatibility:

- 1. There are approximately 30 residential properties within one-quarter mile.
- 2. The nearest residential dwelling is located approximately 80 feet from the existing, permitted haul road.
- 3. The area consists of both large and small tracts of forested and residential development. Shoreland development exists to the north approximately 1,200 feet from the current extractive use.
- 4. The use is compatible with the existing neighborhood.

C. Orderly Development:

- 1. Due to the zone districts of the area and the future land use map, future development could include a variety of uses including new and expansion of extractive uses.
- 2. The extractive use has been established on the property since the 1980's.
- 3. The use will not impede the normal and orderly development and improvement of the surrounding area.

D. Desired Pattern of Development:

1. The future land use map identifies the proposed area within the Lakeshore Development Area. The LDA is given flexibility necessary to allow for evolving nature of the rural economy which includes allowances for businesses that are essential to the ability to live and work in rural areas that are allowed within the zone district.
2. The location and character of the proposed use is considered consistent with a desirable pattern of development.

E. Other Factors:

1. This is a request to expand a permitted extractive use to include recycling of concrete and bituminous only.
2. The extractive use was reviewed by St. Louis County and meets all minimum extractive use standards.
3. Fredenberg Township provided a letter dated November 4, 2022, accepting all inspection reports of extractive uses within their township.
4. There are wetlands located on the property. It is recommended that a wetland delineation be completed to ensure compliance with the Wetland Conservation Act.

The following conditions shall apply:

Condition Precedent:

1. A wetland delineation shall be completed.

Conditions Concurrent:

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

In Favor: Coombe, Manick, McKenzie, Nelson, Pollock, Svatos, Werschay - 7

Opposed: None - 0

Motion carried 7-0

Christine Wyrobek

The third hearing item is for Christine Wyrobek, a zoning map amendment involving parcels 250-0040-00520, 250-0040-00525, 250-0020-02040, 250-0020-02041, 250-0020-02042 within T63N, R18W. The proposed zoning change is from Residential-5 to Shoreland Multiple Use-5 and from Residential-7 to Shoreland Multiple Use-7. The property is located in S15, T63N, R18W (Beatty). Commission Chair *McKenzie* stated that audience members received a copy of the hearing process and testimony process and added that any testimony would be limited to three minutes.

Jenny Bourbonais, Land Use Manager, stated that due to a typographical error in the applicant notice stating that the hearing time would be at 10:15 p.m. instead of 10:15 a.m., the applicant has requested that the hearing be tabled until she is able to appear before the Planning Commission.

Jenny Bourbonais stated that this case was legally noticed, and testimony could be taken. However, the Planning Commission could determine what action could be taken. While the Planning

Commission discussed the presentation and taking testimony from those in the in person and virtual audience, it was determined that no action would be taken today.

All correspondence received to date will be taken into consideration as the Planning Commission has received both the March and April correspondence packets. No correspondence needs to be resubmitted if already submitted. Those in attendance in person and in the virtual audience are noted as being present.

Motion by Nelson/Coombe to continue the zoning map amendment at the May 11 Planning Commission hearing at the request of the applicant.

In Favor: Coombe, Manick, McKenzie, Nelson, Pollock, Svatos, Werschay - 7

Opposed: None - 0

Motion carried 7-0

Motion to adjourn by Manick. The meeting was adjourned at 11:13 AM.