

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

9:00 A.M. – 11:53 A.M.

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

Planning Commission members absent: Commissioner Keith Nelson

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

**NEW BUSINESS:**

- A. Ron Gunderson – a conditional use permit for a general purpose borrow pit as an Extractive Use-Class II.
- B. Carl Bowman – a conditional use permit for a general purpose borrow pit as an Extractive Use-Class II and a waiver from St. Louis County Zoning Ordinance 62, Article VI, Section 6.22, G.9.b. to allow the haul road to be located within the 50 foot no disturbance setback from the west property line, and a waiver from St. Louis County Zoning Ordinance 62, Article VI, Section 6.22, G.11 to allow vegetative screening that does not adequately screen the use from Highway 53.
- C. Chase & Chelsey Meadows – a rehearing for a conditional use permit for the expansion of an existing borrow pit to include the recycling of asphalt and concrete as an Extractive Use-Class II and a waiver from St. Louis County Zoning Ordinance 62, Article VI, Section 6.22, G.9.b. to allow the haul road to be located within the 50 foot no disturbance setback.

**OTHER BUSINESS:**

**Motion by Skraba/Svatos** to approve the minutes of the June 13, 2019 meeting.

**In Favor:** Anderson, Filipovich, Manick, Pineo, Pollock, Skraba, Svatos, Werschay - 8

**Opposed:** None – 0

**Motion carried 8-0**

*Jenny Bourbonais*, Acting Secretary, gave an update on the Vacation Home Rentals timeline. This business meeting was to discuss public outreach on draft standards. Open house informational meetings to solicit public opinions were held, one in Virginia on July 9, 2019 and one in Rice Lake on July 10, 2019. A date for the Planning Commission workshop was set for August 15, 2019.

## **NEW BUSINESS:**

### **Ron Gunderson**

The first hearing item is for Ron Gunderson, a conditional use permit for a general purpose borrow pit as an Extractive Use-Class II, located in S34, T62N, R19W (Field). The applicant was not present. *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The request is for a general purpose borrow pit.
- B. The pit will include crushing, washing and screening.
- C. The applicant is requesting the standard hours of operation.
- D. There will be a maximum of 10 acres of excavation.
- E. The applicant lives on-site.

*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.
- 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 2011.
- 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.
- E. Other Factor
  1. The pit will not exceed 40 acres in size with the standard 50 foot no disturbance buffers and existing home site.

*Mark Lindhorst* noted one item of correspondence from Field Township with no objections to the proposal.

## **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 SE1/4, S34, T61N, R19W, 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. The extractive use activity shall be limited to less than 40 acres.
3. The applicant shall comply with all county, state and federal regulations.

The applicant was not present. No audience members spoke.

## **DECISION**

**Motion by Skraba/Svatos** 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 SE1/4, S34, T61N, R19W 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.

### **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.

### **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 2011.

### **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.

E. Other Factor

1. The pit will not exceed 40 acres in size with the standard 50 foot no disturbance buffers and existing home site.

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. The extractive use activity shall be limited to less than 40 acres.
3. The applicant shall comply with all county, state and federal regulations.

**In Favor:** Anderson, Filipovich, Manick, Pineo, Pollock, Skraba, Svatos, Werschay - 8

**Opposed:** None – 0

**Motion carries 8-0**

**Carl Bowman**

The second hearing item is for Carl Bowman, a conditional use permit for a general purpose borrow pit as an Extractive Use-Class II and a waiver from St. Louis County Zoning Ordinance 62, Article VI, Section 6.22, G.9.b. to allow the haul road to be located within the 50 foot no disturbance setback from the west property line, and a waiver from St. Louis County Zoning Ordinance 62, Article VI, Section 6.22, G.11 to allow vegetative screening that does not adequately screen the use from Highway 53. This proposal is located in S6, T68N, R21W (Unorganized).

*Jared Ecklund*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for a general purpose borrow pit/rock quarry, including crushing, screening, portable hot mix, and recycling of asphalt and concrete.
- B. There is an existing borrow pit on the property that was issued a two year public works permit (Extractive Use-Class I) in December 2014. This permit expired in December 2016. The applicant is proposing to continue the use beyond two years.
- C. The borrow pit will be approximately 14 acres in size.
- D. There may be 30 to 40 trucks leaving the pit per day on an intermittent basis.
- E. The applicant expects the proposed crushing to occur once or twice per year to stockpile material.
- F. The proposed hours of operation are from 7:00 a.m. until 7:00 p.m. Monday through Friday and 7:00 a.m. until 5:00 p.m. on Saturday.
- G. The applicant is also requesting a waiver to allow a haul road to be located within the 50 foot no disturbance setback from the west property line. The existing haul road was constructed within the setback and the applicant would like to use the haul road.
- H. A written agreement between the applicant and the neighboring landowner has been filed with the department.
- I. The applicant is also requesting a waiver to allow the vegetative screening to remain as-is along Highway 53. The timber on the property was harvested prior to the issuance of the public works permit. Due to the elevation of the proposed area of extraction/blasting, a berm or fence would do very little to provide screening.

- J. The subject property line is on the Koochiching County line.
- K. There is a bog-type wetland located on the property. There is some concern to keep material out of this area.

*Jared Ecklund* reviewed staff facts and findings as follows:

A. Plans and Official Controls:

- 1. This property falls within the Forest and Agriculture (FA) land use category on the future land use map of the Comprehensive Land Use Plan.
  - a. The areas in the FA land use category are not intended for future rural or urban development and typically consist of larger parcels greater than 40 acres.
- 2. Goal LU-4.5 of the Comprehensive Land Use Plan is to direct the development of borrow pits to the areas that are designated as FA in the future land use map.
- 3. The property is within a Multiple Use (MU) zone district.
  - a. The MU zone district is intended for a variety of uses.
  - b. An Extractive Use-Class II is an allowed use within the MU zone districts with a conditional use permit.
- 4. Zoning Ordinance 62 allows the no disturbance setback to contain the haul road if it is for safety reasons, wetland avoidance, or there is an agreement with the adjacent property owner.
  - a. In this case, the request to allow the haul road within the no disturbance setback is because the applicant has a written agreement with the neighboring landowner to the west.
  - b. The no disturbance setback was not being maintained with the previously extractive use activity on the property. This was in violation of the previous permit.
  - c. Written agreement from the neighboring landowner to the west was recently received as part of the current request.
  - d. It is possible to move the haul road location so it is outside of the no disturbance setback area.
- 5. Zoning Ordinance 62 requires adequate vegetative screening to screen the operation from ordinary public view. If vegetative screening is not sufficient, the Director may require the placement of a fence or berm.
  - a. The timber was harvested on the property prior to the two year extractive use being granted in 2014. The timber harvest left a very narrow strip of trees along the southern property line and Highway 53 right-of-way.
  - b. The narrow strip of trees provides some vegetative screening of the property from public view on Highway 53; however, there are some areas where the screening may not be sufficient.
  - c. Placement of a berm or fence would have little effect on the screening from Highway 53 because the ridge that will be blasted is as high as 38 feet above the highway elevation.

B. Neighborhood Compatibility:

- 1. The majority of the parcels in this area are large tracts of land.
- 2. The development density in this area is very low.
- 3. There is an existing permitted extractive use on the adjacent parcel to the east.

- a. This extractive use was approved by conditional use permit in November 2017.
- 4. Some of the parcels have seasonal dwellings (hunting shacks) and some have year-round residences.
- 5. The nearest dwelling to the proposed borrow pit/rock quarry is just over 300 feet from the proposed pit area and is located on the parcel that contains the neighboring extractive use.
- 6. The nearest year-round dwelling is over 900 feet from the proposed activity.
- 7. The primary uses in this area are forestry related with the exception of a few seasonal and year-round residences.
- 8. The borrow pit/rock quarry was in operation for two years prior to the public works borrow pit permit expiring.
- 9. The proposed use could have an impact on the few residences in the area because of noise.

C. Orderly Development:

- 1. This is a fairly remote part of the county.
- 2. It is not anticipated that the development density in this area will increase much in the near future.
  - a. Much of the land in the area appears to be public land or owned by Meriwether Minnesota Land and Timber (Molpus Woodlands Group).
  - b. The corridor on either side of Highway 53 is primarily privately owned.
- 3. The proposed use may provide residences in the area with a crushed rock product that may not be as readily available as gravel.

D. Desired Pattern of Development:

- 1. The pattern of development consists of large tracts of forested land.
  - a. Much of the area is being managed for timber resources.
- 2. The current development pattern is consistent with the desired pattern of development.
- 3. Outside of the highway corridor, it is unlikely that there will be an increase in residential uses.
- 4. The proposed use would likely have little impact on the timber industry in the area.

E. Other Factor:

- 1. Due to the location and the amount of wetlands on the property, the areas that appear suitable for excavation/blasting are less than 40 acres.

*Jared Ecklund* 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, to allow the haul road to be located within the 50 foot no disturbance setback from the west property line, and to allow vegetative screening that does not adequately screen the use from Highway 53, the following conditions shall apply:

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

2. The extractive use activity shall be limited to less than 40 acres.
3. Wetland Conservation Act requirements shall be followed.
4. The applicant shall submit a plan to contain the blasted rock within the pit area.
5. The applicant shall comply with all county, state, and federal regulations.

*Carl Bowman*, the applicant, stated that the ridge is 30 to 40 feet higher than the road. They will be working on the backside of the ridge. The ridge itself will be good screening and it will be some time before they move around to the other side of it. There is water in a pond on the property used for dust control purposes.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. Inquired how many acres can be used in the borrow pit. *Jared Ecklund* stated that because of environmental review requirements, the use is limited to less than 40 acres. Anything over than that would require an Environmental Assessment Worksheet (EAW). Due to the location of wetlands and setbacks, there is only the potential for use of about 30 acres.
- B. Inquired why a berm is not an alternative. *Jared Ecklund* stated that since the excavation area is at a higher elevation than the road, it would be difficult to have a berm of that size.
- C. Inquired how deep the pit can be. *Jared Ecklund* stated there are potentially limiting factors as far as how deep the pit can go, but there is nothing in the ordinance that addresses this.

## **DECISION**

**Motion by Svatos/Skraba** to approve a general purpose borrow pit as an Extractive Use-Class II, to allow the haul road to be located within the 50 foot no disturbance setback from the west property line, and to allow vegetative screening that does not adequately screen the use from Highway 53, based on the following facts and findings:

- A. Plans and Official Controls:
  1. This property falls within the Forest and Agriculture (FA) land use category on the future land use map of the Comprehensive Land Use Plan.
    - a. The areas in the FA land use category are not intended for future rural or urban development and typically consist of larger parcels greater than 40 acres.
  2. Goal LU-4.5 of the Comprehensive Land Use Plan is to direct the development of borrow pits to the areas that are designated as FA in the future land use map.
  3. The property is within a Multiple Use (MU) zone district.
    - a. The MU zone district is intended for a variety of uses.
    - b. An Extractive Use-Class II is an allowed use within the MU zone districts with a conditional use permit.
  4. Zoning Ordinance 62 allows the no disturbance setback to contain the haul road if it is for safety reasons, wetland avoidance, or there is an agreement with the adjacent property owner.
    - a. In this case, the request to allow the haul road within the no disturbance setback is because the applicant has a written agreement with the neighboring landowner to the west.
    - b. Written agreement from the neighboring landowner to the west was recently received as part of the current request.

5. Zoning Ordinance 62 requires adequate vegetative screening to screen the operation from ordinary public view. If vegetative screening is not sufficient, the Director may require the placement of a fence or berm.
  - a. The timber was harvested on the property prior to the two year extractive use being granted in 2014. The timber harvest left a very narrow strip of trees along the southern property line and Highway 53 right-of-way.
  - b. The narrow strip of trees provides some vegetative screening of the property from public view on Highway 53; however, there are some areas where the screening may not be sufficient.
  - c. Placement of a berm or fence would have little effect on the screening from Highway 53 because the ridge that will be blasted is as high as 38 feet above the highway elevation.

B. Neighborhood Compatibility:

1. The majority of the parcels in this area are large tracts of land.
2. The development density in this area is very low.
3. There is an existing permitted extractive use on the adjacent parcel to the east.
  - a. This extractive use was approved by conditional use permit in November 2017.
4. Some of the parcels have seasonal dwellings (hunting shacks) and some have year-round residences.
5. The nearest dwelling to the proposed borrow pit/rock quarry is just over 300 feet from the proposed pit area and is located on the parcel that contains the neighboring extractive use.
6. The nearest year-round dwelling is over 900 feet from the proposed activity.
7. The primary uses in this area are forestry related with the exception of a few seasonal and year-round residences.
8. The borrow pit/rock quarry was in operation for two years prior to the public works borrow pit permit expiring.
9. The proposed use could have an impact on the few residences in the area because of noise.

C. Orderly Development:

1. This is a fairly remote part of the county.
2. It is not anticipated that the development density in this area will increase much in the near future.
  - a. Much of the land in the area appears to be public land or owned by Meriwether Minnesota Land and Timber (Molpus Woodlands Group).
  - b. The corridor on either side of Highway 53 is primarily privately owned.
3. The proposed use may provide residences in the area with a crushed rock product that may not be as readily available as gravel.

D. Desired Pattern of Development:

1. The pattern of development consists of large tracts of forested land.
  - a. Much of the area is being managed for timber resources.
2. The current development pattern is consistent with the desired pattern of development.



3. Outside of the highway corridor, it is unlikely that there will be an increase in residential uses.
4. The proposed use would likely have little impact on the timber industry in the area.

E. Other Factor:

1. Due to the location and the amount of wetlands on the property, the areas that appear suitable for excavation/blasting are less than 40 acres.

The following conditions shall apply:

1. The applicant shall obtain approval for access from the appropriate road authority.
2. The extractive use activity shall be limited to less than 40 acres.
3. Wetland Conservation Act requirements shall be followed.
4. The applicant shall submit a plan to contain the blasted rock within the pit area.
5. The applicant shall comply with all county, state, and federal regulations.

**In Favor:** Anderson, Filipovich, Manick, Pineo, Pollock, Skraba, Svatos, Werschay - 8

**Opposed:** None – 0

**Motion carries 8-0**

**Chase and Chelsey Meadows**

The third hearing item is for Chase and Chelsey Meadows, a rehearing for a conditional use permit for the expansion of an existing borrow pit to include the recycling of asphalt and concrete as an Extractive Use-Class II and a waiver from St. Louis County Zoning Ordinance 62, Article VI, Section 6.22, G.9.b. to allow the haul road to be located within the 50 foot no disturbance setback. This proposal is located in S23, T51N, R16W (Grand Lake). *Donald Rigney*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is to expand the operations of a general purpose borrow pit to include the recycling of asphalt and concrete.
- B. This is a rehearing from the June 14 and June 26 public hearings. The Minnesota Court of Appeals reversed the original decision and sent the case back to the Planning Commission for further consideration of the haul road location.
- C. The applicant estimates that anywhere from 0 to 100 trucks may leave the pit per day.
- D. The standard hours of operation are 7:00 a.m. until 8:00 p.m. Monday through Saturday.
- E. The applicant is proposing a commercial pit entrance through a 33 foot wide easement off of Industrial Road. This haul road would not comply with the 50 foot no disturbance setback.
- F. A wetland delineation was done on the property along Caribou Lake Road which revealed the location of wetlands.
- G. The applicant reached out to all adjoining landowners for access approval of which all were denied.

*Donald Rigney* reviewed staff facts and findings as follows:

- A. Plans and Official Controls:
  1. Zoning Ordinance 62, Article V, Section 5.5 B., indicates general purpose borrow pits are an allowed use with a conditional use permit.

2. Zoning Ordinance 62, Article VI, Section 6.22 G., indicates that recycling of asphalt and concrete is allowed and shall be limited to the permitted timeline for which the use was authorized.
3. The Grand Lake Township Comprehensive Plan has extensive language on resource extraction. The most relevant goals are:
  - a. Goal 1: Resource extraction activities conform to all local, county, state and federal environmental standards.
  - b. Goal 3: Minimize the impacts from resource extraction and transportation operations on existing development.
4. Grand Lake Township Comprehensive Plan policy states that for new gravel mining permits and expansion of existing mining operations, a 200 foot no disturb setback shall be required from neighboring property lines. St. Louis County Zoning Ordinance 62 requires a 100 foot no disturb setback from neighboring property lines when a parcel with an established dwelling is within 300 feet of the extractive use.
5. Grand Lake Township Comprehensive Plan policy states all gravel mining operations shall be subject to annual inspections by the township and/or St. Louis County. St. Louis County Zoning Ordinance 62 requires that the conditional use permit be administratively reviewed by the Director after five years.

B. Neighborhood Compatibility:

1. There are approximately 17 residential properties within one-quarter mile, the closest being approximately 820 feet from the proposed borrow pit property line. That same property is within 90 feet of the existing haul road. There is also a dwelling within 110 feet of the proposed haul road.
2. There are two existing borrow pits adjacent to the parcel.

C. Orderly Development:

1. The majority of development along Industrial Road and Caribou Lake Road is residential. The existing borrow pit area is located off of the road corridor by a minimum of one-quarter mile in all directions. The proposal is not to expand the pit area beyond what was originally permitted, but to expand the allowed uses within the existing pit area.
2. The proposal has the potential to impact the residential properties with added noise and traffic. Conditions of limiting the hours of operation may lessen impact to adjacent properties.

D. Desired Pattern of Development:

1. The development in the area is primarily residential; however, there are also two borrow pits adjacent to the applicant's parcel.
2. Section 23 is zoned Multiple Use (MU)-4, requiring a 4.5 acre minimum acreage; however, a majority of the parcels in this section are larger than what the density allows.

E. Other Factors:

1. The existing borrow pit was permitted by Grand Lake Township in 1988 and then again in 1992. It was then permitted by St. Louis County in 1997.

2. The conditional use permit from 1997 indicates that the gated haul road is accessed off of Caribou Lake Road.

*Donald Rigney* noted two items of correspondence, one submitted by the applicant prior to the hearing and one from the Town of Grand Lake. It should be noted that all previous correspondence from the 2018 public hearings (June 14 and June 26) had been submitted to the Planning Commission prior to this hearing. The items of correspondence received were from Tom Marchand with no comment about the proposal and from the Town of Grand Lake in support of this proposal.

### **STAFF RECOMMENDATION**

In the event that the Planning Commission determines that the proposal meets the criteria for the expansion of an existing borrow pit to include the storage and recycling of asphalt and concrete as an Extractive Use-Class II, and to allow a waiver from St. Louis County Zoning Ordinance 62, Article VI, Section 6.22, G.9.b. to allow the haul road to be located within the 50 foot no disturbance setback, the following conditions shall apply:

#### **Conditions Precedent:**

1. The applicant shall obtain access approval from the appropriate road authority. There shall be only one access point.
2. A wetland delineation shall be completed.
3. All material not allowed to be stored within a borrow pit shall be removed and waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
4. The applicant shall comply with all county, state and federal regulations.

#### **Condition Concurrent:**

1. All minimum extractive use standards shall be followed.

*Chase Meadows*, the applicant, stated that the road easement was granted in the 1990s and was obtained with the property. This easement was in place before the Antcliffs built their home. There were two St. Louis County Public Works analysis done by Vic Lund regarding access to the pit. One was determined to be safe and one was not. The option for a paid access had never been in writing and had been part of a conversation. The \$10,000 access was never documented and never signed for. He has signed documents from other adjoining landowners saying they would not allow him to access his property through theirs. He has property along Caribou Lake Road which has been deemed wetlands.

He purchased the property about two years ago. He did not know if the previous landowner was aware there was a 50 foot no disturbance setback.

There has never been a limit to the amount of trucks on this borrow pit. He does not want to be limited in the number of trucks in case there is a large project which would require the larger number of trucks. He could haul 30 loads per day with just his one truck. He wants an area to recycle material because there are not any larger crushing/recycling plants nearby. For any larger projects within the city of Duluth, Northland Contractors has a crushing/recycling plant near Lake Superior that would take in material for free. It would make little sense for anyone to haul material on top of the hill and into Saginaw.

Because he does not have a haul road access, the easement/driveway will be located there forever.

The applicant's attorney, *Timothy Downs*, 306 West Superior Street, Duluth, handed out a copy of the deed to the Planning Commission containing information on the easement.

Seven members of the audience spoke in opposition.

*Shawn Reed*, 202 West Superior Street, Duluth, the attorney representing Scott and Heidi Antcliff. He submitted photographs and a flash drive into the record; the flash drive contains video of activity on the haul road and its proximity to the Antcliffs' dwelling. The haul road is located approximately 89 feet from the dwelling. At the Court of Appeals, there were a few issues brought up. Safety concerns and the wetland concerns were not part of the record during the discussion about the haul road. There are still safety concerns. There is another access that has been permitted for decades. There is also no screening along the 33 foot easement. There is not a gate on the easement either. Both screening and the gate are part of the general purpose borrow pit standards. He added that the former approved access onto Caribou Lake Road might have been grandfathered in given it was once used to access the borrow pit. There have also been issues with trucks entering the borrow pit property and leaving through another access when the pit was open.

*Scott Antcliff*, 6146 Industrial Road, stated there is no reason that easement would have been put in for any other reason than a haul road to access the borrow pit. He has had issues with the applicant from the beginning. This area has become a residential area. KGM currently has a pit on the other side of the applicant's property which is permitted for 25 trucks per day, which is an average of one truck every 7 minutes. The applicant is not following the rules as there is no screening and no gate. All types of traffic is being allowed on the haul road which is only 89 feet from his dwelling.

He added there is a way to utilize the approved access onto Caribou Lake Road that had the wetland delineation done and access could be through building a bridge with pilings over the wetland. He used to do this work for Northland Contractors and has experience working with wetlands.

The speed limit on both Caribou Lake Road and Industrial Road is 50 mph. The corner onto Industrial Road is a suggested 30 mph.

*Jill Brown*, 6029 Charles Road, stated she does not agree with the expansion of the pit. She does not want to see it turned into a dumping ground. If there were 100 trucks allowed per day, it would equal one truck every 3.5 minutes. She is concerned about asphalt and concrete as far as the impact on health, Caribou Lake and safety. After the hearing last year, she worked to get a 'children playing' sign posted on Caribou Lake Road but was unsuccessful.

*Bryan Nelson*, 5167 Caribou Lake Road, stated he objects to the access from Caribou Lake Road. There are issues with trucks and j-braking especially around the corner. The road is brand new and it is narrow. There is a risk that someone will get hurt on that road especially as this area is residential and there are people that walk on this road.

*Darrel Swanfeld*, 6026 Charles Road, stated he has been a resident of this area for 47 years. There is a hill coming down the Caribou Lake Road that turns onto the Industrial Road. He does not know the maximum weight limit of that road, but the road is new and may not stand up to the truck traffic. He is concerned about the road corner, truck traffic and safety with a residence with small children on that corner.

*Guy Sander*, 6096 Charles Road, stated he lives on the corner and he shares the same concerns with traffic, the road and vehicle speed. He is also concerned about the asphalt and concrete because both materials create dust that can be toxic and there is the potential that anything leeching off could end up in the groundwater and everyone in this area has wells.

*Carrie Boren*, 4896 West Pike Lake Road, stated she is most concerned about expanding the business, not the access. She shared concerns with the asphalt and concrete as well as additional traffic in the residential area.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. There were three original access options: the 33 foot easement off of Industrial Road, an access from Caribou Lake Road and an access the applicant could pay for from Caribou Lake Road.
- B. Commission member *Skraba* read into the record the letter that the applicant sent to all adjoining landowners. These letters were included in the packet material the Planning Commission received and addressed that no neighboring property owners will allow access through their property.
- C. Inquired about the wetland delineation. *Donald Rigney* stated that the applicant had received access approval for an access off of Industrial Road. A wetland delineation was done on the parcel that abuts Caribou Lake Road and it was determined to be wetlands. This is property that the applicant owns and it would not meet road authority standards.
- D. Inquired about the option of the access to Caribou Lake Road with paid usage. *Donald Rigney* stated that the St. Louis County Public Works Department (Vic Lund) determined that this access would not meet road authority standards and it was recommended that this access road be moved south. However, the owner of the property where the access is located was one of the adjoining landowners that would not grant permission for the applicant to use their property for any access. This does not appear to be a viable option.
- E. The existing 33 foot easement to Industrial Road is owned by the applicant and was part of the purchase with the existing property.
- F. Inquired if the haul road could be moved. *Jenny Bourbonais*, St. Louis County Planning Manager, stated that the easement is only 33 feet wide and that is the only access they have to the property. There would be no way to move the haul road within the easement and meet the no disturbance setback. The road would have to be moved 111 feet from the property line because the dwelling is located so close to the property line.
- G. Inquired about a fence or screening. *Jenny Bourbonais* stated that this is among the conditions that need to be met.

## **FIRST MOTION**

**Motion by Anderson** to approve the expansion of an existing borrow pit to include the storage and recycling of asphalt and concrete as an Extractive Use-Class II because the only available access is through the existing 33 foot wide easement and a gate being added to the applicant's property line.

This motion was withdrawn for discussion.

## **DISCUSSION ON MOTION**

The Planning Commission discussed the following:

- A. There is also a waiver to consider from the 50 foot no disturbance setback. One of three things needs to occur to grant the waiver:
  - a. Safety as identified by the appropriate road authority. The St. Louis County Public Works Department determined that one of the access options did not meet road authority standards and the proposed 33 foot wide easement access does meet road authority standards.
  - b. Wetlands. A wetland delineation determined there were wetlands located on the applicant's property along Caribou Lake Road. The Wetland Conservation Act does not allow impacts to wetlands for access when alternatives exist to avoid wetland impacts. St. Louis County Zoning Ordinance allows a haul road to be located within no disturbance setback for wetland avoidance.
  - c. An agreement by the adjoining landowners to allow access on the neighboring property. The applicant reached out to all adjoining landowners and no permission was given.
- B. There needs to be a condition for screening as the haul road is located too close to the Antcliff's dwelling. There has to be some line of separation between the haul road and the Antcliff's dwelling. The adjoining landowner does need some consideration.
- C. The haul road is one thing, but there has to be consideration given to the expansion of the gravel pit as well. The increase in truck traffic would not be good for a growing residential area. Commission member *Skraba* added that there is a convenience to having a crushing operation. There may be a long while before a crusher is brought onto the property because there is not enough use. The extractive use on the property may not be around forever, either. The growing residential area may make the property more desirable to make it residential in the future.
- D. Whether or not limiting the number of trucks per day would help alleviate some concerns. This may help some of the adjoining property owners who are concerned about the amount of truck traffic and safety. KGM, which is located nearby, is limited to 25 trucks per day. *Jenny Bourbonais* stated that the Planning Commission has limited the number of trucks per day for other Extractive Use operations.
- E. Commission member *Filipovich* stated that regarding written approval from the neighboring property owner to use the easement, the easement was granted and is on a deed which is actually an approval. *Jenny Bourbonais* added that despite this, the easement would still require a waiver in order to be used as a haul road because it does not meet the 50 foot no disturbance setback.

## **DECISION**

**Motion by Anderson/Werschay** to approve the expansion of an existing borrow pit to include the storage and recycling of asphalt and concrete as an Extractive Use-Class II and a waiver from St. Louis County Zoning Ordinance 62, Article VI, Section 6.22, G.9.b. to allow the haul road to be located within the 50 foot no disturbance setback, based on discussion prior to the motion regarding the haul road and the following facts and findings:

### **A. Plans and Official Controls:**

1. Zoning Ordinance 62, Article V, Section 5.5 B., indicates general purpose borrow pits are an allowed use with a conditional use permit.
2. Zoning Ordinance 62, Article VI, Section 6.22 G., indicates that recycling of asphalt and concrete is allowed and shall be limited to the permitted timeline for which the use was authorized.
3. The Grand Lake Township Comprehensive Plan has extensive language on resource extraction. The most relevant goals are:
  - a. Goal 1: Resource extraction activities conform to all local, county, state and federal environmental standards.
  - b. Goal 3: Minimize the impacts from resource extraction and transportation operations on existing development.
4. Grand Lake Township Comprehensive Plan policy states that for new gravel mining permits and expansion of existing mining operations, a 200 foot no disturb setback shall be required from neighboring property lines. St. Louis County Zoning Ordinance 62 requires a 100 foot no disturb setback from neighboring property lines when a parcel with an established dwelling is within 300 feet of the extractive use.
5. Grand Lake Township Comprehensive Plan policy states all gravel mining operations shall be subject to annual inspections by the township and/or St. Louis County. St. Louis County Zoning Ordinance 62 requires that the conditional use permit be administratively reviewed by the Director after five years.

### **B. Neighborhood Compatibility:**

1. There are approximately 17 residential properties within one-quarter mile, the closest being approximately 820 feet from the proposed borrow pit property line. That same property is within 90 feet of the existing haul road. There is also a dwelling within 110 feet of the proposed haul road.
2. There are two existing borrow pits adjacent to the parcel.

### **C. Orderly Development:**

1. The majority of development along Industrial Road and Caribou Lake Road is residential. The existing borrow pit area is located off of the road corridor by a minimum of one-quarter mile in all directions. The proposal is not to expand the pit area beyond what was originally permitted, but to expand the allowed uses within the existing pit area.
2. The proposal has the potential to impact the residential properties with added noise and traffic. Conditions of limiting the hours of operation may lessen impact to adjacent properties.

D. Desired Pattern of Development:

1. The development in the area is primarily residential; however, there are also two borrow pits adjacent to the applicant's parcel.
2. Section 23 is zoned Multiple Use (MU)-4, requiring a 4.5 acre minimum acreage; however, a majority of the parcels in this section are larger than what the density allows.

E. Other Factors:

1. The existing borrow pit was permitted by Grand Lake Township in 1988 and then again in 1992. It was then permitted by St. Louis County in 1997.
2. The conditional use permit from 1997 indicates that the gated haul road is accessed off of Caribou Lake Road.
3. The location of the haul road has been discussed as to the available options and the Planning Commission finds the access from Industrial Road to be the most suitable location, and a waiver may be granted to allow the haul road to be located within the 50 foot no disturbance setback due to safety reasons and wetland avoidance.

The following conditions shall apply:

Conditions Precedent:

1. The applicant shall obtain access approval from the appropriate road authority. There shall be only one access point.
2. A wetland delineation shall be completed.
3. All material not allowed to be stored within a borrow pit shall be removed and waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
4. The applicant shall comply with all county, state and federal regulations.
5. The applicant shall construct a gate at the property line in order to restrict access to the pit.
6. A 100 feet long fence of 8 feet in height shall be used to screen the dwelling along the haul road.
7. There shall be no more than 50 trucks allowed to haul per day.

Condition Concurrent:

1. All minimum extractive use standards shall be followed.

**In Favor:** Anderson, Filipovich, Skraba, Svatos, Werschay - 5

**Opposed:** Manick, Pineo, Pollock - 3

**Motion carries 5-3**

**Motion to adjourn by Skraba. The meeting was adjourned at 11:53 a.m.**