

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, FEBRUARY 9, 2023.

9:00 AM – 10:02 AM

Planning Commission members in attendance: Tom Coombe
Steve Filipovich
Dan Manick
Pat McKenzie, Chair
Ray Svatos
Diana Werschay

Planning Commission members absent: Commissioner Keith Nelson
Dave Pollock

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

NEW BUSINESS:

- A. Lake County Power, a conditional use permit for an electrical substation as a Utility Facilities - Class II.
- B. Chad and Laura Walsh, a conditional use permit for a portable toilet, septic pumping, and septic cleaning business as an Industrial Use – Class II.

OTHER BUSINESS:

Motion by Svatos/Filipovich to approve the minutes of the January 12, 2023 meeting.

In Favor: Filipovich, Manick, McKenzie, Svatos, Werschay - 5

Opposed: None – 0

Abstained: Coombe - 1

Motion carried 5-0-1

Jenny Bourbonais, Acting Secretary, stated that Commission member *Skraba* has officially resigned from both the Planning Commission and Board of Adjustment. His Planning Commission position is currently open and is being advertised. Board member *Manick* was appointed by the St. Louis County Board to fill the Board of Adjustment position. Board member *Manick* was formerly the Board of Adjustment alternate member. The alternate member position will be advertised.

Jenny Bourbonais noted that there will be a March Planning Commission and Board of Adjustment hearing. The Planning Commission determined they want both hearings on the same day, March 9, 2023.

Jenny Bourbonais stated there will be a Minnesota Association of Planning and Zoning Administrators training session on March 3, 2023 in Staples, MN. The Planning and Community

Development Department will pay for the training itself; however, anyone that attends will be responsible for travel and lodging. Materials were handed out regarding this opportunity.

NEW BUSINESS:

Lake Country Power

The first hearing item is for Lake County Power, a conditional use permit for an electrical substation as a Utility Facilities - Class II. The property is located in S14, T54N, R17W (Cotton). *Donald Rigney*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting approval of a new substation as a Utilities Facility – Class II.
- B. There currently is an existing substation on the property.
- C. The existing substation never received conditional use approval for its use or its location as when it appears to have been constructed prior to permit requirements.
- D. A new substation would need to be approved by the Planning Commission per current Zoning Ordinance 62.

Donald Rigney reviewed staff facts and findings as follows:

- A. Plans and Official Controls:
 1. St. Louis County Zoning Ordinance 62, Article V, Section 5.6 E., states that a substation as a Utility Facility – Class II is an allowed use in a Commercial zone district with a conditional use permit.
 2. The St. Louis County Comprehensive Land Use Plan Objective LU-4.1 states that, when possible, direct new development toward areas already supported with improved infrastructure, public facilities, and areas in reasonable proximity to basic services.
 3. The St. Louis County Comprehensive Land Use Plan Objective LU-4.3 encourages infill, redevelopment, or reuse of vacant commercial or industrial properties.
- B. Neighborhood Compatibility:
 1. This property and the surrounding area are zoned Commercial which allows for intense and varied commercial development.
 2. There is an existing substation on the property.
 3. The surrounding area consists of primarily rural residential and vacant properties; however, there is a communication tower within 0.25 miles of the subject property.
 4. The property is located off the heavily traveled Highway 53 corridor.
- C. Orderly Development:
 1. The proposed use is not new to the area as there is an existing substation on the property.
 2. The proposed use would not increase traffic.
- D. Desired Pattern of Development:
 1. This parcel and adjacent parcels are zoned Commercial; however, there are no existing commercial development on these properties.
 2. The property is within the Rural Communities on Future Land Use maps.

E. Other Factors:

1. The applicant will be within the maximum allowed 25 percent impervious surface.
2. The applicant is in the process of obtaining a Minnesota Pollution Control Agency (MPCA) National Pollutant Discharge Elimination System (NPDES) permit for stormwater management.
3. The proposed use would be allowed with a Performance Standard Permit if the property were located in a Forest and Agriculture Management (FAM), Multiple Use (MU), Shoreland Multiple Use (SMU), Residential (RES), or Limited Industrial (LI) zone districts.
4. There is no permit on file for the existing substation. Based on aerial imagery, it was established at the existing location prior to August 29, 1972.

Donald Rigney noted no items of correspondence.

STAFF RECOMMENDATION

If the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit to allow an electrical substation as a Utility Facility – Class II, the following conditions shall apply:

1. The requirements of the Wetland Conservation Act shall be followed.
2. The local fire department shall be notified of any hazardous or flammable materials stored or utilized on site.
3. The applicant shall comply with all applicable, local, state, and federal regulations.
4. The applicant shall obtain access approval from the appropriate road authority.

Jake Chrzanowski, Lake Country Power Senior Distribution Engineer, stated the existing substation is part of a plan to replace/update existing substations. Lake Country Power has about 50 substations and they currently replace/update one per year. This is to keep the substations at a life cycle of 50 years. This substation's transformer is vintage and is known to have issues. The new substation will have increased capacity and will be less noticeable.

Jennifer Otten, Lake Country Power Compliance and Environmental Affairs Manager, the applicant, stated she works on the environmental side of the project. They have gone through an environmental report. They use federal funding for their substations.

One virtual audience member spoke.

Joe Oliveira, 12314 Runnymede Street, North Hollywood, CA, stated his family owns property adjacent to the Lake Country Power property. He asked who will field questions about future development on the property. There are power lines crossing the property. Will new development move those powerlines.

Jake Chrzanowski stated there are existing overhead powerlines that go south and northwest. These powerlines will remain in place. There are no plans to change these lines in conjunction with this project.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *Filipovich* asked if the new substation would be on the same site as the existing substation, but in a different location. *Donald Rigney* stated the new substation would be located to the north of the existing substation.
- B. Commission member *Coombe* asked when the substation was built if there were no permit records since 1972. *Donald Rigney* stated there is no record when this structure was built. The 1972 date is based on aerial imagery. Commission member *Coombe* stated a permit would not have been required prior to 1968. *Donald Rigney* stated while there is no permit on record, the applicants would have been allowed a new substation had there been a permit on the property.
- C. Commission member *McKenzie* asked that in light of today's recent events involving electrical substations and utilities, how does Lake Country Power harden their facility? *Jake Chrzanowski* stated there would be panels to help protect against animals. As for criminal activity, there will be cameras at their substations to monitor any activity. There is monitoring equipment on their new transformers. They would get notice that the transformer would be heating up, would lose oil, etc. The existing transformer does not have this system.
- D. Commission member *Filipovich* asked if there will be more capacity. *Jake Chrzanowski* stated yes.

DECISION

Motion by Svatos/Manick to approve a conditional use permit to allow an electrical substation as a Utility Facility – Class II, based on the following staff facts and findings:

- A. Plans and Official Controls:
 - 1. St. Louis County Zoning Ordinance 62, Article V, Section 5.6 E., states that a substation as a Utility Facility – Class II is an allowed use in a Commercial zone district with a conditional use permit.
 - 2. The St. Louis County Comprehensive Land Use Plan Objective LU-4.1 states that, when possible, direct new development toward areas already supported with improved infrastructure, public facilities, and areas in reasonable proximity to basic services.
 - 3. The St. Louis County Comprehensive Land Use Plan Objective LU-4.3 encourages infill, redevelopment, or reuse of vacant commercial or industrial properties.
 - 4. The use conforms to the land use plan.
- B. Neighborhood Compatibility:
 - 1. This property and the surrounding area are zoned Commercial which allows for intense and varied commercial development.
 - 2. There is an existing substation on the property.
 - 3. The surrounding area consists of primarily rural residential and vacant properties; however, there is a communication tower within 0.25 miles of the subject property.
 - 4. The property is located off the heavily traveled Highway 53 corridor.
 - 5. The use is compatible with the existing neighborhood.

C. Orderly Development:

1. The proposed use is not new to the area as there is an existing substation on the property.
2. The proposed use would not increase traffic.
3. The use will not impede the normal and orderly development and improvement of the surrounding area.

D. Desired Pattern of Development:

1. This parcel and adjacent parcels are zoned Commercial; however, there are no existing commercial development on these properties.
2. The property is within the Rural Communities on Future Land Use maps.
3. The location and character of the proposed use is considered consistent with a desirable pattern of development.

E. Other Factors:

1. The applicant will be within the maximum allowed 25 percent impervious surface.
2. The applicant is in the process of obtaining a Minnesota Pollution Control Agency (MPCA) National Pollutant Discharge Elimination System (NPDES) permit for stormwater management.
3. The proposed use would be allowed with a Performance Standard Permit if the property were located in a Forest and Agriculture Management (FAM), Multiple Use (MU), Shoreland Multiple Use (SMU), Residential (RES), or Limited Industrial (LI) zone districts.
4. There is no permit on file for the existing substation. Based on aerial imagery, it was established at the existing location prior to August 29, 1972.

The following conditions shall apply:

1. The requirements of the Wetland Conservation Act shall be followed.
2. The local fire department shall be notified of any hazardous or flammable materials stored or utilized on site.
3. The applicant shall comply with all applicable, local, state, and federal regulations.
4. The applicant shall obtain access approval from the appropriate road authority.

In Favor: Coombe, Filipovich, Manick, McKenzie, Svatos, Werschay - 6

Opposed: None - 0

Motion carries 6-0

Chad and Laura Walsh

The second hearing item is for Chad and Laura Walsh, a conditional use permit for a portable toilet, septic pumping, and septic cleaning business as an Industrial Use – Class II. The property is located in S1, T50N, R17W (Brevator). *Donald Rigney*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to establish a portable toilet, septic pumping and septic cleaning business.

- B. On site, the business will include an office space/garage and the outdoor storage of portable toilets and equipment.
- C. The hours of operation will be Monday through Sunday, 7:00 a.m. to 9:00 p.m.
- D. The business will not be open to the public.

Donald Rigney reviewed staff facts and findings as follows:

A. Plans and Official Controls:

- 1. St. Louis County Zoning Ordinance 62, Article V, Section 5.6 B., indicates septic tank pumping businesses are an allowed use with a conditional use permit within a Multiple Use zone district.
- 2. The subject parcels fall within the Forest and Agriculture (FA) category of the St. Louis County Comprehensive Land Use Plan. This area is intended primarily for forest and/or agriculture uses. These areas are not intended for future rural or urban development.
- 3. The St. Louis County Comprehensive Land Use Plan specifically addresses the criteria used to determine the location of industrial development as it relates to the future land use map. Industrial sites should have direct access to an arterial or collector road or railroad spur, avoid wetlands, residential areas and is located where there has been extensive ground disturbance from previous industrial development or gravel operations.
 - a. The proposed site does have direct access to an arterial road but is not located on a previously permitted borrow pit or industrial site.
 - b. The development in the area is primarily residential, however, there are also industrial and extractive uses in the area.
 - c. There are no wetland impacts anticipated based on the application; however, there is wetland present within the parcel boundaries.
- 4. Goal LU-8 of the St. Louis County Comprehensive Land Use Plan is to provide sufficient opportunities for industrial development within the county in areas suitable for such development.

B. Neighborhood Compatibility:

- 1. The area currently consists of multiple uses. In addition to residential properties, the property abuts an active borrow pit, is across Highway 2 from State of Minnesota public land and is located within one-quarter mile of a bulk propane facility.
- 2. Noise from the proposed business may consist of truck traffic and loading and unloading of equipment.

C. Orderly Development:

- 1. The property, as well as much the surrounding area, is zoned Multiple Use.
 - a. This zone district allows for a wide range of uses including borrow pits, commercial, industrial, and residential uses.

D. Desired Pattern of Development:

- 1. The area has been historically developed with wide range of land uses including industrial uses.

2. The proposed use is allowed with a conditional use permit and will likely not significantly change the pattern of development in the area.

E. Other Factor:

1. The applicant has been issued a driveway access permit from the Minnesota Department of Transportation to access the property from Highway 2.

Donald Rigney noted one item of correspondence from Christopher and Jennifer Starr not in favor of the proposal. This item were provided to the Planning Commission prior to the hearing.

STAFF RECOMMENDATION

If the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit to allow a portable toilet, septic pumping, and septic cleaning business as an Industrial Use – Class II, the following conditions shall apply:

Condition Precedent:

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

Conditions Concurrent:

1. St. Louis County On-Site Wastewater SSTS standards shall be followed.
2. Waste shall be disposed in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
3. Lighting shall be directed downward in accordance with dark sky standards.
4. The property shall be kept in a neat and orderly manner.
5. The applicant shall comply with all county, state and federal regulations.

Chad Walsh, 4976 Misty Bay Drive, Duluth, the applicant, stated he owns several businesses in St. Louis County. They are relocating the proposed business to this location as they had overgrown their existing location. This business has been around since 2013. The location of the structure is near where the driveway was approved. The structure will be 200 feet from the road. They will keep the wooded area in front of the structure. He does not believe his portable toilets will be a problem. His neighbor across the street has a shop. There is a gravel pit down the road. There are gas tanks for a company nearby.

One member of the virtual audience spoke.

Michelle Dillon, 7254 Seville Road, stated they moved to this property two years ago and it is beautiful. There is about 42 acres. It is upsetting that a septic tank company moving in. They are concerned about their property value. There is a lot of wind through this area with various smells, and she heard the discussion about odor. She is concerned about wildlife in this area. The deer come right through this area. They hunt at this property. She is also being concerned about noise. How much noise will these trucks create all week long? This is not an appropriate place to have this company. There are residential areas near this location. While there is a gravel pit nearby, that activity is not seven days per week.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *McKenzie* asked if there was any discussion on screening such as a fence or planted trees. *Donald Rigney* stated that the property is wooded and there would be no issue with screening this from adjoining properties.
- B. Commission member *Manick* stated wetlands are along the road to the west and to the north. *Donald Rigney* stated yes.
- C. Commission member *Coombe* asked if the condition for road authority approval should remain in the list of conditions being that the applicant has obtained access approval from the Minnesota Department of Transportation. *Donald Rigney* stated this is a standard condition for conditional use permits.
- D. Commission member *Svatos* asked if there are liquids when cleaning the portable toilets. *Chad Walsh* stated these portable toilets are returned to the yard drained and there will be no sewage on site. They use water, shampoo and regular bar soap to clean and would not use anything hazardous to the environment. The blue liquid used in the toilets is not hazardous.
- E. Commission member *McKenzie* referenced the correspondence and asked about the correspondent's concerns about odor. *Chad Walsh* stated there will be no odor. There would likely be more smells from his neighbors' businesses. Sewage only smells when it is coming up to a tank.
- F. Commission member *Manick* noted that at the applicant's current property there are not issues with bad odors. *Chad Walsh* agreed as he has a retail shop at that location.
- G. Commission member *Filipovich* asked if there will be septic pumping trucks on location. *Chad Walsh* stated there are two trucks that pump septic tanks. These trucks leave in the morning, return in the afternoon and are not otherwise seen throughout the day. This is not a business where vehicles are active.
- H. Commission member *Svatos* asked if all waste goes to the Western Lake Superior Sanitary District (WLSSD). *Chad Walsh* stated yes. They follow MN State Rule 6090 and it is their choice to use WLSSD.
- I. Commission member *Filipovich* asked if the applicant will keep a tree buffer between this property and the neighbors. *Chad Walsh* stated there is about a 600-to-800-foot buffer between the edge of the property and the new structure and parking lot. He is aware that people use this property for hunting and that is something to discuss with these neighbors.
- J. Commission member *Coombe* noted that it is worth having portable toilets available when needed.

DECISION

Motion by Coombe/Manick to approve a conditional use permit to allow a portable toilet, septic pumping, and septic cleaning business as an Industrial Use – Class II, based on the following staff facts and findings:

- A. Plans and Official Controls:
 - 1. St. Louis County Zoning Ordinance 62, Article V, Section 5.6 B., indicates septic tank pumping businesses are an allowed use with a conditional use permit within a Multiple Use zone district.
 - 2. The subject parcels fall within the Forest and Agriculture (FA) category of the St. Louis County Comprehensive Land Use Plan. This area is intended primarily for

forest and/or agriculture uses. These areas are not intended for future rural or urban development.

3. The St. Louis County Comprehensive Land Use Plan specifically addresses the criteria used to determine the location of industrial development as it relates to the future land use map. Industrial sites should have direct access to an arterial or collector road or railroad spur, avoid wetlands, residential areas and is located where there has been extensive ground disturbance from previous industrial development or gravel operations.
 - a. The proposed site does have direct access to an arterial road but is not located on a previously permitted borrow pit or industrial site.
 - b. The development in the area is primarily residential, however, there are also industrial and extractive uses in the area.
 - c. There are no wetland impacts anticipated based on the application; however, there is wetland present within the parcel boundaries.
4. Goal LU-8 of the St. Louis County Comprehensive Land Use Plan is to provide sufficient opportunities for industrial development within the county in areas suitable for such development.
5. The use conforms to the land use plan.

B. Neighborhood Compatibility:

1. The area currently consists of multiple uses. In addition to residential properties, the property abuts an active borrow pit, is across Highway 2 from State of Minnesota public land and is located within one-quarter mile of a bulk propane facility.
2. Noise from the proposed business may consist of truck traffic and loading and unloading of equipment.
3. The use is somewhat compatible with the existing neighborhood. The property is zoned for this type of use and there are similar uses in the neighborhood.

C. Orderly Development:

1. The property, as well as much the surrounding area, is zoned Multiple Use.
 - a. This zone district allows for a wide range of uses including borrow pits, commercial, industrial, and residential uses.
2. The use will not impede the normal and orderly development and improvement of the surrounding area.

D. Desired Pattern of Development:

1. The area has been historically developed with wide range of land uses including industrial uses.
2. The proposed use is allowed with a conditional use permit and will likely not significantly change the pattern of development in the area.
3. This business is located on Highway 2. There will be less dust and dirt than using a rural road.
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 been issued a driveway access permit from the Minnesota Department of Transportation to access the property from Highway 2.
2. The correspondent lives 900 feet from the proposed location and the person who spoke lives 1,500 feet from the proposed location. Both locations are heavily screened by trees.

The following conditions shall apply:

Condition Precedent:

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

Conditions Concurrent:

1. St. Louis County On-Site Wastewater SSTS standards shall be followed.
2. Waste shall be disposed in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
3. Lighting shall be directed downward in accordance with dark sky standards.
4. The property shall be kept in a neat and orderly manner.
5. The applicant shall comply with all county, state and federal regulations.

In Favor: Coombe, Filipovich, Manick, McKenzie, Svatos, Werschay - 6

Opposed: None - 0

Motion carries 6-0

Motion to adjourn by Manick. The meeting was adjourned at 10:02 AM.