

MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY PLANNING COMMISSION HELD THURSDAY, MARCH 12, 2020, ST. LOUIS COUNTY GOVERNMENT SERVICES BUILDING, LIZ PREBICH ROOM, VIRGINIA, MN.

9:05 AM – 12:20 PM

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

Planning Commission members absent: None

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

NEW BUSINESS:

- A. Enbridge Energy Limited Partnership, a conditional use permit to establish an equipment staging site as an Industrial Use-Class II.
- B. LTI Holdings LLC, a conditional use permit for a borrow pit as an Extractive Use-Class II.

OTHER BUSINESS:

Motion by Nelson/Svatos to approve the minutes of the January 9, 2020 meeting.

In Favor: Filipovich, Manick, Nelson, Pineo, Pollock, Skraba, Svatos, Werschay – 8

Opposed: None – 0

Abstained: Anderson - 1

Motion carried 8-0-1

Jenny Bourbonais, Acting Secretary and Planning Manager, gave an update for short term rentals. The County Board passed the Zoning Ordinance 62 amendment at a public hearing on February 25, 2020. Both paper copies and online applications are now available for short term rentals.

Matthew Johnson, the new Director of the Planning and Community Development Department, was introduced to the Planning Commission.

Jenny Bourbonais gave a one year update for Omar Sand and Gravel. There have been no complaints made against this property. It would appear that all conditions are being followed.

Because of the shortage of parking and the number of cases, the Planning Commission agreed to have the next public hearing at the Public Works facility in Virginia. The next public hearing is scheduled for April 9, 2020.

NEW BUSINESS:

Enbridge Energy

The first hearing item was for Enbridge Energy Limited Partnership, a conditional use permit to establish an equipment staging site as an Industrial Use-Class II. The property is located in S28, T51N, R20W (Floodwood). *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The request is for an equipment/staging area.
- B. The staging area will include parking for vehicles and trailers.
- C. There will be security lighting.
- D. The site will be utilized 24 hours a day, 7 days per week.
- E. There was a conditional use permit issued on this property for a cell tower.
- F. There was also a conditional use permit issued on the property for a borrow pit.
- G. There is a residence on the property that is currently being leased out.

Mark Lindhorst reviewed staff facts and findings as follows:

- A. Plans and Official Controls:
 - 1. Zoning Ordinance 62, Article V, Section 5.6 allows an Industrial Use-Class II with a conditional use permit.
 - 2. The St. Louis County Comprehensive Land Use Plan specifically addresses 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 and residential areas and should be located where there has been extensive ground disturbance from previous industrial development or gravel operations. The proposed site has a direct access to an arterial road, no wetland impacts are anticipated, there is limited residential development and the site is located on a previously permitted borrow pit thereby meeting the criteria for an industrial site, per the Comprehensive Land Use Plan.
- B. Neighborhood Compatibility:
 - 1. The property is zoned Multiple Use (MU)-4 which allows for multiple uses including commercial, industrial and residential.
 - 2. Other than the existing on-site residence, there are no residential developments within a quarter mile of the planned site. There is a commercial quilt shop business located to the south of the entrance but is over a quarter mile from the planned site.
- C. Orderly Development:
 - 1. The area consists of large tracts of land with limited development.
 - 2. The proposed site has an existing access onto an arterial road and will be well screened from public view.

D. Desired Pattern of Development:

1. The pattern of development is predominately large tracts of forest land with limited residential and commercial properties.
2. The proposed site location meets the access and environmental criteria for an industrial site outlined in the St. Louis County Comprehensive Land Use Plan.

Mark Lindhorst noted no items of correspondence.

STAFF RECOMMENDATION

In the event that the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit to allow an equipment staging area as an Industrial Use Class-II, the following conditions shall apply:

Conditions precedent:

1. The applicant shall obtain approval for access from the appropriate road authority.
2. The conditional use permit for the borrow pit shall be revoked.

Conditions concurrent:

1. Waste shall be disposed in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
2. Lighting shall be directed downward in accordance with dark sky standards.
3. The property shall be kept in a neat and orderly manner.

Barry Simonson, Director of the Line 3 project, stated that the property owner is Enbridge Energy. They lease a residence located on that property. They have looked at stormwater management in regards to the river. They are being proactive with the conditional use permit with contractors in place and construction is planned for 2020. The Minnesota Pollution Control Agency will have two open houses for the draft permits. They have been working with the Department of Natural Resources regarding water quality.

No audience members spoke.

The *Planning Commission* discussed the following:

- A. Inquired why the existing conditional use permit for a borrow pit should be revoked. *Mark Lindhorst* stated that in the past, the Planning Commission has revoked existing conditional use permits for borrow pits so that there would not be a use on the property that is no longer being utilized. Commissioner *Nelson* stated that the staging area is a temporary use that could take several years. The borrow pit could be used in the future once the pipeline project is done.
- B. Inquired about preserving the river south of the property. *Mark Lindhorst* stated that the staging area is well beyond the setback requirements for the river. There will be no excavation in this area and it will only be used as a staging area. The Planning Commission could add a condition that runoff be contained to the property.

DECISION

Motion by *Skraba/Manick* to approve a conditional use permit to allow an equipment staging area as an Industrial 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 allows an Industrial Use-Class II with a conditional use permit.
2. The St. Louis County Comprehensive Land Use Plan specifically addresses 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 and residential areas and should be located where there has been extensive ground disturbance from previous industrial development or gravel operations. The proposed site has a direct access to an arterial road, no wetland impacts are anticipated, there is limited residential development and the site is located on a previously permitted borrow pit thereby meeting the criteria for an industrial site, per the Comprehensive Land Use Plan.

B. Neighborhood Compatibility:

1. The property is zoned Multiple Use (MU)-4 which allows for multiple uses including commercial, industrial and residential.
2. Other than the existing on-site residence, there are no residential developments within a quarter mile of the planned site. There is a commercial quilt shop business located to the south of the entrance but is over a quarter mile from the planned site.

C. Orderly Development:

1. The area consists of large tracts of land with limited development.
2. The proposed site has an existing access onto an arterial road and will be well screened from public view.

D. Desired Pattern of Development:

1. The pattern of development is predominately large tracts of forest land with limited residential and commercial properties.
2. The proposed site location meets the access and environmental criteria for an industrial site outlined in the St. Louis County Comprehensive Land Use Plan.

The following conditions shall apply:

Condition precedent:

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

Conditions concurrent:

1. Waste shall be disposed in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
2. Lighting shall be directed downward in accordance with dark sky standards.
3. The property shall be kept in a neat and orderly manner.

In Favor: Anderson, Filipovich, Manick, Nelson, Pineo, Pollock, Skraba, Svatos, Werschay - 9

Opposed: None - 0

Motion carries 9-0

LTI Holdings LLC

The second hearing item was for LTI Holdings LLC, a conditional use permit for a borrow pit as an Extractive Use-Class II. The property is located in S24, T52N, R15W (Fredenberg). *Jenny Bourbonais*, Acting Secretary, noted before the start of the hearing that with the change of location of the proposed haul road, the Planning Commission has the option to table the decision in order to allow for re-notification of all affected adjoining property owners. The new haul road location extends the notification area beyond what was previously noticed.

Donald Rigney, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The proposed operation will include crushing, washing, screening, portable hot mix and the recycling of asphalt.
- B. The screening will occur from April to December.
- C. The recycling of asphalt and crushing will only occur if a portable hot mix plant is present.
- D. It is estimated that 100,000 cubic yards of material will be removed each year.
- E. The hours of operation will meet the standard hours of operation per Zoning Ordinance 62.
- F. The proposed access to the pit has been changed. The new access will be an easement through a different borrow pit to Fish Lake Road, a County State Aid Highway (CSAH). The haul road is considered part of the use.
- G. The easement will move through a property to the south which is currently owned by an excavating company and has a permitted borrow pit. It is not known if borrow material is being removed from the site.
- H. There are sixteen residential dwellings within one-quarter mile of the proposed borrow pit.

Donald Rigney 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 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.
- B. Neighborhood Compatibility:
 1. The property is located approximately 175 feet from the shoreline of Fredenberg Lake. The majority of the parcels within this area are larger except for the shoreland riparian areas. Most are residentially developed.
 2. There are 15 residential dwellings within a quarter mile of the subject property. This does not include the residential dwelling on the subject property.
 3. The closest residence, not on the parcel, from the proposed haul road is 550 feet. In addition, there is a residence 230 feet to the south of the pit area. All undisturbed buffer areas will be maintained.
 4. The proposal includes crushing and portable hot mix which has the potential for an increased impact to surrounding residential properties through added noise and smell.
 5. The proposal states that, on average, 20 trucks will leave the pit per day which has the potential to impact residential properties with added noise and traffic.

C. Orderly Development:

1. The development in the area is primarily residential. However, there are two borrow pits within one half mile of the proposed pit; the closest being 600 feet to the south of the subject parcel.
2. There are a total of 11 privately owned authorized borrow pits within 1.5 miles of the subject property.
3. The property, as well as the surrounding area away from the lakes, is zoned Multiple Use (MU). This zone district allows for a wide range of uses including borrow pits, commercial and residential uses.
4. The subject parcel and the surrounding area away from the lakes is zoned Multiple Use-4 requiring a minimum of 4.5 acres; however, the majority of the parcels are between 6 acres and 40 acres.

D. Desired Pattern of Development:

1. Development consists of lakeshore homes along the riparian corridor with larger acreage residential parcels and two borrow pits outside the shoreland area.
2. The future land use map identifies the proposed area within the Lakeshore Development Area. As stated in the St. Louis County Comprehensive Land Use Plan, 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.

Donald Rigney noted 30 items of correspondence; 1 was in favor of the proposal, 1 was neutral to the proposal and 28 were opposed to the proposal. All correspondence was handed out to the Planning Commission prior to the hearing.

STAFF RECOMMENDATION

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

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 as legally described as the NW1/4 of NW1/4, S24, T52N, R15W.
3. The applicant shall comply with all county, state and federal regulations.
4. The Wetland Conservation Act shall be followed.

One member of a government agency spoke:

Clay Cich, Town of Fredenberg Board Chair and supervisor, stated that Fredenberg is only a six mile by six mile township. He provided large maps of the township as visual aids. The township is hoping to increase the number of residences within the township. A portion of their township is

owned by Minnesota Power, especially around Island Lake. To add another gravel pit in this area will not support the economic benefits that a new residence would. They are one of the only townships in the Duluth area that has fiber optic connections to the home. A majority of the township's children go to Hermantown schools which have spent \$48 million for new schools. The township has spent more than \$1.4 million on road improvements, including paving three roads within the township. They have spent an additional \$700,000 on a fire hall and improvements to the existing town hall. There are better areas in which to locate a gravel pit.

Todd Kaneshki, the applicant, stated that they asked for everything they could need for this project. He is also a resident of Fredenberg Township. The hours of operation will meet county guidelines. There are about a million cubic yards of loose material available in the pit. They do have an existing hot mix plant about three miles from this location that they could use. The crusher would only be used if the hot mix plant is utilized. This material is sand and they would not be able to make any Class V material. This material passes as MOD 7, which is used in road beds, backfilling footings and mound sand. Their trucks are 63,000 to 69,000 pounds, which is most common out of their pits. There could be trucks that weight as high as 80,000 pounds. They are also willing to alter the proposed easement to Fish Lake Road so they can maintain the 100 foot buffer for the other pit.

One member of the audience spoke in support:

Mark Toms, 6464 Fredenberg Lake Road, stated that he owns the subject property. He is a resident of Fredenberg Township and has been a part of it for decades. This property used to be his grandfather's tree farm. He had a timber evaluation done this past year and the trees are four years overdue for thinning. LTI would manage the trees and remove some. The trees along Fredenberg Lake Road and Miller Lane are part of a buffer system and would remain there. There was an old pit located on this property. That pit provided the gravel for the Fredenberg Lake Road to extend the road for residences in the area.

When a realtor approached him about three contacts looking to purchase this property for gravel, he went to LTI Holdings. He is employed by LTI Holdings. He knows how much LTI takes care of their customers and their employees. He explained the history of other old gravel pits in the area, including those that became residential areas once reclaimed. He added that if reclamation is done properly, there would be no blight to the community once the pit is done. This is material that is needed badly. There is a purchase agreement contingent on the outcome of this hearing, as well as a lease to live on the property. The house is a three-story house with two people living in it. One factor is that as they go into retirement, they will not be able to pay the taxes on this property. A second factor is this project would give him the opportunity to leave his wife financially secure if something happened to him.

Fourteen members of the audience spoke in opposition:

Debra Roach, 4941 Island Beach Lane, stated that she is concerned about Fish Lake Road. There are curves, dips and hills; the condition of the road is terrible and there are no shoulders. This is a peaceful area with wildlife. This gravel pit would be the twelfth pit within one and a half miles. They spent two years going through the building process for their house. Fredenberg Township does not agree with the development. She showed two short videos consisting of traveling along Fish Lake Road.

Greg Flanagan, 6467 Fredenberg Lake Road, lives across the road from the previous proposed access. In order to pull 100,000 cubic yards per year, they will need to run 32 trucks 6 days per week and 9 months per year. At 32 trucks per day, that is 14,000 round trips. There are four lakes that surround this property. The average resident is located 775 feet from the proposed pit, which is less than a quarter-mile and a short distance for a residential community. There is nobody that lives around the pit that would not be affected by this. He is concerned about property values and the economic impact if the pit is approved. This is no longer the 1970s and borrow pits do not fit this area. He agrees with Fredenberg Township not being in support of this proposal.

May Broman, 6576 Fredenberg Lake Road, stated that have lived in this area for the past 30 years and chose this location because they love the area. They purchased a cabin and made it into their permanent home. Her concern is the fact that they have allergies and that dust, smell and fumes could blow into their property with a south wind. She is also concerned about Fredenberg Lake, a spring-fed lake. They drove around to see the other gravel pits in the area, which do not have residential homes around them. Because the road dead-ends, they have to drive past the borrow pit.

Ken Johnson, 6522 Fredenberg Lake Road, stated they built a home there 20 years ago. He is also president of the Fredenberg Lake Association with 26 homeowners. Each homeowner is a voting member and all members are in direct opposition. Their family uses the lake recreationally. They are concerned about the environmental impact on the lake, as well as wildlife, natural environment and fish habitats. The use of an asphalt plant and crushing are industrial uses which are inappropriate for their residential neighborhood.

Mike Anderson, 6456 Olson Drive, stated this is their retirement home. They will continue to make improvements to their residence. His parents owned the Rolling Rocks nine-hole golf course and event center. He is concerned about property values and feels that if a borrow pit is approved, some neighbors may move.

Kathy Stingl, 4845 Miller Lane, stated this property has been in her family for almost 80 years. They have seen all of the development coming into the neighborhood. She is concerned that reclamation takes years. She is also concerned about dust from the pit.

Wendy Johnson, 6522 Fredenberg Lake Road, stated she lives about half a block from the proposed property. They made a conscious decision to build their home on Fredenberg Lake. She feels they will lose the solitude and wildlife if there is a borrow pit in operation. She is also concerned about the number of school busses along Fredenberg Lake Road. She asked the Planning Commission to consider the residents and added this use should not be in a residential area.

Jim Ray, 5035 South Bay Road, stated he is one of the Fredenberg Town Board supervisors and a road foremen. He shares the concerns of others. He is concerned about the infrastructure that taxpayers have paid themselves to have Fredenberg Lake Road improved and paved. He has significant concerns about the additional traffic on Fredenberg Lake Road. While LTI is a reputable company, this is not the best location for this kind of use.

Sarah Williams, 225 9th Street East, St. Paul, MN, stated she lives a bit further from the proposal. Her grandfather purchased property in this area in the early 1900s and taught them about the area. She is concerned about the borrow pit's impact on the environment as well as the community that works to protect it.

Patty Wheeler, 6516 Fredenberg Lake Road, stated she has petitions from over 100 people opposed to this project that either own property or are seasonal property owners in this area. She had a powerpoint presentation showing drone pictures of the project location as well as how close Fredenberg Lake is to this project. She is concerned about Fredenberg Lake and the presence of wetlands. This is a residential area and not a rural area.

Bonnie Anderson, 4929 Fish Lake Road, had a letter from Steve and Jill Kaczmark, which had already been submitted into record and given to the Planning Commission prior to the hearing.

Bruce Anderson, 4929 Fish Lake Road, stated he owns 35 acres in the area. This gravel pit will be located between two lakes and is in close proximity to three lakes. He is concerned about the potential health risk impacts, airborne pollution, any environmental issues. He will consider selling his residence if the pit is permitted. Allowing this gravel pit may result in other residents selling their properties for their gravel. He also noted a letter from Mike Anderson.

Janet Olson, 4931 Fish Lake Road, inquired about the notifications and if they were sent far enough. She noted that the University of Minnesota-Duluth (UMD) does a day classroom study every fall on the bogs in this area. She is concerned about losing the quiet if the gravel pit is approved.

Mike "Oly" Olson, 4931 Fish Lake Road, stated he agrees with the opposed parties. He passed out pictures of the road corners. He is concerned that it will be more dangerous to drive the road than it already is. He is a commercial truck driver and is familiar with how trucks travel on roads. This is also the only road for any residences in this area and all residents need to travel on it.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. Inquired about the other existing borrow pit the new easement would cross through and if there were any restrictions with that borrow pit. *Donald Rigney* noted that one of the conditions of that borrow pit was to maintain a 100 foot buffer, which the proposed easement does not. The proposed easement would have to maintain the 100 foot buffer.
- B. Inquired what weight restrictions were on Fredenberg Lake Road. It is not known what the weight limits are on Fredenberg Lake Road, which is a township maintained road. Commissioner *Nelson* noted that the township does have the right to limit access to the road based on weight restrictions, but it cannot close the road to traffic. The township does collect a road tax for maintaining their road system. This information should be clarified for the next hearing.
- C. Inquired if Island Lake Reservoir backflows into Fredenberg Lake.
- D. Commissioner *Nelson* inquired if the township received township road aid dollars from the state of Minnesota for their road projects. If so, the weight capacity may be 5,000 pounds.

- E. Discussed Minnesota Power is selling the individual lease lots on Island Lake Reservoir, which does indicate an increase of residential properties in this area.
- F. Requested more information on the borrow pit to the south of the proposed pit (the Fordson's pit) to determine if the pit is still in use, if hot mix could be utilized in that pit.
- G. Inquired about the part the Town of Fredenberg Comprehensive Plan plays. *Jenny Bourbonais*, Acting Secretary, stated that the St. Louis County Comprehensive Land Use Plan pertains to all townships. While the Town of Fredenberg can maintain their own comprehensive plan for reviewing things and use the information in a resolution, the St. Louis County Comprehensive Land Use Plan is the guiding document for townships that do not administer their own zoning.
- H. *Jenny Bourbonais* stated there are three options for the Planning Commission to consider: approve the proposal with conditions, to deny the application which would not require an additional hearing and the third option would be to continue the hearing next month to allow for re-notification of adjoining landowners based on the proposed haul road location.

MOTION

Motion by Svatos/Nelson to deny a conditional use permit to allow a general purpose borrow pit as an Extractive Use-Class II, based on the Town of Fredenberg resolution points 1 and 3:

1. The permit does not comply with our Fredenberg Concept Map (part of Fredenberg Township Comprehensive Land Use Plan, which St. Louis County reviewed and accepted to use as a guideline for planning and zoning in our community), which places the said property as "rural residential".
3. There are adverse effects to local properties/residents in the area: traffic noise, dust, and changing the character of the neighborhood.

DISCUSSION ON MOTION

Commissioner *Pollock* stated that the second point in the Town of Fredenberg resolution is just as important: The Township will not authorize use of Fredenberg Lake Road, Olson Road and Miller Lane (all township roads) are not engineered for this type of use for heavy equipment and will not be authorized for use.

Commissioner *Nelson* added the issue is the borrow pit directly south of the proposed pit. Finding septic sand is becoming an issue in St. Louis County. There is not good enough quality and not nearly enough quantity. He believes that the Town of Fredenberg's primary concern was the investment made in Fish Lake Road. However, that road is no longer included in the proposal. One issue with borrow pits is that the land has not been reclaimed or taken care of. Fredenberg Township has a lot of gravel pits. This property has had a land steward who had a tree farm and those poles are a tremendous amount of value. If the proposal was changed or adjusted to not include crushing and hot mix, there might be a change in attitude within the neighborhood. Hot mix plants, in particular, are unwanted.

MOTION TO TABLE DECISION

Motion to table the motion made by Svatos/Nelson by Skraba until the April 9, 2020 hearing in order to obtain information in order to vote on a decision.

Additional information necessary prior to the next hearing includes:

1. Re-notification of all adjoining property owners within one-quarter mile of this proposed borrow pit, including the proposed easement area across Fordson's pit.
2. Information on the Fordson's pit, including what the status of the borrow pit is, if the pit can support a hot mix plant, and if the applicant can meet the Fordson pit's required 100 foot buffer.
3. The weight limit for Fredenberg Lake Road, which would restrict the traffic on the township roads. The township cannot restrict use to the road unless the traffic exceeds the weight limit.

In Favor: Anderson, Filipovich, Manick, Nelson, Pineo, Pollock, Skraba, Svatos, Werschay - 9

Opposed: None - 0

Motion carries 9-0

Motion to adjourn by Nelson. The meeting was adjourned at 12:20 p.m.