



PUBLIC HEARING – EXTRACTIVE USE

Application: Ordinance Amendment regarding Extractive Use

Applicant: City of Pequot Lakes

Agenda Item: 3 (b)

Background Information: It was brought to Staff's attention that the language included in our Extractive Use Ordinance was vague. Staff provides the following amendment.

Applicable Regulations: The underlined text is the proposed language to be added. The ~~struckthrough~~ language is proposed to be removed.

Section 17-8.5 EXTRACTIVE USES AND RESOTRATION

1. In all districts where permitted, as defined in 17-6.4 Extractive Use Overlay District, mining shall be permitted only by CUP. Such permit shall include as a condition: a site plan, a completion plan and a haul route plan with provision for road restoration as provided below. An approved extractive use CUP shall be used solely for the operations detailed in the permit.
2. All excavation and extraction shall conform to the following:
 - A. Distance from property lines. No quarrying operation shall be carried on or any stock pile placed closer than 50 feet from any property line, unless a greater distance is specified by the CUP where such is deemed necessary for the protection of adjacent property. This distance requirement may be reduced to 25 feet only with written consent of the owners of the affected adjacent non-residence property. Proof of said agreement shall be submitted as a part of the application and maintained in City files for all approved CUPs for extractive uses. Without such agreement, the buffer area may be used only under the following circumstances:
 - (1) The buffer area may contain the haul road if the City determines that, for safety purposes, the access to the use is best served in that area.
 - (2) The haul road may be located in the buffer area to avoid wetlands or other sensitive environmental resources.
 - (3) If authorized in an approved reclamation plan, one half of

the buffer area may be used for the storage of topsoil and for final sloping. All topsoil storage areas shall be seeded to prevent erosion and dust. Berms, including those consisting of topsoil to be used for reclamation, may be placed in the buffer area, but they shall be seeded and mulched in a manner that prevents dust from blowing onto adjacent properties.

- B. Distance from public right of way. In the event that the site of the mining or quarrying operation is adjacent to the right of way of any public street or road, no part of such operation shall take place closer than 50 feet to the nearest line of such right of way.
- C. Fencing. Fencing shall be erected and maintained around the entire site or excavated portions thereof and shall be of a type specified in the CUP.
- D. Equipment. All equipment and machinery shall be operated and maintained in such a manner as to minimize dust, noise and vibration. Power drives or power producing machinery, not including vehicles, shall not be housed or operated less than 1,000 feet from a residential use district.
- E. Processing. Crushing, concrete mixing, washing, refining, or other similar processing may be authorized by the CUP as an accessory use, provided, however, that such accessory processing does not conflict with the use regulations of the district in which the operation is located. Processing shall not be permitted in the residential districts. All processing equipment shall be located at least 1,000 feet from any residence, 200 feet from the OHW of any lake or stream, and outside of the wellhead protection area. The City may not approve such accessory uses if they are found to be incompatible with the neighborhood, in conflict with the City's Comprehensive Plan, or do not meet the review criteria for the condition use permit.
- F. Depth to groundwater separation. The applicant must indicate the proposed depth to groundwater table in the plan. The proposed extraction shall maintain a minimum separation of five (5) feet.
- G. Water quality. The extractive use operation shall not adversely impact the quality or quantity of surface or groundwater resources as defined by the Minnesota Pollution Control Agency, Minnesota DNR, U.S. Army Corps of Engineers, or the Minnesota Department of Health. Surface water originating outside and passing through the extraction site shall be of equal quality at its

point of departure from the site to the water at the point where it enters the extraction site. The applicant shall perform the water treatment necessary to comply with this provision and provide a lot of recorded water quality to the City on a regular basis.

- H. Waste materials and debris. No waste materials shall be disposed of on site unless authorized by the City. Stumps, brush, and other natural debris shall be removed or disposed of in accordance with local rules and regulations. Sanitary facilities acceptable to the City shall be provided for workers during the operation of the extractive use.
- I. Concurrent permits. All required permits applying to the proposed extractive use, which may include an NPDES permit for stormwater management, shall be obtained and copies submitted to the City prior to the commencement of any extractive use or related activities.

3. Specific evaluation criteria. In addition to the criteria used in evaluating CUPs, the following specific criteria shall be used in evaluating an application for an extractive use CUP:

- A. The ability of the proposed haul routes to handle the additional traffic generated by the extractive use.
- B. Air quality, dust, and noise control measures and the ability to limit impact upon adjacent residential properties according to MPCA standards.
- C. The extent that the proposed extractive use, or its accessory uses, impact the groundwater.
- D. The ability of the applicant to control erosion and sedimentation that may result from the proposed use.
- E. The impact on the natural resources contained in the watershed in which the proposed extractive use is located and the ability of the applicant to avoid or mitigate any impacts.

4. Rehabilitation. To guarantee the restoration, rehabilitation, and reclamation of mined-out areas, every applicant granted an extraction/mining permit as herein provided shall furnish a performance bond running to the City in an amount to be determined by the City Engineer, and acceptable to the Planning Commission, as a guarantee that such applicant, in restoring, reclaiming, and rehabilitating such land and haul road, shall, within a reasonable time and to the satisfaction of the City meet the following minimum requirements:

- A. Surface rehabilitation. All excavation areas shall be graded or backfilled to contour and shape the peaks and depressions thereof, so as to produce a gently drained surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area. Four (4) inches of black topsoil shall be placed on all areas, except beaches, that will remain above water level. Haul roads will be restored to their condition prior to the beginning of the extraction operation,
 - B. Vegetation. Vegetation shall be restored by appropriate seeds of grasses or planting of shrubs or trees in all parts of said mining area where such area is not to be submerged under water as herein above provided.
 - C. Banks of excavation not backfilled. The banks of all excavation not backfilled shall be sloped not steeper than three (3) feet horizontal to one (1) foot vertical and said bank shall require the establishment of vegetation.
 - D. Reclamation of extractive use sites and designated haul roads shall be completed within one (1) year after the cessation of the operation, unless modified by the CUP.
5. Application, contents, procedure. An application for such operation shall provide the following information in addition to that required by the CUP process:
- A. Name of the person or corporation conducting the actual removal operation.
 - B. Certificate of Survey labeled Map A indicating pre-mining conditions as they currently exist in the project area including all areas within 500 feet of the site at a scale of not less than one (1) inch equals one hundred (100) feet that includes the following:
 - Existing vegetation within and adjacent to the project area;
 - Location of all structures within and adjacent to the project area and the purpose for which each structure is used, including buildings, pipelines, cables, railroads and power lines;
 - Existing drainage patterns and permanent water areas;
 - Contours within the project area at ten (10) foot intervals..
 - C. Map B outlining sSize of the area from which the removal is to be made and the volume of material to be removed.

- D. Map C depicting proposed final grade after deposit is removed and area restored.
- E. Type of resources or materials to be removed.
- F. Proposed method of removal and whether or not blasting or other use of explosives will be required.
- G. Description of equipment to be used, including any proposed accessory uses such as hot mix plants or crushing operations.
- H. Method of rehabilitation and reclamation of the pit area, including timeframe for rehabilitation.
- I. Identification of haul roads and amount of truck activity at highest and average levels on those routes, including ADT (average daily total) counts.
- J. Hours of operation and expected life of operation.
- K. Types of barriers to be used, if necessary, to ensure the safety of people and livestock residing within proximity to the proposed area of excavation.
- L. Proposed methods of avoidance or mitigation of the impacts on natural resources caused by the proposed use.
- M. Detailed plans indicating anticipated vegetative and topographic alterations.

Planning Commission Direction: The Planning Commission can approve the Ordinance Amendment, deny the application, or table the request if additional information is needed.

Staff Recommendation: We recommend that the application be approved.
