

**MINUTES  
PEQUOT LAKES PLANNING COMMISSION  
REGULAR MONTHLY MEETING  
MARCH 19, 2015**

PRESENT: Deb Brown, Todd Engels, Bill Habein, Cheri Seils and Wesley Wilson.  
ABSENT: Mark Hallan and James Oraskovich.

CITY PLANNER: Justin Burslie, NJPA

ZONING ADMINISTRATOR: Dawn Bittner

CITY COUNCIL LIAISONS: Jerry Akerson and Greg Karr

The meeting was called to order by Chair Seils at 6:00 p.m.

**Pre-Meeting Discussion:**

**Rural Road Standards –**

City Planner Burslie and Zoning Administrator Bittner explained the January, 2015 discussion with Mayor Sjoblad and Public Works Supervisor Loven; the highlights of that discussion were included in the Staff Report. Loven had suggested the language for Rural Road Construction Specifications included in the packet.

Staff will develop an official map of City maintained roads (rural area) and streets (downtown area). This will allow the City to incorporate the Downtown Plan discussions, as well as bike paths, trails, and pedestrian mobility.

Planning Commission Member Wilson moved to recommend the City Council approve the Rural Road Construction Specifications.

Planning Commission Member Wilson noted the difficulty turning on and off of Government Drive with large vehicles pulling trailers. There is no turning radius and snow is piled across from Pfeiffer Drug making turns more difficult.

**PUBLIC HEARING:**

**APPLICANT: Anderson Brothers Construction**

**Applicant requests a Conditional Use Permit to for an Extractive Use**

City Planner Burslie explained the Staff Report. Applicant was represented by Ron Wickham, Vice-President of Anderson Brothers.

City Planner Burslie read the Findings of Fact and the proposed Conditions. Mr. Wickham explained that the crusher will not be in the pit all summer, a 2 week minimum or 6 to 8 weeks maximum. There will be no hot mix or wash plant, and no rip rap machine. This operation will just be for gravel. Anderson Brothers has had to haul clay into the other site for gravel; this site has clay material and they will not need to haul it in. He stated he would like the opportunity to address their concerns after the public speaks. He reminded the Planning Commission that a CUP had previously been issued to another contractor on this site.

**PUBLIC COMMENT OPENED:**

Kirk Larson, 5980 Wild Acres Road – Mr. Larson stated he had talked with the neighbors and prepared a handout of their concerns. Mr. Larson read the 4-page handout which covered Safety, Noise, Dust and Debris and Economic Values of Concern, a copy of which is made a part of these Minutes.

Kevin Wendt, 5853 Wild Acres Road – Anderson Brothers has an entrance on Nelson Road; with the new entrance on Wild Acres Road it will create a loop for people to enter from Nelson and exit onto Wild Acres Road. This will increase truck traffic on Wild Acres Road. If this operates until 9:00 PM, there is no safe place to ride bikes or walk. He now hears the noise from the rock crusher  $\frac{3}{4}$  mile away. The new one will be less than  $\frac{1}{4}$  mile from his house. The crusher could ruin the foundation on their home; the family gets no sleep for the 14 days it is in operation 24 hours a day. He suggested 7:00 AM to 7:00 PM would be fair for the gravel pit operation. Dust is a problem; he has one child allergic to dust and cannot leave windows open in the summer. He could dust every day with a south or southeast wind. He needs to change filters 2 to 3 times a month. He is not against the pit, not in favor of it, but there needs to be some give and take. He is willing to work with Anderson Brothers if they are willing to work with the neighbors.

Justin Horsman, 32925 Nelson Road – Stated he lives at the corner of Nelson Road and used to be an Anderson Brothers employee. Safety is the Number One concern; there is too much traffic with no posted speed limits. His wife has asthma and doesn't need the extra dust. Anderson Brothers needs clay and they can haul it in.

Mike Dubay and Tom Smith, Jenkins Township Supervisors – They stated they are not here to oppose the CUP but want to address concerns with damage to Wild Acres Road. They are pro-business and understand the need for extractive sites. This CUP may cause more damage to the road than already exists. Jenkins Township has the road authority and annually looks at all roads. Wild Acres Road is one that needs repair because of the heavy traffic use. The estimate last year was \$28,000 and they took no action. With the Highway 371 expansion this site will be used extensively so Wild Acres

Road will be used heavier and damage will be greater. There is no protection in the Ordinance for other entities other than the City. The Township needs a better understanding of damage and repair from traffic and the Highway 371 construction. Do the citizens of Jenkins Township need to pay for the repair? Council Member Akerson asked if there was a Joint Powers Agreement. Mr. Smith stated it only covered snow plowing. Council Member Akerson stated the City has the Highway 371 project and needs to deal with that before the City can get back to some of these other issues. Mr. Dubay asked the City to consider the Township when making the decision.

Mr. Wickham stated that the scale shack is in the Swenson pit. Large projects don't need to use both roads. The day to day, retail use will use the Swenson pit entrance on Nelson Road. When Anderson Brothers bought the Swenson pit, Nelson Road was gravel and Anderson Brothers helped pay to pave it. There are 2 other large contractors out there selling as much as Anderson Brothers does and are using the roads. It wouldn't be fair to say Anderson Brothers should pay for the road. Council Member Akerson stated that was a valid point; it makes sense that all pits help pay for it. Mr. Wickham stated that this is the only area in the City where they can get gravel. It is the same amount of trucks hauling, we will just be taking our base from the new pit.

Mr. Wickham further stated regarding the time for the crusher, he can crush 400 ton an hour; the longer time it is there per day the quicker the crusher leaves.

Mr. Wendt stated he would like to see noise reports.

Mr. Larson asked if there was anything that could be done with the trucks beeping when they back up. Mr. Wickham stated MSHA requires that for safety; they can be turned off when it is dark and the beacons can be used.

City Planner Burslie stated that this application is for a new CUP and a time when new Findings and Conditions can be placed upon it, especially protecting the road and residents.

Mr. Horsman stated that the rock crusher was brought in last fall and there was a good sound barrier; this new pit is 40 acres closer. He suggested hauling the material to the south and crushing it in the Swenson pit so he couldn't hear it. He stated the time should be 7:00 AM to 7:00 PM, 5 days per week, not 24 hours. Anderson Brothers can move the clay; it's not far to haul.

Mr. Wendt stated that Anderson Brothers had planted trees along Wild Acres Road that are only 12 to 18 inches tall. The map indicates more tree cover than are actually there along the south edge of the north 20 acres. This is not a good buffer for noise. Mr. Wickham stated the berm will also protect as a buffer.

Mr. Larson stated this is a residential agricultural area with no speed limit. Mr. Wickham stated their drivers are professionals, they drive every day and have never had an accident. He acknowledges their concerns, but this is where the gravel is and this is the only area where it is allowed.

Mr. Larson stated the roadway needs to be posted and signed.

#### PUBLIC COMMENT CLOSED

Planning Commission Member Wilson stated he couldn't understand why the speed limit can't be taken care of, as well as the condition of the roads. He spent his life in construction and the haul roads had to be in as good of condition or better when completed. Mr. Wickham stated if the jobs are for the state or county, the contractor needs to bond for it, list it as a haul road and it has to be as good as or better than before.

Planning Commission Member Habein stated that everyone blames Anderson Brothers for the traffic. These roads have become a shortcut from County Road 16 over to County Road 11 and the traffic has increased. This is not Anderson Brothers fault; the fault is that the road was improved. Mr. Habein further stated that Mr. Wickham has stated several times that traffic will not be increased, just a different access. If traffic is going to stay the same and the road condition will stay the same or deteriorate as it would without this approval, we need to forget these issues. The City should start considering speed limit signs and striping the road. The hill needs stripes for safety. We need to consider our part in the safety of that road. Signs and striping aren't that expensive. Other issues deserve more attention instead of worrying about the traffic; the road traffic is not going to change.

Planning Commission Member Engels asked if the haul times could be limited to during school hours. Notices could be sent out when operating around the clock. He further asked if this needed to be approved for 10 years. Mr. Wickham stated he would be open for a review every two years, but not to renew the CUP every 2 years.

City Planner Burslie stated the application is for a CUP and it runs with the property. It is good for the life of the property and the City can review CUP's at any time. As long as the conditions are being met, it is good. If the conditions are not being met, the City can pull the permit.

Planning Commission Member Brown asked if there had been a pit at this location previously. Staff advised Bauerly or Knife River had a temporary pit approximately 7 to 8 years ago. Ms. Brown asked what normal operating hours are. Mr. Wickham stated

during day light. Small contractors in the area get all of their aggregates. He suggested using the crusher only during daylight hours in the summer. He wants to be good neighbors. Ms. Brown asked how often they would operate 24 hours. Mr. Wickham stated it would be consistent 5 to 6 days a week, Monday through Friday, maybe Saturday morning, for 2 weeks.

Planning Commission Member Habein stated there are two kinds of crushers. Mr. Wickham stated they use cone crushers; they are quieter than the others.

Mr. Larson asked if there is any way to get around an ordinance, to change it or to get a variance from an ordinance. Chair Seils stated there are ways to change an ordinance but any changes would not affect this application.

Mr. Larson asked why the gravel for the highway couldn't be gotten from the area nearest to where it is to be used. Mr. Wickham explained why their application for a new pit on Highway 371 several years ago was denied.

Planning Commission Member Habein asked Mr. Wickham if there are any items on the public's list of concerns that Anderson Brothers could comply with without affecting the gravel pit operation. Mr. Wickham stated that the noise is already governed by the MPCA. The City could review the CUP every 2 years; if Anderson Brothers breaks the conditions, they are done. Mr. Habein asked if there is any way to control the dust. Mr. Wickham stated they will not be crushing for asphalt. There is a lot of dust when crushing for asphalt. He stated they will put millings on the haul road and there will be no dust from that. The everyday traffic will use the Swenson pit on Nelson Road.

Mr. Larson asked to update the berm standards and stated the vegetation is not enough. Mr. Wickham stated he understands their concerns and wants to alleviate them. The crusher does make noise.

Planning Commission Member Brown asked Mr. Wickham if he would be open to reducing hours. Mr. Wickham stated 6:00 AM to 9:00 PM are the trucking hours. If the length of time of the crusher is shortened, you extend the longevity of it.

City Planner Burslie stated the Planning Commission can approve, deny or table the application to address concerns. The City has 120 days to make a decision. The Staff Report contains solid Findings of Fact and Conditions. A Condition could be added for berm height.

Planning Commission Member Wilson stated the neighbors could complain to the state regarding the dust. Mr. Wickham stated OSHA makes inspections and that their employees have to work in that environment also.

City Planner Burslie stated the applicant indicated 30 feet in height in the most sensitive area for the berm. Mr. Wickham agrees to increase berm height from haul road west along northern edge of extraction area.

Mr. Wickham stated he would agree to 7 AM to 9 PM maximum hours for crushing.

It was the consensus of the public and the applicant that the berm would remain as indicated on the application. The parties will work together when excavation commences on noise solutions.

**A MOTION WAS MADE BY PLANNING COMMISSION MEMBER WILSON, SECONDED BY PLANNING COMMISSION MEMBER BROWN, TO APPROVE THE CONDITIONAL USE PERMIT FOR AN EXTRACTIVE USE WITH THE CHANGE IN TIME, BASED ON THE FOLLOWING FINDINGS OF FACT:**

1. The subject property meets the minimum lot size and use standards for the Agriculture zone, being 40 acres in size, more than 500 feet wide, and having ample space within the building envelope for the proposed operation.
2. The subject property lies within the Extractive Use Overlay District.
3. Applicant has supplied the required information including a site plan and a completion plan, and has indicated that Wild Acres Road will serve as the primary haul route.
4. The applicant has proposed to excavate a maximum 12 acre area, plus utilization of an additional 5 acre stockpile/processing area. This excavation area is more than 50 feet from all property lines. The edge of the proposed berm around the area to be excavated is 60 feet from the western property line at its closest point.
5. The proposed excavation area is more than 50 feet from the right-of-way of Wild Acres Road, being approximately 530 feet from the right-of-way.
6. The applicant has indicated traditional 4-wire fencing with signs will be used; fencing exists along the north, west and south property lines and will be updated. New fence will be installed on the east property line.
7. The applicant has proposed to use the natural and planted forested buffers as a means of screening the excavation site and associated machinery. Topsoil and overburden berms will be created surrounding excavation area and will act as safety barriers, as well as stormwater, noise and dust buffers.
8. The excavation area is more than 1,200 feet from the nearest resident, located on a property to the west of this parcel. There is also a residence on the property to the east that is approximately 1,900 feet from the excavation area. The nearest lake, Island Lake to the north, is more than 3,000 feet from the processing area, and the nearest stream is more than one mile to the north of the site. The excavation area is more than one mile outside of the Wellhead Protection Area.

9. Excavation will not occur at a water-producing depth as approximately 20 to 25 feet from the existing elevation will be excavated. Applicant has indicated that depth to saturated soil after material is removed is estimated to be 12 feet above saturated soil level.
10. Applicant has indicated there will be a site specific Stormwater Prevention and Pollution Plan (SWPPP).
11. Applicant has indicated measures will be taken to minimize any damage to the natural resources on the site. Erosion from all activities will be in compliance with the MPCA and NPDES permits. Operations will be conducted and erosion and sedimentation control best management practices as required by MPCA General Permit MN G49001 will be maintained until the pit area is permanently stabilized or reclaimed.
12. The applicant has submitted a written plan for rehabilitation and reclamation of the pit area – interim and final restoration. The interim reclamation plan anticipates periods of dormancy during the life of the mining operation. During these dormant periods the interim restoration goal is to stabilize and secure the site. Typical activities involve inhibiting erosion of exposed soils, create stable slopes and where appropriate, re-vegetation.
13. The final restoration plan will be to slope the banks to a ratio no greater than 3:1 slope. The peaks and depressions will be graded and backfilled to a gently rolling topography. The final topography will allow runoff to flow to the bottom of the reclaimed pit floor. The stored topsoil will then be prepped and seeded following the MN DNR handbook for reclaiming sand and gravel pits. All measures will be taken to keep banks stabilized.
14. City Code requires 4 inches of black topsoil be placed on all areas, vegetation shall be restored by planting of appropriate grass seeds or planting of shrubs or trees, banks of excavation not backfilled shall be sloped to 3:1 slope, and reclamation of extractive use sites and haul roads shall be completed within 1 year after cessation of the operation.
15. The proposed extractive use is an appropriate use in the Agriculture zone; extractive uses are listed as conditional uses in the Agriculture zone.
16. Wild Acres Road is currently being used as a haul route for other excavation operations in the area. The applicant has indicated their trucks will be accessing on and off of Wild Acres Road and routed to their required destination. Truck activity onto Wild Acres Road will lessen activity on Nelson Road from the Swenson pit.
17. The proposed use is compatible with the surrounding neighborhood. There are several extractive uses in the surrounding area, including Pequot Lakes and Ideal Township. There is a large extractive use operation on the adjacent properties to the south of the subject property.
18. The proposed use will not be injurious to the public as necessary permits for stormwater and pollution control will be obtained, as well as permits for noise and air emissions. The proposed use will not pose a threat to groundwater quality.
19. The proposed use will not be injurious to the use and enjoyment of property in the immediate vicinity. There are few homes in the area that are located more than

- 1,000 feet from the proposed extraction area and other neighboring properties are either undeveloped or contain extractive uses themselves.
20. The proposed use will not impede the normal and orderly development of surrounding vacant properties for uses predominant in the area; the neighborhood is largely zoned for agriculture and forestry uses.
  21. The proposed use will not require public facilities or services at public cost. Section 17-8.5, Subdivision 4 of the City Code does contain a provision requiring the applicant to furnish a bond to guarantee that rehabilitation, reclamation, and restoration are completed to the satisfaction of the City.
  22. The proposed use will not create traffic congestion on Wild Acres Road.
  23. The applicant has not indicated that adequate measures have been taken to provide sufficient off-street parking and loading space. However, given the size of the site, there is more than ample space for off-street parking.
  24. There are not any known significant historic, natural or scenic features located on the property that would be damaged or destroyed by the proposed use.
  25. The proposed use will not contaminate groundwater as the proposed extraction shall take place at least five (5) feet above the water table, if not more. In addition, the necessary stormwater management permits will be obtained to control stormwater onsite and prevent erosion. The nearest surface water body, Island Lake, is more than 3,000 feet to the north of the property, so it is unlikely that the proposed use will pollute surface waters.

Subject to the following Conditions:

1. Applicant shall furnish a site specific Stormwater Prevention and Pollution Plan to the City, as well as MPCA, NPDES and MPCA General Permit MN G490001.
2. The berms shall be vegetated in such a way as to screen the excavation area from view and to serve as a noise and dust buffer for area residences.
3. Applicant shall update fencing along the north, west, and south property lines and shall install new fence along the east property line.
4. The applicant shall furnish a bond in an amount that is acceptable to the City Engineer and the Planning Commission to serve as a guarantee that the restoration and rehabilitation requirements are met to the satisfaction of the City.
5. Extraction operations shall take place between 6:00 AM and 9:00 PM, Monday through Saturday. Crushing operations shall take place between 7:00 AM and 9:00 PM, Monday through Saturday.
6. The slopes surrounding the excavation area 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.
7. Four (4) inches of black topsoil shall be placed on all areas.
8. Vegetation shall be restored by appropriate seeds of grasses or planting of shrubs or trees in all parts of said mining area.
9. The banks of all excavation not backfilled shall be sloped not steeper than 3:1 and said bank shall require the establishment of vegetation.

10. Reclamation of the extractive use site shall be completed within one (1) year after the cessation of the operation.

All Members voted “aye”. Motion carried.

Mr. Wickham suggested having the City, Townships and all of the gravel pits using Nelson Road and Wild Acres Road meet to discuss repair and maintenance of the roadways. Anderson Brothers will participate.

**ADDITIONS OR DELETIONS TO AGENDA:** None.

**OPEN FORUM:** None.

**NEW BUSINESS:**

**a. SSTS Compliance Inspection Program –**

City Planner Burslie explained the Staff Report. State Statute outlines the intervals for the Compliance Inspections.

**A motion was made by Planning Commission Member Wilson, seconded by Planning Commission Member Brown, to recommend the City Council adopt the Policy for Subsurface Sewage Treatment System Compliance Inspections. All members voted “aye”. Motion carried.**

**b. Comprehensive Plan Implementation –**

City Planner Burslie explained the Staff Report and the following is the consensus of the Planning Commission:

- Staff will meet with the Mayor and Public Works Supervisor to obtain direction regarding new street standards;
- Amend the City Code regarding Public Uses in the Business/Industrial Park (April Agenda);
- With the construction of the new State Highway 371 it may be advantageous for the City to postpone establishing routes for snowmobile traffic into the City; the area snowmobile clubs may have already established these routes;
- Staff will prepare maps identifying priority corridors for mobility improvements, as well as enhanced infrastructure to improve connectivity;
- The Economic Development Committee could discuss the implementation of a local Economic Gardening strategy at a later date; currently they are involved with community engagement regarding the construction of new State Highway 371.

**c. Transition Residential Zone – Discussion**

City Planner Burslie explained the Staff Report. Staff was directed to bring this as an Ordinance Amendment at the April Planning Commission Meeting.

Earl Hemmerich was in the audience and had concerns with subdivisions in the Transition Residential Zone. When he asked, City Planner Burslie stated he could plat a Rural Conservation Subdivision with 1 acre lots, reserving some of the land for public use.

Mr. Hemmerich then asked if he could split his parcel into two pieces. City Planner Burslie stated that after the public hearing, if the lot size gets changed, he can split his parcel into two lots, with a survey.

**OLD BUSINESS:** None.

**APPROVAL OF MINUTES:**

A motion was made by Planning Commission Member Brown, seconded by Planning Commission Member Wilson, to approve the January 15, 2015 Minutes, as read. All members voted “aye”. Motion carried.

**ZONING ADMINISTRATOR’S REPORT:**

Zoning Administrator Bittner pointed out the 2 permits issued and the 9 letters sent or received.

**ADJOURNMENT:**

A motion was made by Planning Commission Member Habein, seconded by Planning Commission Member Brown, to adjourn the meeting. All members voted “aye”. Motion carried. The meeting was adjourned at 8:50 p.m.

Respectfully submitted,

Dawn Bittner  
Zoning Administrator