



**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & DELL RAPIDS PLANNING COMMISSIONS
September 24, 2018**

A joint meeting of the County and City Planning Commissions was held on September 24, 2018 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Becky Randall, Mike Ralston, Adam Mohrhauser, and Jeff Barth

CITY PLANNING COMMISSION MEMBERS PRESENT: Roger Dearduff, Tom Ludens, and Tom Schwebach.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and David Heinold - County Planning
Justin Weiland – City of Dell Rapids
Donna Kelly – Office of the State’s Attorney

Bonnie Duffy presided over the meeting. The meeting was called to order at 7:00 p.m. The Dell Rapids Planning Commission was chaired by Roger Dearduff.

CONSENT AGENDA

ITEM 1. Approval of Minutes – March 26, 2018

A motion was made for the County by Commissioner Barth and seconded by Commissioner Ralston to approve the minutes for the March 26, 2018 meeting. The motion passed unanimously. Same motion was made for the City by Commissioner Schwebach and seconded by Commissioner Ludens to approve the minutes for the March 26, 2018 meeting. The motion passed unanimously.



REGULAR AGENDA

ITEM 2. CONDITIONAL USE PERMIT #18-46 to amend CUP #93-30 and CUP#09-22 to change conditions 4 (expand the extraction limits south to the property line along Quarry Road and the Dell Rapids rubble site), 10(a) (allow more than one blast in one day), to allow dewatering into the Big Sioux River, to change the requirements for air quality monitoring; to allow for a concrete and an asphalt mixing plant, to allow for more than one (1) blast per day while removing the 10 millisecond blast delay requirement and expand the mining operation on the property legally described as Tract 1 south of river in NW1/4, Lot 1 Smith's Subd., N1/2 NW1/4, SW1/4 NW1/4, Lot 16 (except N30' E149.2') of Kenefick's Subd. and Lot 17, Section 16-T104N-R49W and Tract 1 south of river in NE1/4 NE1/4, Section 17-T104N-R49W and All PT NE 1/4 SE 1/4 E of RY (ex S. 33'), Section 17-T104N-R49W.

Petitioner: L.G. Everist, Inc. c/o Chris Klein

Property Owner: L.G. Everist, Inc. c/o Rick Everist, III

Location: 24603 Quarry Rd. - Approximately 0.5 mile south of Dell Rapids

Staff Report: Scott Anderson

This would amend CUP #94-92 to change conditions 4 (expand the extraction limits south to the property line along Quarry Road and the Dell Rapids rubble site) and 10(a) (allow more than one blast in one day).

General Information:

Present Zoning – R/C Recreation/Conservation

Existing Land Use – Mining

Parcel Size – 40+ acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is requesting to amend existing conditional use permits to allow for expansion of the existing mining activity that is occurring in Section 16 and permitted through Conditional Use Permits #93-30 and #09-22. The applicant is requesting to change seven (7) of the conditions of approval.

The requested amendments are as follows: 1) The applicant would like to slightly expand the area of operations. Staff has prepared a map showing the area, which is generally described as the area between the existing quarry and the City of Dell Rapids rubble site. The applicant is proposing a 50' setback from the Quarry Road and the rubble site, which will allow for a safety and screening berm to be constructed. The expansion will meet the requirement for a minimum 1,000 foot setback from any existing residence. 2) The applicant would like to be allowed more than one blast sequence to be conducted in the same day. 3) The applicant would like to remove the 10 millisecond delay requirement. 4) The applicant would like to amend the wording to requirement the monitoring to be conducted weekly during the plant production season. 5) The applicant is requesting to be allowed to operate a portable asphalt mixing plant when needed and



to allow a permanent concrete mixing plant. 6) The applicant is requesting that dewatering be allowed to be discharged into the Big Sioux River as needed. 7) The applicant is requesting to add a 9.3 acre parcel in the southwest corner of the mining area. This parcel is legally described as: ALL PT NE 1/4 SE 1/4 E. OF RY (EX S 33'), SECTION 17, DELL RAPIDS TOWNSHIP T104N-R49W and has the parcel ID number of 18786. The applicant has long term plans to construct a new shop there, as well as using the site for the concrete mixing facility, temporary asphalt plant and material stockpiles. This parcel is adjacent to Dell Rapid's sewage lagoons and is an appropriate location for the uses proposed by the applicant.

The applicant is also requesting to amend their site plan to expand quarrying activity to the south, as shown on the site plan provided by the applicant. The expansion area consists of approximately 27 acres. The proposed expansion area is north of Dell Rapid's sewage treatment facility and northwest of Dell Rapid's rubble site.

The applicant submitted a narrative that explains the conditions that they are requesting to amend and the reasons for the proposed changes. Staff is including this narrative for the Commissions' review. Also included for the Planning Commissions' review is Resolution #94-92. This is the resolution that was adopted by the County Commission on July 26, 1994 as a result of the Planning Commission's approval of Conditional Use Permit #93-30.

The applicant has constructed a 1500 foot berm along the floodway perimeter starting from the railroad tracks on the north and running south around the general boundary of the floodplain. This berm has been landscaped. The berm has aided in reducing noise and serves as a visual barrier to the mining activities.

The zoning regulations list developmental and operational criteria for use in evaluating extraction activities. Following is a review of the proposal based on the criteria. Please note that the proposed use is for rock, sand and gravel extraction as regulated by Article 12.08 and not mineral exploration and development, Article 12.04.

Buffer area - The suggested minimum setback between extraction areas and existing residences is 1,000 feet. It doesn't appear that there are any residences within the suggested buffer area.

Hours of operation - The zoning criteria suggest that mining operations be limited to the hours from 7:00 am to 6:00 pm on weekdays and 8:00 am to noon on Saturdays. Other activities such as office or maintenance operations, which produce no noise, are not restricted to the times listed above. The applicant has requested hours of operation to be from 6 a.m. to 10 p.m. daily. The requested hours of operation exceed the criteria and what has been typically approved by the County. The applicant amended Conditional Use Permit #93-30 to extend the hours of operation extended in 2007. The hours were slightly extended. Staff will recommend that the hours of operation remain as amended in 2007. Staff feels that the County should be consistent in the hours allowed by all mining companies. In the past, three (3) different mining companies have requested longer hours of operation, which have been scaled back by the Planning Commission.



Berms - Berms are commonly used to screen on-site activities from public view and to minimize noise. The petitioner has indicated that a berm will be constructed. The proposed berm will be approximately 1500 feet in length and the same height as the berm located in Section 16.

Noise - 55 decibels recorded over a 10 minute period measured at the nearest residence. This standard is generally addressed on a complaint basis.

Dust - Air quality should not be a concern due to the nature of the extraction operation. Dust from truck traffic can be controlled by applying dust control agents to the haul road. The County Planning Department should be given authority to require the operator to install on-site monitoring devices if air quality becomes a problem.

Hydrology, dewatering and drainage – The applicant has never provided a hydrologic study for review. A hydrologic study was not required, as the applicant indicated that no dewater was to occur. The applicant is now requesting an amendment to allow dewatering into the Big Sioux River. Staff recommends that prior to any dewatering into the Big Sioux River, the applicant shall provide a hydrological study addressing any proposed dewatering into the Big Sioux River and also obtain any required state and federal permits.

Haul roads - The Zoning Ordinance indicates that consideration of the potential impacts on any County highways to be used as haul routes. The applicant will not be adding or changing the haul road that is currently used for the mining operation located in Section 16. The applicant's haul road enters onto S.D. Highway 115. The route used by the applicant does not use any County Highways.

Operator surety – Article 12.08.G requires a surety bond to be filed with the County Auditor to protect the County in the event the operator abandons the site without completing the required conditions of approval. The standard amount of \$5,000.00 surety shall be required.

Reclamation – The applicant did not provide a reclamation plan. The site should be restored to a farmable status within one (1) year of conclusion of mining operations. Reclamation should result in the rehabilitation of affected land through contouring and soil stabilization, revegetation and other appropriate means so as to create an aesthetic appearance and promote the most appropriate future use of the property. The applicant shall be required to follow the reclamation requirements of the Minnehaha County Zoning Ordinance as outlined in Article 12(G).

The applicant is also required to post a \$20,000.00 surety with the State of South Dakota in order to obtain the state mining permit. The applicant has indicated that they have many years of operator experience in Minnehaha County and value their reputation as good business people.

Security – The Zoning Ordinance suggests that the sand and gravel operation site should be secured during non-working hours by means of gates and fencing. The gates and fences should remain in place until all required reclamation activities have been completed. Staff will include these considerations in the recommended conditions of approval.



Other considerations - The entrance to the property should be gated to discourage individuals from disposing of refuse in the pit during non-working hours.

The site is located in the Water Source Protection Overlay District. Only clean fill will be used as backfill on the site as defined by the County Nuisance Ordinance. Furthermore, the applicant shall not be allowed to store any fuel within the water source protection area or within any 100 year floodplain area.

Portions of the property are also located within the 100 year flood plain. The flood plain is managed through the Minnehaha County Flood Plain Management Ordinance (MC 32-3). The applicant shall abide by all regulations outlined in this ordinance when working in the 100 year floodplain and/or floodway.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The proposed mining activity is already occurring on the neighboring property. This conditional use permit would allow more reasonable use of the entire area by providing an area for automated loading, water holding and settling ponds, and chemical storage.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

Measures such as a large landscaped berm, air quality constraints and other provisions have been adopted. The property in the area has developed in an orderly manner. The uses outlined with this conditional use permit should not further impact that normal and orderly development.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

The applicant has provided for access roads, drainage and all other facilities. The applicant operates a railroad system which provides transportation out of the quarry area.

4) That the off-street parking and loading requirements are met.

Ample off-street parking has been provided by the applicant and meets the requirements of the Zoning Ordinance.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

With the proposed sand and gravel extraction, there is a possibility of noise, dust and vibration to occur. Staff has addressed dust and noise in the recommended conditions of approval. Additional measures such as the construction of a berm may mitigate the visual impact and some



noise. The hours of operation will reduce the possibilities of these elements becoming a nuisance.

Staff finds the proposed sand and gravel extraction use compatible to the surrounding land uses and a use that can be found in the general vicinity. With proper zoning controls, the use can be conducted in such a manner to minimize potential nuisances.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The proposed use is consistent with Comprehensive Plan. Goal 5 of the Environmental Stewardship section of the Plan recognizes that mining within the County is an un-renewable resource and beneficial to the economy of the County and welfare of its people. Furthermore, the Plan provides guidelines for the exaction, which the applicant has met or is meeting.

Recommendation: Staff recommended **approval** of Conditional Use Permit #18-46 to allow for expansion of an existing rock, sand and gravel extraction facility with the following conditions:

1. An annual fee shall be paid to the County in accordance with Section 15.14 of the zoning regulations. (Note: An annual fee of \$10 per acre of unreclaimed land is assessed to the operator.)
2. There shall be no fuel storage allowed in areas designated as a ground water protection area or flood plain.
3. Hours of operation shall be from 6:30 am to 6:00 pm from Monday thru Friday and 7:00 am to 1 pm on Saturday, except as authorized by the Planning Director.
4. That the only dewatering shall be for use in dust control, road projects and rock washing or maybe discharged into the Big Sioux River as needed. The applicant shall obtain any required permits from the state for use of the water or discharge into the Big Sioux River. The applicant shall provide a hydrological study addressing any dewatering into the Big Sioux River to the Planning Department for review and approval before the dewatering into the Big Sioux River takes place.
5. The approved uses for the subject property and approved by this conditional use permit shall be as follows, rock extraction, chemical storage used for blasting, material stockpiling, settling and hold ponds, rinse deck area, loading facilities, automated conveyor belt system used in conjunction with loading of material, and rail system.
6. The ambient air quality standards for total suspended particulate matter shall be 150 micrograms per cubic meter of air as a 24-hour average not to be exceeded more than once a year, and 60 micrograms per cubic meter of air as an annual arithmetic mean. The standards for PM¹⁰ (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota. Air quality monitoring shall be conducted weekly during the plant production season.



7. The County Planning Department shall direct the operator to install air quality sampling stations if the standards appear to be exceeded. Such monitoring shall be at the operator's expense.
8. The sound level from on-site operations shall not exceed an average of 55 decibels recorded over a 10 minute period measured at the nearest residence.
9. That one (1) off-street parking place for each employee and two (2) customer off-street parking spaces shall be provided.
10. The boundaries of the extraction area shall conform to the site plan submitted with the application. This area includes County Parcel #18786, which will be used for a new shop, the asphalt and/or concrete mixing plant and stockpile area.
11. Topsoil shall remain on the site and be used in final reclamation.
12. Only clean fill shall be used as backfill.
13. There shall be no storage or accumulation of inoperable or discarded equipment or parts.
14. A gate shall be required at the haul road entrance to the property.
15. That the applicant provides the Minnehaha County Auditor with a surety bond or cash in the amount of \$5,000.00.
16. The applicant shall abide by all regulations outlined in Minnehaha County Flood Management Ordinance, MC32-03, when working in the 100 year floodplain and/or floodway.
17. The sand and gravel operations shall be secured during non-working hours by means of gates and fencing. The property shall be continuously secured until all required reclamation activities have been completed.
18. That the applicant continue to meet the reclamation plan approved in 2009.
19. That a berm be constructed that is the same height as the existing berm located in Section 16 of Dell Rapid Township. The berm shall be landscaped following a plan that has been reviewed and approved by the Planning Director.
20. More than one blast sequence shall be allowed per day.
21. Condition 10f from resolution #MC94-92 shall be removed.
22. A concrete and/or asphalt mixing plant shall be allowed on parcel #18786.



Public Testimony

Scott Anderson, County Planning Director, presented the staff report and staff recommendation of new conditions. Prior to the meeting, staff distributed a letter from Bradley and Marsha Olson which listed concerns about the proposed CUP amendments.

Commissioner Randall asked for further explanation of the reclamation plan since it is discussed in the staff report, but not listed in any of the conditions. Mr. Anderson responded that a reclamation plan was submitted and reviewed by staff. The plan must be followed along with the submitted hydrology plan.

Commissioner Barth asked if the entire property is one parcel. Scott Anderson responded that the mining property is composed of multiple parcels of land.

Dell Rapids Commissioner Dearduff asked for further explanation on a couple of items including hours of operation and blasting requirements. Staff explained that the hours of operation have not changed from what is already allowed and asked that the petitioner explain the change request for blasting requirements.

Robert Everist, 27248 246th St, spoke as the petitioner about the project and presented a current aerial photo of the site. Mr. Everist began by explaining the request for removing the daily blasting limit. The removal of the daily limit would allow for multiple blasts while the equipment is on the site and for second blasts in the event of a misfire. He further explained that the need the previous permit included requirements for optimal blast sequences that have changed with better technology to minimize vibration.

Dell Rapids Commissioner Dearduff asked if the plan was to blast every day. Robert Everist, explained that they can currently blast every day, but that it may be advantageous to allow multiple smaller blasts rather than one large blast. Mr. Everist noted that he would be willing to accept some limits on the number of blasts.

Commissioner Barth asked about the removal of the 10 millisecond requirement for blast sequences. Robert Everist stated that technology has changed how blasting is done and that nobody would really know the difference if the new method of blasting is used or the old method is used. The new blasting sequence is supposed to minimize vibrations.

Dell Rapids Commissioner Ludens noted that the Commission has received neighbor concerns about the concrete and asphalt plants at the site. Robert Everist responded that the concrete and asphalt plants are being considered in long term planning. The east quarry has an asphalt plant and that has caused traffic concerns at the property. The construction of either plant would be determined by demand in the area.

Commissioner Randall asked how air quality is currently monitored. Robert Everist responded that the current permit requires monitoring every six days whether the quarry is operating or not. The new permit would require monitoring only during operation.



Nobody from the public spoke about the item.

ACTION

A motion was made for the County by Commissioner Barth and seconded by Commissioner Ralston to approve Conditional Use Permit #18-46 with conditions. The motion passed unanimously. Same motion was made for the City by Commissioner Schwebach and seconded by Commissioner Ludens to approve Conditional Use Permit #18-46 with conditions. The motion passed unanimously.

Conditional Use Permit #18-46 – Approved



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

SEPTEMBER 24, 2018

Old Business

None.

New Business

None.

Adjourn

Commissioner Schwebach motioned to adjourn for the city, and Commissioner Ludens seconded the motion. The motion passed unanimously. The same motion was made for the County by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously. The Meeting was adjourned at 7:20 pm.