



Donald J. Theisen, P.E., Director
Wayne H. Sandberg, P.E., Deputy Director,
County Engineer

AGENDA

BOARD OF ADJUSTMENT & APPEALS
AND
PLANNING ADVISORY COMMISSION

Monday, July 19, 2021
7:00 PM

Washington County Board Room
14949 62nd Street North
Washington County Government Center
Stillwater, Minnesota

Members of the public who wish to share their comments or concerns, prior to the meeting, may provide them via email to Publicworks@co.washington.mn.us.

Board of Adjustment & Appeals

Call to Order
Presentation – Washington County Public Works
 Brown Variance Request – Denmark Township
 Public Hearing
 Board Discussion & Action
Business Meeting
Updates & Announcements
Adjournment

**Keller I LLC (Mangan property) Variance Request has been postponed, August hearing date TBD*

Planning Advisory Commission

Call to Order
Business Meeting
Updates & Announcements
Adjournment

Dated: July 14, 2021

**PLANNING ADVISORY COMMISSION
DRAFT MEETING MINUTES
Tuesday, April 27, 2021**

CALL TO ORDER:

Chair Doneux called to order the meeting of the Planning Advisory Commission at 7:00 p.m. Due to the COVID-19 Pandemic, commission members and staff conducted the meeting via WebEx. Members of the public were given the opportunity to share their comments or concerns by sending an email to PublicWorks@co.washington.mn.us.

Chair Doneux asked the board members and staff to introduce themselves and explained the hearing process.

Commissioners Present: Mark Doneux, Chair
Robert Viking, Vice Chair
Anna Zanko

Commissioners Absent: Frank Rheinberger

Staff Present: Gary Kriesel, Washington County Commissioner, District 3
Jessica Oertel, Assistant Washington County Attorney
Kurt Howard, Planner II
Jennifer Oehler, Office Specialist

Others Present: Patty Bestler, Tim Fenstermacher

AGENDA ITEM 1 – Aggregate Industries, Five-Year Mining Conditional Use Permit

Kurt Howard, Planner with Washington County Public Works, gave an overview of the application review for the Five-Year Mining Conditional Use Permit for property owned and operated by Aggregate Industries. This property encompasses 626 acres in the City of Lakeland and West Lakeland Township, located just north of I-94 between Minnesota Highway 95 and County State Aid Highway (CSAH) 21 (Stagecoach Trail N). While the property does fall into both the city and the township, Washington County's permit applies exclusively to the portion of the property located in West Lakeland Township. Aggregate Industries first received a permit from Washington County in 1996, proposing expansion into the township. According to the operations plan, mining over the next five years will continue in both Phase 1, at the north of the pit, and Phase 2 in the southwest of the pit. There have been no major changes in the operation of the site since the 2016 permit renewal, and no proposed changes for the next five years.

Included in the packet are comments and concerns Washington County has received from members of the public prior to the start of the meeting. One comment was from a long-term neighbor who is in

support of the operation, appreciative of updated back-up alarms to reduced noise, dust control measures taken, and the services of brush and tree disposal. The other comment was from a neighbor who feels Aggregate Industries has been a good neighbor, however would appreciate some efforts to reduce some noise they are experiencing.

Also included is a comment memo submitted jointly from the Washington Conservation District and the Middle St. Croix Watershed Management Organization. The comments were related to natural land features, a groundwater quality protection plan, the maintenance of access roads, reclamation plan requirements, and storm water pollution prevention plans. Mr. Howard stated that he will let the applicant address these comments, and also reminded the board that the recommended conditions in the packet can be updated if need be, and annual inspections are done to review these issues.

Mr. Howard stated that Washington County has found that the operations are in compliance with all plans and permits, the conditions recommended to be part of this permit are similar to past conditions, and are typical for other county mining operations, and recommends approval of this permit.

Board Questions

Chair Doneux asked if any comments or assurance are available in reference to the depth of the groundwater report. Mr. Howard did not have the exact figures, but stated it is specified in the recommended conditions as an elevation of 760 feet and recalls there being an adequate buffer.

Chair Doneux asked for clarification on verbiage under condition 19, if there should be a specified dollar amount listed or set as the bond amount. Mr. Howard stated that his understanding is that the bond amount is determined based on the cost of the reclamation per acre. Chair Doneux confirmed and suggested amending that condition to reflect that, after further discussion with the applicant.

Chair Doneux also wanted to address the hours of operation, as the permit and application have different hours. Mr. Howard stated that the permit hours would be carried today, and will be addressed with the applicant for clarification.

Patty Bestler, Aggregate Industries, 2815 Dodd Road, Suite 101 – Eagan, MN 55071

Ms. Bestler addressed the board, confirming they will be operating as they have during the past five-year permit period, continuing in Phase 1 and 2. They are aware of some drainage concerns with Phase 3, in which they plan to work with the county and an engineer when that time comes. Addressing the concern in regards to operation hours, Ms. Bestler stated that in 2014, West Lakeland Township granted an amendment allowing them to operate between the hours of 6am and 8pm, Monday through Saturday, which includes the operation of mining equipment and loading and operating the conveying system, as well as bringing that material to their processing plant in the City of Lakeland. Loading and hauling is permitted between 7am and 4pm, sometimes closer to 5pm during peak summer hours. Any topsoil removed is put into berms around the perimeter of the property, which is done for security, as well as visual and noise barriers. All material is mined within West Lakeland Township and brought by conveyor to the processing plant in Lakeland. On the environmental side, all permits are in place with required agencies, and copies can be provided if not already received. Reclamation is taking place in increments, and reclaimed by putting down excess sand. Long term plan includes putting the site back

into native prairie grass, or if sold for development, sewer and septic would be suitable for residential development as allowed by the township. Addressing some of the questions earlier, as for groundwater quality, drilling has been done in the north part of the pit, and they are 30-50 feet above the water table, well over the 15 feet required; stormwater is managed on-site; and in reference to the bond, Washington County is the certificate holder, with the bond issue for \$180,000. Addressing any noise issues, there is no blasting done at this site, and they work together with the city and township to address any concerns received.

Board Questions

Chair Doneux asked how many acres are actively mined or not reclaimed currently. Ms. Bestler didn't have the information on hand, but could get those numbers to Kurt, and adjust the bond as necessary.

Mr. Viking asked for clarification on the hours, as they seem to differ from the permitted hours through Washington County. Ms. Bestler stated that the city and township do have different hours allowed, and the 2014 amendment approved by the township did extend the hours greater than listed by the county. Per Ms. Oertel, Assistant County Attorney, this extension is allowed by the development code.

PUBLIC HEARING

Chair Doneux opened the public hearing at 7:35 p.m.

No members of the public were present.

Chair Doneux closed the public hearing at 7:35 p.m.

Board Discussion

Chair Doneux asked for follow-up on the bond condition, whether a dollar amount or a rate would be appropriate. Mr. Howard felt that for clarity, it would be best to establish a dollar amount.

Ms. Bestler stated that she could have their geologic services department calculate the bond amount.

Chair Doneux identified the following exhibits:

- Exhibit A is the Application Review from Kurt Howard, dated 04/20/2021.
- Exhibit B is the DRAFT Five-Year Mining Conditional Use Permit Conditions.
- Exhibit C is the Aggregate Industries Mining Permit Renewal Application, received 3/08/2021.
- Exhibit D is the Aggregate Industries location map prepared by the Washington County Survey Division.
- Exhibit E is the West Lakeland Township meeting minutes DRAFT from 3/01/2021.
- Exhibit F is the comment letter from Washington Conservation District, dated 4/19/2021.
- Exhibit G is the comment memo from Mark and Angela. Statz, received 3/14/2021.
- Exhibit H is the comment memo from Loren Kalal, received 4/20/2021.

Commissioner Viking made a motion to approve the Aggregate Industries Five-Year Mining Conditional Use Permit, with the conditions identified below. Commissioner Zanko seconded the motion. Chair Doneux called the question. All were in favor. Motion carried 3 – 0.

Conditions for approval, with mention that Condition 19 shall be updated to include an exact dollar amount for the bond:

1. This permit allows for the extraction and processing of sand and gravel from this site. There shall be no permanent processing or crushing equipment on the property in West Lakeland Township with the exception of a temporary crusher during the months of January, February, and March for a total of six (6) weeks during these months.
2. All applicable provisions of the Washington County Mining Ordinances and any future revisions to these ordinances must be complied with.
3. Hours of Operation. Operations must be conducted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless otherwise approved by West Lakeland Township. Written notification shall be given to Washington County when hours of operation are changed by the West Lakeland Town Board.
4. Dust and Dirt. The operator shall construct, maintain, and operate all equipment in such a manner as to minimize dust conditions. All operations shall meet the applicable requirements of the Pollution Control Agency. Dust control material shall be applied as necessary to travel routes and other areas subject to disturbance within this property.
5. Appearance. Equipment shall be maintained in a safe condition in accordance with accepted industrial practices. Weeds shall be controlled.
6. Fuel Storage. There shall be no fuel storage on the property in West Lakeland Township.
7. Fencing. The entire mining pit face shall be fenced in accordance with the Washington County Mining Ordinance.
8. Screening. Screening in accordance with the plan entitled “2006 Operations Plan” or as approved by the Washington County Planning staff and the West Lakeland Town Board shall be implemented. All existing berms and tree plantings installed for screening purposes must be maintained.
9. Depth of Excavation. The depth of excavation is hereby limited to an elevation of seven hundred sixty (760) feet and a minimum of fifty (50) feet to the water table. A registered surveyor must certify the mining depth annually and this information must be submitted with the annual report.
10. Noise. Aggregate Industries agrees to maintain and operate all equipment in such a manner so as noise and vibrations are in accordance with Federal, State, and County standards. Noise tests shall be conducted if deemed necessary by the Washington County Zoning Administrator with the costs borne by Aggregate Industries. If the noise exceeds the applicable noise standards, Aggregate Industries shall take corrective action immediately.
11. Final Restoration. Restoration must take place in general accordance with the plan submitted as part of this permit. All topsoil is to remain at the site. Permanent vegetation must be established as per the Washington Conservation District recommendations. Future use of the property must be in accordance with zoning requirements in force at that time.
12. Control of Operations. The conditions of this permit shall apply to the land described and shall not in any way, except herein noted, be affected by any subsequent sale, lease or other change from the current ownership. Washington County must be notified of any change in ownership.

13. Areas to be Mined. Mining shall occur as shown on the operators plan (attached). This permit is for five (5) years and all mining in the five (5)-year period must take place in Phase 1 and Phase 2 shown on the submitted application. No mining shall occur closer than fifty (50) feet to the boundary of any adjoining property line or five hundred (500) feet from any residential structure. There shall be no tree removal or alteration of the existing drainageway until mining of Phase 1 and Phase 2 are completed. As mitigation for the existing drainageway being mined, a new drainageway with a two hundred (200) foot planted buffer must be constructed before Phase 3.
14. Stockpiling. As overburden is removed, all topsoil must be stockpiled. All stockpiled material must remain at the site and be seeded with a temporary cover until the time it is reused.
15. Other Permits. All permits required by Minnesota Department of Natural Resources, Pollution Control Agency, Washington County, and West Lakeland Township must be obtained prior to operation.
16. Drainage. All drainage during the mining process must be contained on-site.
17. Inspections. Washington County Public Works Department staff and West Lakeland Township officials and consultants have the right to go on the property to inspect the mining operation after providing reasonable notice to the operator.
18. This permit shall be binding on the parties, their successors and assigns, and shall run with the land.
19. Bond. Aggregate Industries shall furnish a surety bond in the amount of three thousand (\$3,000) dollars per acre to run continuously until all mining operations and final restorations are completed, and thereafter for an additional period of eighteen (18) months to assure compliance with all the terms and conditions of this permit. Such bond shall be made by an insurance company or other financial institution acceptable to the County and shall be in a form to be approved by its attorney. Said bond shall be in such terms as may be required to assure full, prompt and faithful performance by Aggregate Industries of all its closure obligations under this conditional use permit and the payment of losses, damage and expense incurred or suffered, including attorney fees, as a result of failure, refusal or inability of Aggregate Industries to perform its closure obligations or to recover under said bond. The bond shall provide that no waiver, or delay neglect of enforcement of any obligation of Aggregate Industries shall affect the right of the County or others benefiting thereunder to recover under said bond, and that no claim or demand for payment on the bond shall be made unless written notice of default and reasonable opportunity (not less than thirty (30) days) to cure said alleged default shall first have been given to the permittee. This permit shall not be effective until the bond is in force and effect.
20. Insurance. Operator shall carry bodily injury and property damage public liability insurance in the amount of one million five hundred thousand (\$1,500,000) dollars naming Washington County and West Lakeland Township as additional insured.
21. Annual Report Required. An annual report must be submitted to West Lakeland Township and Washington County outlining activities and amounts of materials removed during the year and planned for the next year. Evidence of insurance, payment of gravel taxes and performance bond for restoration shall be included.
22. Term. This permit shall be reviewed by the West Lakeland Town Board on an annual basis. The permit must be applied for and renewed by Washington County every five (5) years. This permit in no way guarantees or implies that this permit will be renewed at the time of expiration and application for renewal is submitted. **This permit expires March 30, 2026.**

23. Revocation. Violation of any conditions of this permit may result in revocation of said permit in accordance with the Washington County Mining Ordinance. The operator shall be given written notice of any violation and reasonable time (not less than thirty (30) days) to cure said violation before revocation shall occur.
24. Truck traffic will be pursuant to West Lakeland's Permit.

AGENDA ITEM 2 – PAC Report and Recommendation to County Board

Kurt Howard presented on the report to repeal and replace Chapter 1 of the Washington County Development Code, in order to enable a merger between the Planning Advisory Commission (PAC) and Board of Adjustment & Appeals (BAA). The reasons for making the change are due to practical difficulties resulting from fewer meetings and a desire to make the most effective use of member's time. The concept of the merger is to maintain two boards with identical membership, consisting of 7 members each, with meetings held on the same date and sequentially in time. This concept was discussed with both the PAC and BAA at their January meetings, with both boards expressing support.

In order to implement the goals and objectives above, Chapter 1 of the Development Code needs to be repealed and replaced to allow for changes to Sections 6 and 8. As stated in the report, if the County Board wishes to proceed with the proposed changes, the following steps must be followed:

1. The County Board would need to hold a public hearing to discuss the proposed changes to the Development Code. Pursuant to Minnesota Statutes 394.26, 375.51, and the Washington County Development Code, notice of the public hearing must be given at least 10 days prior to the holding of the public hearing. If a motion is made and passed by the County Board at their May 11, 2021 meeting authorizing the public hearing to discuss the proposed amendments, the public hearing could be held as soon as the County Board's June 1, 2021 meeting.
2. After input is gathered at the public hearing, the County Board may move to repeal Ordinance 203 and replace it with Ordinance 214, which would contain the updated language to Chapter 1, Sections 6 and 8 of the Development Code. This could occur as early as the June 15, 2021 County Board meeting.
3. Two resolutions would be prepared and signed at the June 15, 2021 meeting if the Board approves a motion to modify Chapter 1 of the Development Code:
 - a. Resolution repealing Ordinance 203 and replacing it with Ordinance 214;
 - b. Resolution dissolving the membership of the current PAC and BAA, and appointing the membership of the newly reconfigured PAC and BAA. It is important to note that no current member of the PAC or BAA is being removed from membership without their consent. As stated above, in January of 2021, the current members of the PAC and BAA were asked about their interest in continuing to serve; all members that wished to continue to serve will be able to do so.

Discussion was brought up as to the ex-officio position filled currently by Washington County Commissioner Kriesel. Ms. Stott clarified that each board would consist of 7 members, and the PAC would continue to have the additional ex-officio, or non-voting member.

Commissioner Viking made a motion to approve the Report and Recommendation to Repeal and Replace Sections of the Washington County Development Code and to refer the report to the Washington County Board of Commissioners. Commissioner Zanko seconded the motion. Chair Doneux called the question. All were in favor. Motion carried 3 – 0.

BUSINESS MEETING

Commissioner Zanko made a motion to approve the minutes from the January 26, 2021 meeting. Commissioner Viking seconded the motion. Chair Doneux called the question. All were in favor. Motion carried 3 – 0.

INFORMATION / UPDATES

No updates brought forward.

ADJOURNMENT

Commissioner Viking made a motion to adjourn. Commissioner Zanko seconded the motion. Chair Doneux called the question. All were in favor. Motion carried 3 – 0.

Meeting adjourned at 8:00 p.m.

Respectfully submitted,

Jennifer Oehler
Public Works Department
Recording Secretary

Donald J. Theisen, P.E., Director
Wayne H. Sandberg, P.E., Deputy Director,
County Engineer

**PLANNING ADVISORY COMMISSION
DRAFT MEETING MINUTES
Tuesday, June 29, 2021**

CALL TO ORDER

Chair Doneux called to order the meeting of the Planning Advisory Commission. Due to lack of quorum, no action was taken, and meeting was adjourned.

Commissioners Present: Mark Doneux, Chair
Anna Zanko

Commissioners Absent: Robert Viking, Vice Chair
Frank Rheinberger

Staff Present: Gary Kriesel, Washington County Commissioner, District 3
Jessica Oertel, Assistant Washington County Attorney
Don Theisen, Public Works Director
Kurt Howard, Planner II
Jennifer Oehler, Office Specialist

Others Present: Michael Bryant, Kristen Bryant

ADJOURNMENT

Respectfully submitted,

Jennifer Oehler
Public Works Department
Recording Secretary