

**PLANNING ADVISORY COMMISSION
MEETING MINUTES
Tuesday, June 27, 2023**

CALL TO ORDER:

Acting Chair Melander called to order the meeting of the Planning Advisory Commission at 5:03 p.m. The meeting was held at the Washington County Government Center, located at 14949 62nd Street North, Stillwater, Minnesota.

Chair Melander asked the commissioners and staff to introduce themselves and explained the hearing process.

Commissioners Present: Harry Melander, Acting Chair
 Kevin Kelly
 John Rheinberger
 Anna Zanko
 Shane Bauer
 Jenny DeMaria

Commissioners Absent: Mark Doneux, Chair

Staff Present: Andrew Jackola, Assistant Washington County Attorney
 Daniel Elder, Planner
 Sara Favreau, Office Specialist

Others Present: Nick Arndt, Christina Morrison, Todd & Connie Dageford, Jason Naber, Amber Lavergne, Kathy Rivard, Chad & Deanna Petterson, Todd, Gary Pearl, Gail Groberg, Laura Pope, Sawyer, Karas,

Agenda Item – 1 BTG Five-Year Mining Conditional Use Permit

Daniel Elder, Planner with Washington County Public Works, gave a summary of the staff report for the application for the Five-Year Mining Conditional Use Permit for property owned by **BTG**, located in May Township.

BTG Property Company has submitted its 5-Year Mining Conditional Use Permit application to continue its operations in May Township. Mining permits issued by Washington County are valid for five years. At the end of each five-year period, the permit must be renewed. County staff inspects mining operations annually to ensure compliance with all permit conditions. The property involved in this application is located in Section 28, Township 31 North, Range 20 West, and encompasses approximately 104.8 acres; 95 acres of the property will be mined over the life of the mine. The applicant was last issued a permit in 2018. BTG Property Company II is located to the south, which is also mined. The southern property is subject to a separate mining permit which will also be reviewed.

Mining Operations

BTG utilizes the mine for the extraction of sand and gravel and the crushing of gravel mined from this site only. They crush on-site using an independent outside contractor. Crushing is done annually and is generally completed

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within 180 days. The finished material is then stockpiled until it is transported off-site for use. The equipment used in the operation consists of crushers, conveyors, dozers, scrapers, and front-end loaders. They have a wash deck to wash sand and rock periodically.

The applicant has submitted a revised map illustrating the mining area proposed for the 2023-2027 period. The applicant has proposed mining in both the eastern and western portions of the site. The central portion of the site is intended for processing. The applicant indicates they anticipate removing 100,000 to 200,000 cubic yards of material yearly. The access road for the Washington County Put is being relocated to be closer to the future alignment of Norell Ave (CSAH 7).

Washington County Staff Review Comments

Access Route/Traffic BTG has access through the southern property BTG II to CSAH 7. After loading, the trucks leave the site through the BTG II pit, enter onto CSAH 7, drive east or west on CSAH 7, or south on County Road 55 (Norell Avenue).

Adjacent Land Use

The property is adjacent to farms and mines, with a farmhouse in the southwest. The property to the north and south are both mines (BTG II & Washington County), and the properties to the east and west are farmland. The mine is compatible with the adjacent land uses.

Operational Standards

The application package addresses all the operational standards and conditions in the mining ordinance. All standards are met with this operation. The following are staff review comments.

Setbacks

Mining operations must be setback a minimum of 50' from adjoining property lines. 100' from any road right-of-way, 200' from an adjacent occupied structure, and 100' from contiguous platted residential property. The code allows for mines contiguous to one another that the common boundary can be mined provided they have approval and a compatible restoration plan. The PAC has reviewed the restoration plan for the Washington County Mine and approved the plan. The mine has an agreement with Washington County that allows for mining to occur to the property line. The operation meets the setback standards.

Fencing

The mining area is enclosed with a three-strand barbed wire fence. The mining application provides a narrative of the areas in which the fencing and warning signs have been posted. The applicant will need to ensure adequate fencing is present around the new excavation areas to control access. Staff finds the fencing to meet the standards of the code.

Hours of Operation

May Township has conditioned the permit on having the operating hours from 7 am to 6 pm Monday through Friday. The Township will allow trucks into the permit before 7 am instead of having trucks idling on the highway waiting to get in the put at 7 am. The mine is meeting the standards of the code.

Screening

The operation is well-screened along the west, south, and east property lines by the trees, railroad, evergreens, and a pond. Staff finds no need for additional screening at this time. The mine is meeting the standards of the code.

Dust Control

The operation will generate dust through vehicle movement, processing operations, and stockpiles. Dust is controlled as needed with water or Calcium Chloride. In addition, all roads within the site must be maintained in a dust-free condition by providing a dust-free surface or other treatment. Access to the operation is gained from a haul road off of County Road 7. A blacktop haul road was constructed through the BTG II pit into the BTG pit, which helps with dust control from trucks. The unpaved portion of the haul road is treated with water to control dust. The mine is meeting the standards of the code.

Noise

The equipment and processing operations generate noise. This equipment is located on the pit floor; therefore, noise generated by the operations is buffered by the pit walls. Over the next five years, the proposed operations plans will not increase noise levels. The mine is meeting the standards of the code. Depth of Excavation The data shows that the groundwater on the site varies from 890 feet to 914 feet. The depth of excavation proposed over the next five years is approximately 20 feet higher than the groundwater. The proposed depth is in excess of the standard requirement of 10 feet above the groundwater level. The mine is meeting the standards of the code. Processing The sand and gravel resources are excavated from the property and either stockpiled on-site or transported to the crusher for processing. An independent outside contractor is retained to crush the material. Crushing is done annually and is generally completed within 180 days. The finished material is then stockpiled until it is transported off-site for use. The equipment used in the operation consists of crushers, conveyors, dozers, scrapers, and front-end loaders. All requirements of the ordinance are met in regard to the location and operation of processing equipment. Recycling The applicant does recycle concrete and asphalt on a periodic basis which meets the requirements of the code. Fuel Storage The site does not have any permanent fuel storage facilities. The loaders and crusher are refueled by a private fuel hauler who enters the site, refuels the equipment, and leaves the site. The mine is meeting the standards of the code. Reclamation The mine has identified a location along the northern property line for restoration during the 5-year period. The area along the south and east property lines has been reclaimed. When mining is complete, the property is proposed to be developed as a rural residential subdivision which matches the plans for the Washington County and BTG II mine. The estimated cost of reclamation is \$104,640. The reclamation plan has some updates that are needed, as shown in the Washington Conservation District comments below. These changes can be handled administratively and will be included in the conditions of approval to work with County Staff. The intent and plans for a rural subdivision meet the code standards.

Washington Conservation District Review Washington Conservation District (WCD) representatives have reviewed the permit renewal application and plans. Their comments are attached, and the applicant will be able to address them during the meeting. The issues brought up by the WCD regarding the need for EAW will be researched by County staff and will be addressed administratively. Additionally, any changes to the reclamation plan can be addressed by County Staff, allowing for updates to the plan. This is added as a condition of approval.

Carnelian Marine St. Croix Watershed Review

The Carnelian Marine Watershed representatives have reviewed the permit renewal application and plans. They have indicated to the applicant that the mine requires a stormwater permit from the watershed. The Carnelian Marine has no further comments on the plans. As part of the requirements of this permit, the applicant will be required to acquire a permit from the watershed.

Township Review

The mine applied to May Township seeking to renew its Interim Use Permit, and on April 6, 2023, The Town Board reviewed the plans and approved and issued an Interim Use Permit for the continued operation of the mine through 2027. The Township made no changes to the permit and had no further comments regarding the County's permit application.

Review Standard

The Planning Advisory Commission may grant a Conditional Use Permit upon showing that the standards and criteria in the Development Code are satisfied and that the use is in harmony with the general purpose and intent of the Development Code and Comprehensive Plan. In making this determination, the following should be considered:

A. The impact of the proposed use on the health, safety and general welfare of the occupants of the surrounding lands.

- B.Existing and anticipated traffic conditions, including parking facilities on adjacent streets and lands.
- C.The effect of the proposed use on utility and school capacities.
- D.The effect of the proposed use on property values and scenic views in the surrounding area.
- E.The effect of the proposed use on the Comprehensive Plan.
- F.The ability of the proposed use to meet the standards of the Development Code.
- G.The effects of the proposed use on groundwater, surface water and air quality.
- H.That the proposed use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed.

CONDITIONAL USE PERMIT (CUP) CONDITIONS - BTG

- 1.This permit specifically allows for the extraction of sand and gravel from this site, crushing of materials, and the recycling of concrete and asphalt in accordance with plans and narrative submitted with this five-year permit application. No other mining related activities are allowed.
- 2.Term. This permit is for a five (5) year period. This permit in no way guarantees or implies this permit will be renewed at the time of expiration and application for renewal is submitted. The permit expires **December 31, 2027**.
- 3.All applicable provisions of May Township and the Washington County Mining Ordinances and any future revisions to these ordinances must be complied with.
- 4.Final Restoration. Restoration must take place in accordance with the plans submitted in the application dated February 28, 2023. All topsoil shall be identified and permanent vegetation must be established. Future use of the property must be in accordance with zoning requirements in force at that time.
- 5.Area to be Mined. Mining shall take place in the phase as shown on the submitted application.
- 6.Stockpiling. As overburden is removed, all topsoil must be stockpiled. All topsoil shall remain at the site.
- 7.Screening. The landscaping (evergreen trees) which have been planted along the south property line and along the west property line and railroad tracks shall be maintained. All dead or dying plant materials shall be replaced where necessary if viewed at the Annual Inspection.
- 8.Depth of Excavation. The depth of excavation is hereby limited to an elevation of 934 feet. A registered surveyor must certify the mining depth annually and this information must be submitted with the annual report.
- 9.Fencing. The overall mining area shall continue to be fenced. Any areas identified by the County Zoning Administrator to be zoned will be fenced in ordinance with the code.

10. Recycling. A certificate of compliance is required for recycling during any one season. An estimate of the material to be processed must be submitted along with the location of the recycling area. The pile of material to be recycled shall be limited to the amount that can be processed in two consecutive mining seasons.

11. Hours of Operation. Those portions of the mining operation consisting of excavating, stockpiling, processing, or hauling shall be conducted only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday unless other hours or days of operation are specifically authorized by May Township. No such operation shall be allowed on Holidays unless approved by May Township.

12. 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 standards of the State Pollution Control Agency. Chloride or other dust control material must be applied by the operator to travel routes and other areas subject to disturbance. The operator shall maintain in such a manner that the deposit of earth materials on public roads is minimized.

13. Appearance. Equipment shall be maintained in a safe condition in accordance with accepted industrial practices. Weeds shall be controlled.

14. Noise. BTG I Property LLC agrees to maintain and operate all equipment in such a manner so as to be in accordance with Federal, State and County noise standards.

15. 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 in ownership. Levels of operation or increase in the traffic over what is proposed in the application will not be permitted without express approval of the Washington County Planning Advisory Commission.

16. Insurance. The operator shall carry bodily injury and property damage public liability insurance in the amount of \$2,000,000.00.

17. Bond. BTG Property Company shall furnish a surety bond, cash deposit, or other security approved by Washington County in the amount of \$104,640 as determined by Washington County and May Township 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. Staff and the applicant will discuss the bond amount and if they cannot reach an agreement, the issue will be brought to the Planning Advisory Commission for resolution. Such bond shall be made by an insurance company or other financial institution acceptable to Washington County. Said bond shall be in such terms as may be required to assure full, prompt and faithful performance by BTG Property LLC of all its closure obligations under this Conditional Use Permit area and the payment of losses, damage and expense incurred or suffered, including attorney's fees, as a result of any failure, refusal or inability of BTG Property LLC to perform its closure obligations or to recover under said bond. The bond shall provide that no waiver or delay or neglect of enforcement of any obligation of BTG Property LLC shall affect the right of Washington County and/or May Township 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 30 days) to cure said alleged default shall first have been given permittee. This permit shall not be effective until the bond is in force and effect. A provision shall be included in the bond to notify Washington County at least 30 days prior to cancellation, or non-renewal.

18. Annual Report Required. An annual report must be submitted by the first of February following each year, specifying the amount of material removed, area in which mining took place, restoration performed, area to be mined within the next year, evidence the required bond and insurance is valid, and that the gravel tax has been paid, together with the required fee.

19. Other Permits. Appropriate permits from the Minnesota Department of Natural Resources, Pollution Control Agency and the Carnelian-Marine-St. Croix Watershed District must be obtained, if necessary and submitted to Washington County Land Management.

20. The applicant will acquire a watershed permit from the Carnelian-Marine-St. Croix Watershed before the zoning administrator signs for approval of this permit.

21. The applicant will address the comments from the Washington Conservation District Memo dated June 14th, 2023. These will be addressed by December 31st, 2023 and approved by the Washington County Zoning Administrator. Any disputes will be brought to the Washington County Planning Commission for approval.

22. Fuel Storage. No fuel storage is permitted on the property other than the portable fuel tanks to operate the crusher. No portable tank shall have a capacity in excess of 1,000 gallons. The owner shall install a clay liner, with berms and a poly liner under the fuel tank where the crusher is located. Containment area shall be large enough to contain 100 percent of the volume of the fuel tank and six (6) inches of free board. In lieu of a clay liner for its tanks, a sealed portable fuel containment box placed under the tank which will be large enough to contain 100 percent of the volume plus six (6) inches of free board may be used. All spills shall be reported to the 24-hour Minnesota Statewide Emergency number at 651-649-5451 within 12 hours, and to Washington County Public Works Department and to May Township within 24 hours.

23. The crushing equipment must be located in the bottom of the pit and meet all required setbacks.

24. No hazardous chemicals are allowed to be stored on the property other than fuel storage as outlined above.

25. Drainage. All drainage during the mining process must be contained on-site. Prior to beginning mining the future phases, the applicant shall submit detailed drainage, grading, and erosion control plans.

26. Inspections. Washington County Public Works Department/Land Management staff and May Township officials and consultants have the right to go on the property to inspect the mining operation after providing reasonable notice to the operator.

27. 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 30 days) to cure said violation before revocation shall occur.

28. The operator must comply with any additional requirements or conditions imposed on this operation by May Township.

29. This permit shall be binding on the parties, their heirs, successors and assigns, and shall run with the land.

Conclusion

The mine has been in operation at this location for over 40 years, and as proposed, this mining operation complies with all provisions of the mining ordinance, traffic generated by the mining operation is limited, and all environmental issues have been reviewed. Staff recommends approval of the mine with the below list of requirements.

BOARD QUESTIONS/ BOARD DISCUSSION

Commissioner asked the applicant Nicholas Arndt if the mines have fencing. The applicant answered that the mines both have fencing. Commissioner Rheinberger said he would like to make sure an EOW is not needed. Commissioner Bauer asked the question regarding the Carnelian Watershed review.

PUBLIC HEARING

Chair Melander opened the public hearing at 5:11 p.m.

No Comments

Chair Melander closed the public hearing at 5:11 p.m.

Chair Melander identified the following exhibits:

- Exhibit A is the staff report with draft CUP conditions from Daniel Elder, dated 06/27/2023.
- Exhibit B is the application packet, received 04/28/2023.
- Exhibit C is the location map prepared by Washington County Survey Division.
- Exhibit D is the 2022 11 x 17 aerial map prepared by the Washington County Survey Division.
- Exhibit E is the 2022 11 x 17 aerial contour map prepared by the Washington County Survey Division.
- Exhibit F is the Washington Conservation District Review Memo.

Chair Melander moved to approve the Five-Year Conditional Use Permit with conditions provided. Mr. Rheinberger seconded the motion.

Chair Melander Called the Question. All were in favor. Motion carried 6-0.

Agenda Item – 2 BTG II, May Township Five-Year Conditional Use Permit

Daniel Elder, Planner with Washington County Public Works, gave a summary of the staff report for the application for the Five-Year Mining Conditional Use Permit for property owned by BTG II, Inc located in May Township.

BTG Property Company II has submitted its 5-Year Mining Conditional Use Permit application to continue its operations in May Township. Mining permits issued by Washington County are valid for five years. At the end of each five-year period, the permit must be renewed. County staff inspects mining operations annually to ensure compliance with all permit conditions.

The property involved in this application is located in Section 28, Township 31 North, Range 20, and encompasses approximately 134 acres; 98 acres of the property will be mined over the life of the mine. The applicant was last issued a permit in 2018. BTG Property Company is located to the north, which is also mined. The northern property is subject to a separate mining permit which will also be reviewed.

Mining Operations

BTG II utilizes the mine to extract sand and gravel and crush the gravel mined from this site. They crush on-site using an independent outside contractor. Crushing is done annually and is generally completed within 180 days. The finished material is then stockpiled until it is transported off-site for use. The equipment used in the operation consists of crushers, conveyors, dozers, scrapers, and front-end loaders. They have a wash deck to periodically wash sand and rock.

The BTG II mine has limited allowances for recycling of materials. The recycling and crushing of stone, clean concrete, and asphalt from projects BTG and partners are working on and from other sources (are permitted on the site. The concrete and asphalt shall only be from roads, driveways, parking lots, and similar. Stockpiles of such materials shall not be visible from County Road 7.

The applicant has submitted a revised map illustrating the mining area proposed for the 2023-2027 period. The applicant has proposed mining from the present pit floor area in an easterly and southerly direction within in the proposed limits of excavation shown on the site plan. The applicant indicates they anticipate removing 100,000 to 200,000 cubic yards of material yearly.

Washington County Staff Review Comments

Township Background In 2022, Denmark Township implemented a moratorium on the development of mining within the Township. During the moratorium, the Township revised its mining ordinance and split mining between major and minor mining operations. The difference is between the size of the operation with operations above 80 acres or involving the use of blasting, amongst other items. The code updates in question are stricter than the county code in several areas, including setbacks from property lines and occupied residential homes.

As a result of the ordinance changes, Martin Marietta was classified as a Minor Mining operation until it proposed to expand outside of the approved phasing mining area. The company, as such, applied for rezoning for its original 144-acre piece being reviewed tonight and an additional 60 acres located to the west that they are proposing to expand to in the future (60 acres to the west not being reviewed). The rezoning was needed because the company proposed to move into a new phase within the 144 acres in the next five years, which constitutes an expansion of the mining area and so requires the rezoning of the property (i.e., the temporary classification as a minor mining operation ends). The Township reviewed and approved the rezoning on April 3, 2023, after which the mine applied for its IUP with the Township, which was approved at the May 1, 2023, Town Board meeting.

Resident Complaints

Starting in the fall of 2022, the County began receiving complaints from residents of Denmark Township expressing concern over the proposed expansion of Martin Marietta's mining operation, citing potential environmental damage to natural resources such as O'Connor's Lake. They have also raised issues related to the operation's compliance with approved parameters, safety concerns posed by truck traffic and blasting activity, and the need for a detailed environmental and safety study prior to approving the expansion.

Staff has attached emails, a log documenting truck traffic, and a petition from residents regarding the mine, in addition to a memorandum that was sent to the residents regarding an overview of the mine permit process and addressing resident concerns. The Township has revised the mines permit and operating standards to address resident complaints. The changes are detailed in the next section.

Township Permit Changes

The Township, during its IUP process, made several changes to the permit and the operation standards under which the mine operates to address resident concerns as follows:

Road Improvements.

The mine has agreed that the portion between St Croix Trail (CSAH 21) and the mine entrance needs to be improved and widened with new blacktop. The mine has agreed to pay the costs to improve the road by widening it to at least 26 feet wide, constructing two-foot gravel shoulders, and working with the Township on the feasibility of constructing a bike trail to separate truck traffic from the bike and pedestrian traffic along the improved portion. Additionally, the Township is in the process of installing a flashing speed sign on the road to indicate the driver's speed. The mine has also agreed to conduct ongoing maintenance on 87th Street as well.

Truck Trips. The Township permit limits the number of loads from the property to not exceed a monthly average of two hundred and fifty (250) loads per day, with a maximum of four hundred loads per day for no more than five (5) days per month. The mine provides a monthly report of daily truck trips to the Township for review.

Staging Activities.

Based on concerns about trucks arriving and staging along 87th before approved operating hours, the Township has allowed trucks to stage internally at the bottom of the mine with their engines turned off. Trucks are allowed to stage ½ hour before and ½ hour after the allowed hours of operation. No staging within the public right-of-way is allowed.

Hours of Operation.

Based on noise concerns associated with mining activity, the Township has limited the hours of operation for the mine to 7:00 a.m. to 6:00 p.m., Monday through Thursday, and between 7:00 a.m. and 5:00 p.m., Fridays.

Maintenance and repair of equipment, including the warming of equipment, shall not occur earlier than 6:30 a.m. or later than ½ hour after the end of the allowed hours of operation for the day. Lighting used between 6:30 a.m. and 7:00 a.m. shall be limited to that needed to support maintenance or repair activities and shall be downcast. No operations are allowed on weekends or holidays.

Screening and Landscaping.

The mine is currently working with the Township to create a screening plan that is due to the Township on June 30th. The screening plan indicates that the mine shall construct and maintain a screen around the entire mining area, where practical. The conditions of the screening plan include the construction of a berm along 87th Street and Quadrant Avenue within one year from the approval of the plan and the planting of trees along 87th Street and Quadrant Avenue. This includes extending the current berm along 87th Street in height and length, with the berm continuing along the mine property to just past Pleasant Avenue. The representative from the mine will provide additional details regarding the mining landscape plan at the meeting.

Blasting Plan.

The Township requires the mine to provide a blasting plan that includes the following:

- a. The Plan shall include the anticipated blast process, shall establish a monitoring program including pre-blast surveys, pre-blast notifications, and detail how the proposed process will reasonably limit potential impacts on surrounding properties.
- b. Ground vibrations and air overpressure caused by blasting shall comply with the safe levels established by the Office of Surface Mining Reclamation and Enforcement (OSMRE) in Report of Investigations 8507 (vibration) and 8485 (air overpressure) for protection of structures.
- c. Methods of collecting and monitoring the ground vibration and air blast data shall be included in the plan and the detailed seismic records shall be collected during each blast and must be maintained by the mining operator and provided to the Town upon request and in accordance with the Blast Monitoring Plan.
- d. Blasting may occur only between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

e. The applicant modify the draft blasting plan to address neighborhood interests in notification of blasting, location of seismographs, designation of a neighborhood liaison, and access to blasting information.

The changes listed above address the residents' issues and concerns regarding the site and are the major changes the Township has made to the operating conditions of the mine.

Operational Standards

The application package addresses all the operational standards and conditions in the mining ordinance. All standards are met with this operation. The following are staff review comments.

Review Standard

The Planning Advisory Commission may grant a Conditional Use Permit upon showing that the standards and criteria in the Development Code are satisfied and that the use is in harmony with the general purpose and intent of the Development Code and Comprehensive Plan. In making this determination, the following should be considered:

- A. The impact of the proposed use on the health, safety and general welfare of the occupants of the surrounding lands.
- B. Existing and anticipated traffic conditions, including parking facilities on adjacent streets and lands.
- C. The effect of the proposed use on utility and school capacities.
- D. The effect of the proposed use on property values and scenic views in the surrounding area.
- E. The effect of the proposed use on the Comprehensive Plan.
- F. The ability of the proposed use to meet the standards of the Development Code.
- G. The effects of the proposed use on groundwater, surface water and air quality.
- H. That the proposed use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed.

Conclusion

The mine has been in operation at this location for over 90 years, and as proposed, this mining operation complies with all provisions of the mining ordinance, and the Township has placed additional restrictions on the operating conditions of the mine. The additional conditions target areas of resident concern, and the mine has agreed to provide additional screen, limited hours of operation, updated blasting plans, improvement and maintenance of 87th Street. The additional conditions are sufficient in striking a balance between the importance of the mining for aggregate resources and the residents. Staff recommends approval of the mine with the below list of requirements.

Conditions

1. Scope of Permit. This permit allows for the extraction and processing of sand, gravel, limestone, and recycling of used concrete, aggregate and asphalt on the Property (collectively referred to herein as "mining"). Applicants shall only excavate the mining area in three phases as shown on the application map as Phase 1, Phase 2, and Phase 3 as shown on Sheet C2, Mining and Phasing Plan, in the Application Packet. The recycling of product (crushed blacktop and concrete) is allowed provided that the material is stored on the pit floor. The continued curing of aggregate, through the use of a portable crusher, and aggregate washing are also allowed as part of the mining operation. Mining is prohibited within 100 feet of O'Connor's Lake.

2.Term. This permit is for a five (5) year period. This permit in no way guarantees or implies this permit will be renewed at the time of expiration and application for renewal is submitted. The permit expires **December 31, 2028**. The timing follows Denmark Township to ensure the County permit does not expire before the Township permit.

3.All applicable provisions of Denmark Township and the Washington County Mining Ordinances and any future revisions to these ordinances must be complied with.

4.Excavation Limits. The depth of the excavation shall be limited to an elevation of ten feet (10') above the water table. No excavation shall occur within any setback area. A registered surveyor must certify the mining depth annually, and this information shall be submitted to County yearly and included in the annual report to the County as required by this permit. A minimum separation of 10 feet must be maintained between the quarry floor and the water table. Prior to moving into phase 2, further verification of water table elevation must be determined. Prior to moving into phase 2 at least three additional borings must be drilled along the western edge of phase 3 to verify water table conditions.

5.Screening. The applicant will provide the County and the Washington Conservation District a copy for approval of the screening and landscaping plan to be approved by Denmark Township at the June 30th,2023, meeting.

6.Insurance. The operator shall carry bodily injury and property damage public liability insurance in the amount of \$1,500,000.00, naming Washington County and Denmark Township as additional insured.

7.Bond. Martin Marietta shall furnish a surety bond of \$453,386 approved by the County 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 Washington 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 Martin Marietta of all its closure obligations under this conditional use permit area and the payment of losses, damage and expense incurred or suffered, including attorney's fees, as a result of any failure, refusal or inability of Tiller Corporation to perform its closure obligations or to recover under said bond. The bond shall provide that no waiver or delay or neglect of enforcement of any obligation of Martin Marietta shall affect the right of Washington 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 30 days) to cure said alleged default shall first have been given permittee. This permit shall not be effective until the bond is in force and affect.

8.All applicable provisions of the Washington County Mining Ordinances and any future revisions to these ordinances must be complied with.

9.Final Restoration. Restoration must take place in accordance with the Mining and Reclamation Plan submitted as part of this permit application. All topsoil is to remain at the site. Permanent vegetation must be established as per the Washington Conservation District's recommendations. Future use of the property must be in accordance with zoning requirements in force at that time. Restoration shall proceed in a continuous manner and be subject to review and approval at each annual inspection and the end of the permit period.

10. Stockpiling. As overburden is removed, all topsoil must be stockpiled. All topsoil material must remain at the site, and be seeded with temporary cover until the time it is reused.

11. Fencing. The overall mining area shall be fenced, in accordance with the mining ordinance. Any new fencing required by the Denmark Township will be sent to the Washington County Zoning Administrator for review.

12. Hours of Operation. Applicant shall be allowed to conduct business year-round. Operation of equipment for excavating, stockpiling, processing, and hauling shall be conducted between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Maintenance and repair of equipment shall not occur earlier than 7:30 a.m. or later than 5:30 p.m. Except as provided herein, no operations shall be allowed on weekends or on holidays. No other hours or days of operation are allowed unless specifically authorized by Denmark Township. No such operations shall be allowed on holidays unless approved by Denmark Township. In the case of emergencies such as floods, accelerated work schedules, or whenever reasonable or necessary repairs to equipment are required, the Denmark Town Board may allow modification of operating hours or days of operation. Written notification shall be given to Washington County when the hours of operation are changed by the Town Board.

13. Staging Activities. Trucks may stage at the mining operation one-half hour (1/2) before and one-half-hour (1/2) after the normal hours noted above. Staging activities include trucks lining up and equipment inspections, maintenance and repairs (including trucks). No truck filling, processing or crushing will occur during the staging time. The applicant shall designate a specific area for truck staging subject to review and approval by Denmark Township and Washington County. This information shall be provided to all truckers at the mine and signs placed to clarify appropriate truck staging areas.

14. Blasting. The applicant and operator shall provide a final blasting plan for County review prior to any blasting occurring at the site: a. The Plan shall include the anticipated blast process, shall establish a monitoring program including-blast surveys, pre-blast notifications, and detail how the proposed process will reasonably limit potential impacts on surrounding properties.

b. Ground vibrations and air overpressure caused by blasting shall comply with the safe levels established by the Office of Surface Mining Reclamation and Enforcement (OSMRE) in Report of Investigations 8507(vibration) and 8485 (air overpressure) for protection of structures.

c. Methods of collecting and monitoring the ground vibration and air blast data shall be included in the plan and the detailed seismic records shall be collected during each blast and must be maintained by the mining operator and provided to the County upon request and in accordance with the Blast Monitoring Plan.

d. Blasting may occur only between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

e. The applicant modify the draft blasting plan to address neighborhood interests in notification of blasting, location of seismographs, designation of a neighborhood liaison, and access to blasting information.

f. The applicant will work with Washington County to provide access to the site for the placement of blasting monitors by an approved third party for the study of blasting data at the property lines and at neighboring properties. This will be conducted by Washington County, and the vendor shall be accepted and approved by the mine.

For each blast, seismic and decibel information must be recorded by an independent contractor to confirm that the blast did not exceed the Bureau of Mines standards. That information shall be provided to the County within 15 days of the blast.

All blast reports from the previous year shall be submitted as part of the Applicant's

annual report. The testing devices may be placed in town road rights-of-way, provided such placement does not interfere with the safe use or maintenance of the road. No testing equipment may be placed on the private property of others without the owner's consent. The storage of explosives on the site is prohibited.

15. 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 Minnesota Pollution Control Agency. Dust control material must be applied by the operator to travel routes and other areas subject to disturbance within the property.

16. Appearance. Equipment shall be maintained in a safe condition in accordance with accepted industrial practices. Weeds shall be controlled.

17. Noise. Martin Marietta agrees to maintain and operate all equipment in such a manner so as to be in accordance with Federal, State, and County noise standards.

18. Control of Operations. The conditions of this permit shall apply to the land described and shall not in anyway, except herein noted, be affected by any subsequent sale, lease, or other change from the current ownership.

19. Washing. Any approvals required by the Minnesota Pollution Control Agency (MPCA) and the Minnesota Department of Natural Resources (MNDNR) Water Appropriations Permit shall be submitted to Washington County Planning Division and made part of this permit.

20. Annual Report Required. An annual report must be submitted to Washington County and Denmark Township outlining activities, blasting reports, and amounts of materials removed during the year and planned for next year. Evidence of insurance and performance bond for restoration shall be included.

21. Other Permits. Appropriate permits from the Minnesota Department of Natural Resources, Pollution Control Agency, and Denmark Township must be obtained, if necessary.

22. Fuel Storage. All on-site storage of fuel shall meet State and local standards. In accordance with Minnesota Pollution Control Agency requirements, all petroleum spills required to be reported shall be reported to the 24-hour State Duty Officer. The Washington County Land Management staff and Denmark Township shall also be notified.

23. The crushing equipment must be located in the bottom of the pit and meet all required setbacks.

24. No hazardous chemicals are allowed to be stored on the property other than fuel storage as outlined above.

25.Drainage. All drainage during the mining process must be contained on-site.

26.Inspections. Washington County, Washington County Conservation District staff and Denmark Township Officials and consultants have the right to go on the property to inspect the mining operation after providing reasonable notice to the operator.

27.This permit shall be binding on the parties, their successors and assigns, and shall run with the land.

28.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 30 days) to cure said violation before revocation shall occur.

29.The recycling or product (crushing blacktop and concrete) is allowed providing the following conditions are met: a. Recycled material must be stored on the pit floor in the southeast portion of the operating area. Said material must be screened from the road and all property lines.

b. The annual report to the county should include the amount of material recycled the previous year and an estimate of the amount of material to be recycled.

c. The pile of material to be recycled shall be limited to the amount that can reasonably be processed in two (2) consecutive mining seasons. Records of recycle material shall be kept and submitted with the next permit.

30.Annual inspection of the surface outlet of O'Conner's Lake shall be conducted by the Washington Conservation District to ensure that erosion or channelized flow does not lower the outlet elevation of the lake. A lower outlet elevation could partially drain the lake. Corrective measures should be taken if such an occurrence takes place or is observed.

31.Groundwater Monitoring. Groundwater monitoring shall be completed on an annual basis and include BETX, TPH, PH, Chlorides, Nitrate-Nitrogen, and Total Coliform. The results shall be submitted to the Washington County and Washington Conservation District staff and the Senior Environmental Specialist involved in groundwater.

32.If any seeps from O'Connor's Lake into the mine occur; mining must cease until further study is completed to see if mining is causing the seeps.

33.No mining is permitted in Phase 4 until further water elevation data has been collected and analyzed.

34.Solid and hazardous waste located in the project area shall be disposed of in accordance with Minnesota Rules 7035 and 7045 and Washington County Solid Waste Management (#114 & #167) and Hazardous Waste Management (#166) Ordinances. A spill recovery kit should be present during equipment fueling activities. Containment must be implemented for fuel tank storage. Care must be taken to ensure that hazardous chemicals (e.g. carburetor cleaner, degreaser, etc. used for equipment maintenance) are properly disposed so contamination of the groundwater aquifer does not occur.

35. Wells. The applicant will seal at least one of the existing two water supply wells located near the prior homestead and barn.

PUBLIC HEARING

Chair Melander opened the public hearing at 5:24

Chair Melander closed the Public Hearing at 5:25

BOARD QUESTIONS/ BOARD DISCUSSION

Mr. Rheinberger asked that we look into if an EOW is needed.

Included in the packet and identified by Chair Melander were the following exhibits:

BTG II Conditional Use Permit (CUP)

- Exhibit A is the staff report with draft CUP conditions from Daniel Elder, dated 06/27/2023.
- Exhibit B is the application packet, received 04/28/2023.
- Exhibit C is the location map prepared by Washington County Survey Division.
- Exhibit D is the 2022 11 x 17 aerial map prepared by the Washington County Survey Division.
- Exhibit E is the 2022 11 x 17 aerial contour map prepared by the Washington County Survey Division.
- Exhibit F is the Washington Conservation District Review Memo.

Mr. Melander made a motion to approve the Conditional Use Permit with conditions provided. Ms. Zanko Seconded the motion.

Chair Melander Called the Question. All were in favor. Motion carried 6-0.

Agenda Item – 3 Martin Marietta, Denmark Township Five-Year Conditional Use Permit

Martin Marietta has submitted its 5-Year Mining Conditional Use Permit application to continue its operations in Denmark Township. Mining permits issued by Washington County are valid for five years. At the end of each five-year period, the permit must be renewed. County staff inspects mining operations annually to ensure compliance with all permit conditions. The property involved in this application is located in Section 15, Township 27, Range 20, and encompasses approximately 144 acres of property, of which 122 acres are included within the approved mining and reclamation limits.

The site has been in operation as a mine and quarry since 1939 when the Davies family operated it. The Davies operated the mine from 1939 until 1988, when they entered into a lease agreement with Tiller Corporation to continue the operation. Washington County, in 1992 gave the operation its preliminary mining permit permitting the removal of sand, gravel, and quarry rock resources along with the crushing and processing of these materials.

They have been issued a permit in five-year increments ever since, last receiving a permit from Washington County in June 2018. As of 2021, Martin Marietta, who is operating the site, acquired Tiller Corporation.

Prior to the issuance of the permit in 1992, an Environmental Assessment Worksheet (EAW) was completed, and the County Board ultimately issued a negative declaration for an Environmental Impact Statement on May 15, 1990. The negative declaration concluded that the Washington County Mining Ordinance and permitting process could address all environmental issues. The issues identified in the EAW included the impact of the operation on groundwater quality and O'Connor's Lake, erosion, noise, dust, and traffic. Prior to the issuance of the permit in 2008, additional studies regarding O'Connor's Lake and, as a result, Washington County required additional study on the impact of mining on O'Connor's Lake before mining towards the lake could occur.

The study concluded that mining is unlikely to impact lake levels. If seeps are encountered, which may be associated with O'Connor's Lake, mining will not progress any closer to the lake until the situation can be further evaluated. Further, Phase 4 cannot be mined until additional study is completed.

Since Martin Marietta acquired the property, the mine has moved forward with approved operations on the site, such as removing the house and barn that were located on the property. These buildings provided buffering on the site from the residents to the south. The mine constructed a berm along 87th Street to provide screening; the berm was seeded and stabilized in the Fall of 2022.

Township Background In 2022, Denmark Township implemented a moratorium on the development of mining within the Township. During the moratorium, the Township revised its mining ordinance and split mining between major and minor mining operations. The difference is between the size of the operation with operations above 80 acres or involving the use of blasting, amongst other items. The code updates in question are stricter than the county code in several areas, including setbacks from property lines and occupied residential homes. As a result of the ordinance changes, Martin Marietta was classified as a Minor Mining operation until it proposed to expand outside of the approved phasing mining area. The company, as such, applied for rezoning for its original 144-acre piece being reviewed tonight and an additional 60 acres located to the west that they are proposing to expand to in the future (60 acres to the west not being reviewed). The rezoning was needed because the company proposed to move into a new phase within the 144 acres in the next five years, which constitutes an expansion of the mining area and so requires the rezoning of the property (i.e., the temporary classification as a minor mining operation ends). The Township reviewed and approved the rezoning on April 3, 2023, after which the mine applied for its IUP with the Township, which was approved at the May 1, 2023, Town Board meeting.

Resident Complaints

Starting in the fall of 2022, the County began receiving complaints from residents of Denmark Township expressing concern over the proposed expansion of Martin Marietta's mining operation, citing potential environmental damage to natural resources such as O'Connor's Lake. They have also raised issues related to the operation's compliance with approved parameters, safety concerns posed by truck traffic and blasting activity, and the need for a detailed environmental and safety study prior to approving the expansion.

Staff has attached emails, a log documenting truck traffic, and a petition from residents regarding the mine, in addition to a memorandum that was sent to the residents regarding an overview of the mine permit process and addressing resident concerns. The Township has revised the mines permit and operating standards to address resident complaints. The changes are detailed in the next section.

Township Permit Changes

The Township, during its IUP process, made several changes to the permit and the operation standards under which the mine operates to address resident concerns as follows:

Road Improvements.

The mine has agreed that the portion between St Croix Trail (CSAH 21) and the mine entrance needs to be improved and widened with new blacktop. The mine has agreed to pay the costs to improve the road by widening it to at least 26 feet wide, constructing two-foot gravel shoulders, and working with the Township on the feasibility of constructing a bike trail to separate truck traffic from the bike and pedestrian traffic along the improved portion. Additionally, the Township is in the process of installing a flashing speed sign on the road to indicate the driver's speed. The mine has also agreed to conduct ongoing maintenance on 87th Street as well.

Truck Trips.

The Township permit limits the number of loads from the property to not exceed a monthly average of two hundred and fifty (250) loads per day, with a maximum of four hundred loads per day for no more than five (5) days per month. The mine provides a monthly report of daily truck trips to the Township for review.

Staging Activities.

Based on concerns about trucks arriving and staging along 87th before approved operating hours, the Township has allowed trucks to stage internally at the bottom of the mine with their engines turned off. Trucks are allowed to stage ½ hour before and ½ hour after the allowed hours of operation. No staging within the public right-of-way is allowed.

Hours of Operation.

Based on noise concerns associated with mining activity, the Township has limited the hours of operation for the mine to 7:00 a.m. to 6:00 p.m., Monday through Thursday, and between 7:00 a.m. and 5:00 p.m., Fridays. Maintenance and repair of equipment, including the warming of equipment, shall not occur earlier than 6:30 a.m. or later than ½ hour after the end of the allowed hours of operation for the day. Lighting used between 6:30 a.m. and 7:00 a.m. shall be limited to that needed to support maintenance or repair activities and shall be downcast. No operations are allowed on weekends or holidays.

Screening and Landscaping.

The mine is currently working with the Township to create a screening plan that is due to the Township on June 30th. The screening plan indicates that the mine shall construct and maintain a screen around the entire mining area, where practical. The conditions of the screening plan include the construction of a berm along 87th Street and Quadrant Avenue within one year from the approval of the plan and the planting of trees along 87th Street and Quadrant Avenue. This includes extending the current berm along 87th Street in height and length, with the berm continuing along the mine property to just past Pleasant Avenue. The representative from the mine will provide additional details regarding the mining landscape plan at the meeting.

Blasting Plan.

The Township requires the mine to provide a blasting plan that includes the following:

- a. The Plan shall include the anticipated blast process, shall establish a monitoring program including pre-blast surveys, pre-blast notifications, and detail how the proposed process will reasonably limit potential impacts on surrounding properties.
- b. Ground vibrations and air overpressure caused by blasting shall comply with the safe levels established by the Office of Surface Mining Reclamation and Enforcement (OSMRE) in Report of Investigations 8507 (vibration) and 8485 (air overpressure) for protection of structures.
- c. Methods of collecting and monitoring the ground vibration and air blast data shall be included in the plan and the detailed seismic records shall be collected during each blast and must be maintained by the mining operator and provided to the Town upon request and in accordance with the Blast Monitoring Plan.
- d. Blasting may occur only between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

e. The applicant modify the draft blasting plan to address neighborhood interests in notification of blasting, location of seismographs, designation of a neighborhood liaison, and access to blasting information.

The changes listed above address the residents' issues and concerns regarding the site and are the major changes the Township has made to the operating conditions of the mine.

Mining Operations

The Martin Marietta mine operates both a sand and gravel mine and a limestone quarry at the site. The sand and gravel material are excavated by the use of heavy equipment, while the rock is extracted by blasting. The eastern and northwestern portions of the site are primarily sand and gravel, while the southwestern and western portions of the mine are utilized for limestone extraction.

As the material is extracted from the mine, portable processing equipment is brought on-site to crush, screen, and stockpile material. The mine does wash some of the aggregates on the site. In addition to these activities, the operation also involves recycling used concrete and asphalt.

The mine has proposed mining the site in phases depicted in the mining and phasing plans. The applicant has indicated that they will be operating in phases 1, 2, & 3 over the next five years. The applicant indicates an estimated 12-15 million tons of aggregate reserves remain on the site. Typical annual production ranges from 100,000 tons to just over 300,000 tons but varies from year to year, driven by market demand.

Washington County Staff Review Comments

Operational Standards The application package addresses all the operational standards and conditions in the mining ordinance. All standards are met with this operation. The following are staff review comments.

Access Route/Traffic Martin Marietta receives all access to and from the site from 87th Street. 87th Street has access to St. Croix Trail (CSAH 21). As mentioned above, the mine has agreed to the improvement and maintenance of the road and is limited on the number of trips allowed daily and monthly. Additional information is provided on the number of truck trips to and from the site since the last permit was issued. This is shown in the exhibits.

Setbacks Mining operations must be setback a minimum of 50' from adjoining property lines. 100' from any road right-of-way, 200' from an adjacent occupied structure, and 100' from contiguous platted residential property. The Denmark Township has updated its code to restrict it to 300' from an adjacent occupied structure. O'Connor's Lake is located just north of the site. As a result of a recommendation from the Minnesota Department of Natural Resources (MnDNR) and provisions of the Washington County Shoreland Management Ordinance, the Planning Advisory Commission, in its previous approval, prohibited mining within 100 feet of O'Connor's Lake. All setbacks are being met.

Fencing

During the last mine inspection on November 1, 2022, staff observed that the fence was disconnected, worn down, or nonexistent in some locations. County staff asked the mine to review the entirety of the fence perimeter and

repair and connect the fence to the standard required in the permit. Staff asked for the repair work to be scheduled and completed by the next inspection period. The mine had contractors on-site on May 8th, and they completed repairs to the split rail white fencing and closed up gaps in the fencing. Additionally, they repaired the woven wire fencing. They also added and refreshed signage along 87th and Quadrant with no trespassing and warning signs. The repaired fence and signage meet the conditions the county imposed after the annual inspection. The fencing meets the requirements of the code. As the Mine continues to work with the Township on an approving screening and landscaping plan, the County will review any changes for code compliance. Hours of Operation As mentioned above, the Township has reduced the hours of operation on site, and the hours from the Township have been added as a condition of approval for the mine. Screening Where deemed necessary by the Planning Advisory Commission, extracting and processing operations shall be screened. To minimize their visual impact on surrounding properties, a continuous screen may be required either along the street and/or along the perimeter of the property. The property to the north is currently screened from the mine by evergreen trees, natural vegetation, topography, and O'Conner's Lake. The property to the east is screened via a berm, fencing, and vegetation. Along the south 87th Street, they have in place a berm that has been seeded and will have trees planted on it. To the west is an open field of farms. As mentioned above, the mine is currently working with the Township to create a screening plan that is due to the Township on June 30th. The screening requested by the Township will be evaluated by staff, and the applicant will provide additional details at the meeting. Dust Control The ordinance requires the operator to construct, maintain, and operate all equipment to minimize on-site dust and off-site dust conditions. In addition, all ways and roads within the site must be maintained in a dust-free condition by providing a dust-free surface or other treatment acceptable to the Planning Advisory Commission. Dust is generated by vehicular traffic, crushing, screening, excavation, loading, and by stripping operations. To minimize dust generated by vehicular traffic, the initial 380 feet of the access road has been paved. Water is used on the interior roads as needed. Dust is also created by the processing and stockpiling activities; however, these operations are located on the pit floor. Since the operations are at a lower elevation than the surrounding properties, dust leaving the site is minimized. The operation does require a Minnesota Pollution Control Agency (MPCA) General Air Emissions permit. Noise All equipment and other noise sources must be operated per Federal, State, and County noise standards. The operation generates noise from blasting, screening, crushing, excavating, and loading activities and vehicular movement. To minimize the noise generated, the processing activities are located on the pit floor at a lower elevation where the side slopes act as barriers. The bedrock is blasted to create material approximately zero to seven times per year. Each episode consists of a single blast lasting less than one second. The seismic and decibel information is recorded to ensure that blasting occurs within the recommended guidelines.

As mentioned above, the Township has implemented a blasting plan so that the mine notifies residents yearly regarding blasting and if they wish to be on a notice list. The blasting data provided to the County indicates that the blasts are within the required standards. The County is willing to work with an additional third party to monitor the blasting data for a period of a year. This would allow the County to have an additional third party not affiliated with the mine collect and analyze data.

Depth of Excavation The direction of groundwater flow is southeasterly, towards the St. Croix River. As noted in the application package, the groundwater from 785 msl in the northwestern portion of the site to 700 msl above mean sea level in the southeastern portion of the site. The current permit restricts mining to ten feet above the water table. The elevation of the water table used for the purposes of establishing the minimum mining elevation was taken from the groundwater gradient developed for the 2018 permit review.

According to the Mining Regulations, 5.5 Protection of Water Tables, the depth of excavation shall be based, in part, upon soil characteristics, depth to the water table, nature of mining proposed, and local use of the aquifer. Since the aquifer is an unconfined aquifer, the request to limit the depth of excavation to correspond with the

groundwater gradient seems reasonable since it is closely monitored, and mining is conducted according to the conditions of the permit.

Ground Water Monitoring A monitoring well on the site is sampled once a year and the results are submitted to Washington County and Denmark Township. Analysis is conducted on Benzene, Ethyl-Benzene, Toluene, Xylene compounds, Petroleum, PH and Chlorides. No problems have been detected to this date.

Recycling The crushing and processing of used concrete, aggregate, and asphalt is permitted in conjunction with an approved mining permit. To recycle material, the standards for processing stated above must be met. The amount of material stockpiled on-site is limited to the amount that can be reasonably processed in two consecutive mining seasons.

Martin Marietta currently has a Washington County Solid Waste Storage Facility License for storing unprocessed concrete, concrete products, asphalt, and brick before crushing it for reuse. Public Health has indicated that they have no issues and that the mine is compliant with conditions.

Fuel Storage

Fuel stored on the property must be stored in accordance with Federal, State, and Local guidelines. A 1,000-gallon above-ground, double-walled fuel storage tank presently exists on the property. This tank is registered with the Minnesota Pollution Control Agency. A portable 1,000-gallon, double-walled tank is brought to the site to support the crushing plant during processing periods.

Reclamation The area along the southeast and east property lines has been reclaimed. The mine may be reclaiming areas within phases 1-3, where mining may occur in the next five-year permit period depending on market conditions. The end-use plan for the property would likely be a large lot residential subdivision; however, O'Connor's Lake periodically overflows onto the site. An outlet structure would need to be installed before the property could be used for residential purposes. The applicant has estimated reclamation costs to be approximately \$453,386. The reclamation plan meets the requirements of the ordinance. The County is working on setting up a meeting between the mine, Township, DNR, Washington Conservation District, and the South Washington Conservation District to continue the discussion on the outlet for the lake.

Washington Conservation District Review

Representatives of the Washington Conservation District have reviewed the permit renewal application and plans. They had several comments regarding the application, which is attached. The applicants have provided a narrative response to the comments. The comments are mostly administrative in nature and can be addressed with the applicant and finalized by County Staff. The applicant can address any comments

Review Standard

The Planning Advisory Commission may grant a Conditional Use Permit upon showing that the standards and criteria in the Development Code are satisfied and that the use is in harmony with the general purpose and intent of the Development Code and Comprehensive Plan. In making this determination, the following should be considered:

- A. The impact of the proposed use on the health, safety and general welfare of the occupants of the surrounding lands.
- B. Existing and anticipated traffic conditions, including parking facilities on adjacent streets and lands.
- C. The effect of the proposed use on utility and school capacities.
- D. The effect of the proposed use on property values and scenic views in the surrounding area.
- E. The effect of the proposed use on the Comprehensive Plan.
- F. The ability of the proposed use to meet the standards of the Development Code.

G. The effects of the proposed use on groundwater, surface water and air quality.

H. The proposed use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed.

Conclusion

The mine has been in operation at this location for over 90 years, and as proposed, this mining operation complies with all provisions of the mining ordinance, and the Township has placed additional restrictions on the operating conditions of the mine. The additional conditions target areas of resident concern, and the mine has agreed to provide additional screen, limited hours of operation, updated blasting plans, improvement and maintenance of 87th Street. The additional conditions are sufficient in striking a balance between the importance of the mining for aggregate resources and the residents. Staff recommends approval of the mine with the below list of requirements.

Conditions

1.Scope of Permit. This permit allows for the extraction and processing of sand, gravel, limestone, and recycling of used concrete, aggregate and asphalt on the Property (collectively referred to herein as “mining”). Applicants shall only excavate the mining area in three phases as shown on the application map as Phase 1, Phase 2, and Phase 3 as shown on Sheet C2, Mining and Phasing Plan, in the Application Packet. The recycling of product (crushed blacktop and concrete) is allowed provided that the material is stored on the pit floor. The continued cursing of aggregate, through the use of a portable crusher, and aggregate washing are also allowed as part of the mining operation. Mining is prohibited within 100 feet of O’Connor’s Lake.

2.Term. This permit is for a five (5) year period. This permit in no way guarantees or implies this permit will be renewed at the time of expiration and application for renewal is submitted. The permit expires **December 31, 2028**. The timing follows Denmark Township to ensure the County permit does not expire before the Township permit.

3.All applicable provisions of Denmark Township and the Washington County Mining Ordinances and any future revisions to these ordinances must be complied with.

4.Excavation Limits. The depth of the excavation shall be limited to an elevation of ten feet (10’) above the water table. No excavation shall occur within any setback area. A registered surveyor must certify the mining depth annually, and this information shall be submitted to County yearly and included in the annual report to the County as required by this permit. A minimum separation of 10 feet must be maintained between the quarry floor and the water table. Prior to moving into phase 2, further verification of water table elevation must be determined. Prior to moving into phase 2 at least three additional borings must be drilled along the western edge of phase 3 to verify water table conditions.

5.Screening. The applicant will provide the County and the Washington Conservation District a copy for approval of the screening and landscaping plan to be approved by Denmark Township at the June 30th,2023, meeting.

6.Insurance. The operator shall carry bodily injury and property damage public liability insurance in the amount of \$1,500,000.00, naming Washington County and Denmark Township as additional insured.

7.Bond. Martin Marietta shall furnish a surety bond of \$453,386 approved by the County 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 Washington 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 Martin Marietta of all its closure obligations under this conditional use permit area and the payment of losses, damage and expense incurred or suffered, including attorney's fees, as a result of any failure, refusal or inability of Tiller Corporation to perform its closure obligations or to recover under said bond. The bond shall provide that no waiver or delay or neglect of enforcement of any obligation of Martin Marietta shall affect the right of Washington 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 30 days) to cure said alleged default shall first have been given permittee. This permit shall not be effective until the bond is in force and affect.

8.All applicable provisions of the Washington County Mining Ordinances and any future revisions to these ordinances must be complied with.

9.Final Restoration. Restoration must take place in accordance with the Mining and Reclamation Plan submitted as part of this permit application. All topsoil is to remain at the site. Permanent vegetation must be established as per the Washington Conservation District's recommendations. Future use of the property must be in accordance with zoning requirements in force at that time. Restoration shall proceed in a continuous manner and be subject to review and approval at each annual inspection and the end of the permit period.

10.Stockpiling. As overburden is removed, all topsoil must be stockpiled. All topsoil material must remain at the site and be seeded with temporary cover until the time it is reused.

11.Fencing. The overall mining area shall be fenced, in accordance with the mining ordinance. Any new fencing required by the Denmark Township will be sent to the Washington County Zoning Administrator for review.

12.Hours of Operation. Applicant shall be allowed to conduct business year-round. Operation of equipment for excavating, stockpiling, processing, and hauling shall be conducted between the hours of 8:00 a.m. And 5:00 p.m., Monday through Friday. Maintenance and repair of equipment shall not occur earlier than 7:30 a.m. or later than 5:30 pm. Except as provided herein, no operations shall be allowed on weekends or on holidays. No other hours or days of operation are allowed unless specifically authorized by Denmark Township. No such operations shall be allowed on holidays unless approved by Denmark Township. In the case of emergencies such as floods, accelerated work schedules, or whenever reasonable or necessary repairs to equipment are required, the Denmark Town Board may allow modification of operating hours or days of operation. Written notification shall be given to Washington County when the hours of operation are changed by the Town Board.

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- b. Ground vibrations and air overpressure caused by blasting shall comply with the safe levels established by the Office of Surface Mining Reclamation and Enforcement (OSMRE) in Report of Investigations 8507(vibration) and 8485 (air overpressure) for protection of structures.
- c. Methods of collecting and monitoring the ground vibration and air blast data shall be included in the plan and the detailed seismic records shall be collected during each blast and must be maintained by the mining operator and provided to the County upon request and in accordance with the Blast Monitoring Plan.
- d. Blasting may occur only between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.
- e. The applicant modify the draft blasting plan to address neighborhood interests in notification of blasting, location of seismographs, designation of a neighborhood liaison, and access to blasting information.
- f. The applicant will work with Washington County to provide access to the site for the placement of blasting monitors by an approved third party for the study of blasting data at the property lines and at neighboring properties. This will be conducted by Washington County, and the vendor shall be accepted and approved by the mine.

For each blast, seismic and decibel information must be recorded by an independent contractor to confirm that the blast did not exceed the Bureau of Mines standards. That information shall be provided to the County within 15 days of the blast.

All blast reports from the previous year shall be submitted as part of the Applicant's annual report. The testing devices may be placed in town road rights-of-way, provided such placement does not interfere with the safe use or maintenance of the road. No testing equipment may be placed on the private property of others without the owner's consent. The storage of explosives on the site is prohibited.

15. 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 Minnesota Pollution Control Agency. Dust control material must be applied by the operator to travel routes and other areas subject to disturbance within the property.

16. Appearance. Equipment shall be maintained in a safe condition in accordance with accepted industrial practices. Weeds shall be controlled.

17. Noise. Martin Marietta agrees to maintain and operate all equipment in such a manner so as to be in accordance with Federal, State, and County noise standards.

18. Control of Operations. The conditions of this permit shall apply to the land described and shall not in anyway, except herein noted, be affected by any subsequent sale, lease, or other change from the current ownership.

19. Washing. Any approvals required by the Minnesota Pollution Control Agency (MPCA) and the Minnesota Department of Natural Resources (MNDNR) Water Appropriations Permit shall be submitted to Washington County Planning Division and made part of this permit.

20. Annual Report Required. An annual report must be submitted to Washington County and Denmark Township outlining activities, blasting reports, and amounts of materials removed during the year and planned for next year. Evidence of insurance and performance bond for restoration shall be included.

21. Other Permits. Appropriate permits from the Minnesota Department of Natural Resources, Pollution Control Agency, and Denmark Township must be obtained, if necessary.

22. Fuel Storage. All on-site storage of fuel shall meet State and local standards. In accordance with Minnesota Pollution Control Agency requirements, all petroleum spills required to be reported shall be reported to the 24-hour State Duty Officer. The Washington County Land Management staff and Denmark Township shall also be notified.

23. The crushing equipment must be located in the bottom of the pit and meet all required setbacks.

24. No hazardous chemicals are allowed to be stored on the property other than fuel storage as outlined above.

Board Questions

Commissioner Zanko asked how the insurance dollar amount is determined. Daniel Elder, Washington County Planner explained the is determined by the code.

Applicant Representative Christina Morrison, Martin Marietta and Kerstin Pauly, Sundae Engineering

Ms. Morrison explained based on previous questions that they can mine to water table under their current permit, as they have on site well monitoring systems in place. They have negotiated a 5-foot separation.

Upon review of the staff report they agree with the recommended conditions as this will allow them to continue to mine sand, gravel, limestone and recycle concrete and asphalt products at the site.

On May 1st, 2023, Denmark Township approved an IUP with a much more restrictive permit with double the amount of conditions from the 2018 permit. A brief overview of the township conditions was described. A description of the reclamation plan was provided as were the next 4 phases. In 2022 a few structures were removed from the site and was immediately followed with a five-foot berm. A detailed plan was described as to next steps for improvements as a direct response from feedback from neighbors.

Board Questions

Commissioner Bauer asked the Applicant Representative Christina Morrison what the size and type of trees to be planted. Ms. Morrison replied stating the current berm is 8-10 feet high which is within County Code. The new berm will be 15-20 feet high, noting the higher the berm the need for it to be wider. There will be evergreen trees planted including two types of Spruce as well as Dogwood trees.

Commissioner Bauer asked the applicant a question regarding where the fencing will be located. The applicant explained the fence plan which is still being worked out with the Township.

Commissioner Bauer made a comment stating he has never seen this level of concern from a neighborhood regarding a mine operation. He asked the Applicant representative what has changed?

Ms. Morrison replied stating they did not experience very many complaints over her fourteen years with this mining operation until the Fall of 2022. Most of these few complaints were regarding the trucks arriving early between 6:30 am and 7:00 am. They would work with their customers to arrive as close to 7:00 am as possible.

Last Fall the Township went through a moratorium process at that time is when the Public Hearing Notices were starting to get noticed for the moratorium review. The Townships desire to add a zoning overlay in this area. This gives them discretion to not authorize a new potential mine. The name of this overlay is a Major Mining Overlay District.

These notices created an awareness of neighbors with Tiller Corporation being Acquired by Martin Marietta at the same time as the moratorium as this was being called Major Mining Overlay. There have been misconceptions with the removal of site line buildings and these other changes occurring at similar times.

This was an opportunity to make positive changes working with the neighbors. The mining operation has been quick to respond to these new complaints of neighbors to be responsive and put together plans and implement them the best we could.

Commissioner Bauer made a comment that there has been a fair amount of damage done with the relationship with the neighbors. Moving forward he recommends listening and be more responsive as he does not agree that the mine has been super responsive.

Ms. Morrison also stated that a lot of the complaints are coming from neighborhoods with covenants recorded on the Plat of St Croix Estates. The mining as well as farming have been taking place in this area long before the development of this neighboring plat.

Public Hearing

Chair Melander opened the Public Hearing at 6:04 pm

Chad Petterson, 8785 Penrose Ave S., Hastings, MN

Mr. Petterson said he has lived near the mine since January 2005, and he feels his quality of living has diminished in the past two years as a result of truck traffic for the mine. He also has safety concerns for children and joggers. He has concerns for the well water as they are processing recycled asphalt at the mine. Mr. Petterson feels the hours should be changed to 8:00 am to 5:00 pm.

Jason Naber, 8858 Pleasant Ave S., Hastings MN

Mr. Naber is a jogger that deals with the truck traffic. He said as of this past Spring what used to be dump trucks has now become 18 wheelers and questions the weight and size restrictions for the road. He has concerns of the berm not being long enough for the safety of dogs and kids as well as concerns for Lake O'Conner and the St. Croix River.

Todd Dageford, 9024 Pleasant Ave S., Hastings, MN

The view of the mine is an issue since the farmhouse has been removed. He stated three very large piles of sand were left this past winter that looked like mountains. He wants the berm to go further to the North. He is also a morning runner that witnesses the early truck traffic. He feels there is a safety issue and a site issue as well as hearing the grinder from his home.

Kathy Rivard 15320 80th St. S., Hastings, MN

Commented on the amount of truck traffic. Her biggest concern is enforcement of this truck traffic and feels this is having an impact on the quality of life in the area.

Deanna Petterson, 8785 Penrose Ave S., Hastings, MN

Asked the question if the speed limit could be reduced from the current 45 mph.

Daniel Elder answered stating that question would need to go to the State and if asked it could be changed either way.

Gary Pearl, 8819 Penrose Ave S., Hastings, MN

Mr. Pearl has lived at this address for 20 years and does not feel the problem has anything to do with the New Major Mining Overlay. He agrees with the other neighbors that the problems began when Martin Marietta purchased the mine. One of the other issues he has is that the complaints should not carry any weight as the mine was there prior to the homes. He has read the emails between the Township and Martin Marietta Legal team regarding why they cannot put berms where the residents are asking as it will be reclaimed. He also noted the mine stated they cannot put conifer trees on berms as their experience is they die in email correspondence. He is requesting the Township enforce their IUP.

Dale Dahlberg, 9105 Penrose Ave S., Hastings, MN

He stated that his house shook for the first time in 20 years 2 years ago.

Laura Pope, 8588 Pleasant Ave S., Hastings, MN

Has concerns regarding the mine operation hours. No other mine in Washington County has hours of 7:00 am to 7:00 pm. She also has concerns regarding the truck traffic and safety on the road.

Sawyer Karas, 8786 Pleasant Ave S, Hastings, MN

Concerned about Safety and Accountability. He stated that you have to reapply to be on the blasting notification each year and wondered if they could just remain on the list.

Amber Lavergne, 8870 Pleasant Ave S., Hastings, MN

Has safety concerns regarding the large trucks turning onto a narrow road. Feels the mine is an eyesore since the removal of the buildings. Feels the mine should be held accountable to time frames for the berm and trees. Wants to know who the concerns should be sent to.

Chair Melander closed the Public Hearing at 6:32 PM

Board Discussion

Commissioner Rheinberger commented that there needs to be accountability for making progress and maybe a bond would be a way to keep them on track with a timeline in mind.

Commissioner Bauer suggested that consideration of a shorter length permit to insure conditions and plans are being met.

Commissioner Zanko thinks there should be day to day accountability by the mine operation to insure compliance of conditions.

Commissioner Bauer has concerns where the trucks will wait prior to the mine opening. There doesn't seem to be a solution or answer.

Commissioner Kelly commented that the data shows in 2018 Tiller Corp had 10,000 loads come out of the mine compared to 4700 loads in 2022. He is questioning what Tiller did differently than Martin Marietta is not doing now to cause all the new problems with a very reduced amount of loads.

Commissioner DeMaria has questions about addressing the safety concerns and the accountability. Commissioner Bauer responded stating the expansion of the road would help significantly with safety. The current road is in poor shape and very narrow with no shoulder.

Commissioner Rheinberger suggested the mine be given one year on the permit. Commissioner Melander commented it is important to address the concerns of the neighbor's while being fair to the mine that has been operating for many years. Commissioner Melander asked Daniel Elder for code on the required berms and fencing. Commissioner Bauer thinks it is wrong to mine to the water table as water is a precious resource and feels a water table depth of 10 feet should be maintained.

Discussion continued regarding the hours of operations, berm size and questions regarding the size of the new road based on the right of way available. The screening plan needs to be adopted by the Township and time frames in which these projects need to be completed in two phases.

Christina Morrison explained many possible plans for the new road with an offset shoulder being wider on the South side to provide for safer pedestrian traffic. It has been the practice to have trucks enter the mine in the recessed portion of the site and turn off the engines until there operation opens. This has been the same best practice since before 2018 prior to it being perceptible. The hope is that with a new road on 87th Street the empty trucks will not be heard like they are now traveling on an old road with humps and bumps.

Commissioner Rheinberger said the best we can do is encourage through conditions of the permit to address the concerns of the neighbor. Commissioner Melander said he feels the communication is important with the Township and Neighbors. The phases of the project could be added to the conditions.

Kerstin Paoli, Sundae Engineering

Spoke on the ordinance of berms, fencing and vegetation. The screening plan will be submitted to the Township to be reviewed by July 10, 2023. She also spoke on O'Conner Lake being a land locked lake having a large watershed area with a big fluctuation in lake depth. Ms. Paoli gave a detailed explanation of the history of the water table based on the well monitoring systems which fluctuations. The ground water protection plans are in place and reviewed with both the Township and the County.

Commissioner Rheinberger feels we do not have enough information to decide on this permit until the mine works out details with the Township. Commissioner Bauer suggested it be tabled until more information can be determined. Commissioner Melander wanted the applicant to understand the concerns of the neighbors as well as the impact on the water level concern of the mining depth of the Planning Advisory Board.

Included in the packet and identified by Chair Melander were the following exhibits:

Tiller-Martin Marietta Conditional Use Permit (CUP)

- Exhibit A is the staff report with draft CUP conditions from Daniel Elder, dated 06/27/2023.

- Exhibit B is the application packet, received 04/28/2023 and revised 05/2023.
- Exhibit B1 is a Supplemental Information Request from the Mine dated 04/10/2023.
- Exhibit C is the location map prepared by Washington County Survey Division.
- Exhibit D is the 2022 11 x 17 aerial map prepared by the Washington County Survey Division.
- Exhibit E is the 2022 11 x 17 aerial contour map prepared by the Washington County Survey Division.
- Exhibit F Washington County Memo Addressing Resident Issues.
- Exhibit G G1-G15, Resident Letters and Petition.
- Exhibit H Denmark Township Interim Use Permit Resolution.
- Exhibit I Washington Conservation District Review Memo.

Approval of May 22, 2023, Draft Meeting Minutes

Chair Melander made a motion to approve the May 22, 2023, Draft Meeting Minutes, Ms. Zanko seconded the motion. Chair Melander Called the Question. All were in favor. Motion Carried 6-0.

ADJOURNMENT

Chair Melander made a motion to adjourn at 7:35 p.m., Ms. Zanko seconded the motion. Chair Melander Called the Question. All in favor. Motion to adjourn Carried 6-0.

Meeting adjourned at 7:35 pm

Respectfully submitted,

Sara Favreau

Public Works Department, Recording Secretary