



**CITY HALL**

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May 23, 2012

Planning Commissioners  
Winona, Minnesota 55987

Dear Commissioner:

The next meeting of the Planning Commission will be held on **Tuesday, May 29, 2012, at 4:30 p.m. in the Council Chambers** of the Winona City Hall.

1. **Call to Order**
2. **Approval of Minutes – April 23, 2012 and May 14, 2012**
3. **Sand Moratorium Study: Habitat, Wetlands, and Quality of Life**
4. **Other Business**
5. **Adjournment**

Sincerely,

A handwritten signature in dark ink, appearing to read "Carlos Espinosa", with a horizontal line underneath.

Carlos Espinosa  
Assistant City Planner

## **PLANNING COMMISSION MINUTES**

**DATE:** April 23, 2012

**TIME:** 4:30 p.m.

**PRESENT:** Chairperson Porter; Commissioners Briggs, Ballard, Eyden, Buelow, Gromek, Boettcher and Olson

**STAFF PRESENT:** City Planner, Mark Moeller; and Assistant City Planner, Carlos Espinosa

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The meeting was called to order at 4:30 PM by Chairperson Porter.

### **Approval of Minutes**

The minutes from February 27, 2012 were reviewed, and upon motion duly made, and seconded, were unanimously approved as submitted.

### **Sand Study Process**

Chairperson Porter called on Carlos Espinosa, Assistant City Planner, to provide a summary of the staff report pertaining to this issue. Mr. Espinosa noted that during its last meeting, the City Council had designated the City Planning Commission as the committee to guide and review the sand moratorium process. In that directive, Council had also requested that some form of public comment opportunity be created during any meeting where sand mining and processing issues are discussed. Given this directive, he would ask that the Commission discuss how it would like to implement public participation, as part of the Commission study process.

Mr. Espinosa stated that he had prepared a proposed study plan with six general headings including:

- 1) Review and modify the plan and scope of study as presented to the Commission this afternoon.
- 2) Meet with state agencies and hold a public information meeting to help answer general questions. All meetings would be open to the public.
- 3) Address general issues, on a topic by topic basis with the Planning Commission and set deadlines to move to site by site analysis of current sand mining and processing establishments.
- 4) Conduct a site by site analysis of present sand mining and processing operations with the Planning Commission in addressing how state and local regulations apply to each and how each operation was established.
- 5) Make recommendations for changes based on research and Planning Commission review. Potential changes include modifications to the City's Zoning Ordinance or Sand Mining/Processing Performance Standards as recently adopted under Conditional Use Permit processes for these.

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- 6) Provide bi-monthly updates to Council. All amendments assembled in a final report to Council.

In addition to the previous, Mr. Espinosa stated that progress reports, agendas, and Commission minutes will be posted on the City's website under "Frac Sand Information." As such, it was hoped that the Commission study process would be as transparent as possible. Again, the only missing link to all of this is how the Commission would promote public participation and comment in its process.

Mr. Espinosa stated that a number of state agencies had met last week to coordinate and share information relative to the silica sand mining/processing issue. Although he had not yet heard of what transpired during that meeting, staff has also been communicating with these agencies in attempting to coordinate a similar round table discussion in Winona. This meeting would provide a key component in the Commission's discussion of silica sand issues and how such issues may be addressed during the moratorium. Once this larger round table meeting is completed, he hoped to be able to bring individual agency representatives back to Winona to discuss more specific issues related to various environmental (i.e.: air, water, and traffic) impacts that are envisioned relative to sand mining/processing industries. Since he has not yet heard from all agencies, a specific schedule has not yet been developed. However, staff will continue working on this, and will advise the Commission once this information is known.

Mr. Espinosa stated that staff would also present a number of general issue items to be discussed during the moratorium period. Again, involving various state agencies, such issues would relate to include state air permitting, state water permitting, environmental reviews, traffic impacts, and road wear. In addressing these, he envisioned that staff would also be communicating with various entities from both Wisconsin and Winona County. If necessary, consideration may be given to various regulations that had been adopted by these entities.

Finally, Mr. Espinosa explained that the site by site analysis would include an evaluation of every present sand mining and processing operation within the City. Generally, these industries were established prior to the moratorium and, under their present structure, have been grandfathered in as permitted uses. He envisioned that this site by site analysis would include a history of each, narrative of current operations, and State and Local Regulations that might apply to each. Again, under City policy, a Conditional Use Permit would be mandated if such uses undergo an expansion.

Chairman Porter noted that the first issue he would like to tackle this afternoon would be how to structure the public input process. He suggested that a public "open mic" window be established at each meeting where the Commission discusses sand mining and processing.

Commissioner Gromek stated that, in concept, this is a big issue that can only be worked through by breaking it into smaller parts for discussion as various meetings. As

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such, it will be necessary that the Commission retain a strong focus to each study segment as they come up for discussion.

Commissioner Eyden suggested that, public comment periods be established at both the beginning, and end, of a Commission meeting. It was also suggested that time limits be established for commenters.

Chairman Porter also noted that, as a matter of procedure, he had asked that the Council Chambers be used for any meeting at which sand mining/processing issues are discussed. Following further discussion, the consensus of those present was that all Commission meetings, where sand mining/processing issues are going to be discussed, should include public comment windows at both the beginning and end of the meeting.

In reviewing issues as presented in the staff report, Chairman Eyden asked where basic information would come from. For example, if the Commission is planned to discuss air permitting/quality issues at a specific meeting, who would provide data for Commission consideration. Again, Mr. Espinosa stated that it was staff's desire that when these issues are discussed, applicable state agency representatives be involved. Outside of these, it may be conceivable to bring in other outside resources. However, no budget has been established to assist with this effort.

Chairman Porter stated that given the general outline presented in the staff report, he would like to begin laying out a more specific timeline for further study of these. Mr. Espinosa stated that, if the Commission determines that the outline presented in this afternoon's report is acceptable, he would begin working on a more specific timeline for the Commission's next meeting.

In response to a question from Commissioner Gromek, Mr. Espinosa stated he was unsure at this point as to when the round table state agency meeting would be held. Again, staff is continuing to pursue this.

In response to a question from Commissioner Eyden, Mr. Espinosa noted that the majority of air and water regulations pertaining to sand mining/processing issues rest with state agencies. Although agencies such as the Corp of Engineers may get involved in certain multi jurisdictional areas, this involvement will be limited in scope. Again, this is something that can be better defined once the Commission begins its more specific analysis of each issue.

Mr. Boettcher asked if it would be possible to arrange for visits to established mining/processing facilities. Chairman Porter replied that this is something that individual Commissioners may want to do on their own.

In response to a question from Commissioner Buelow, Mr. Espinosa responded that the study process will include a review of present mining standards and regulations. Given this, he hoped to include preliminary discussion of the mining issue during the Commission's next meeting.

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At this point, Chairman Porter opened the meeting to those in attendance who may wish to present comments.

Jim Gurley, stated that he was a representative of the Winona Area Citizens Concerned about Sand Mining (C.A.S.M.), and was somewhat disappointed that he and his group were not aware of this meeting until they have read of it in a local newspaper. He encouraged the Commission to provide more lead time for future meetings.

At this point, Mr. Gurley provided a handout generally outlining a desire by C.A.S.M. to work with the Commission in sand mining/processing issue solutions. The handout also provided a number of "potential" study areas pertaining to the issue including air quality, economic impacts (both positive and negative), interstate bridge impacts, water contamination, water usage, traffic congestion, traffic study, noise, light pollution, aesthetic considerations, regulation of general operations, and the cumulative effects of all sand mining/processing operations within the City of Winona on citizen quality of life.

Marie Kovecs, also a member of C.A.S.M., encouraged the Commission to be as transparent as possible in its study process. Although previous staff comments implied that agendas, minutes, etc. would be available on the City website, she could find no evidence of those for this afternoon's meeting. She also encouraged the Commission to consider every conceivable alternative in including the public in some meaningful way. She noted that the C.A.S.M. group, as a whole, has a significant amount of knowledge of the issues involved in sand mining and processing and could, if permitted, be a valuable resource tool to the Commission.

Jim Johnson, 802 West Broadway, presented a number of questions pertaining to the site by site analysis and expressed a feeling that the Biesanz Stone Mining Operation has expanded within recent years. Given this, it was his opinion that some sort of a Conditional Use Permit Process should be required of the facility.

Lynette Powell, stated that when the last Comprehensive Plan was being developed, she had been involved in one of its vision groups. She encouraged the Commission to create a process similar to that, in which various issues would be studied by specific subcommittees set up for that purpose. She felt that this approach could result in a real dialogue and resulting in real issue solutions.

Tex Hawkins, 218 West King, stated that, as a retired biologist, he did not see a great deal of emphasis being placed on wildlife/habitat impacts from the sand mining/processing process. In these, he suggested that various natural resource agencies be involved. He further suggested that the study be broadened somewhat to facilitate this discussion, and to better define the pros, cons, opportunities, and threats resulting from sand mining and processing within the City. He explained that from his basic understanding of the industry, it may be conceivable that river sand will be an option to silica sand in mining operations in the near future.

Joe Morris, stated that he looked forward to a more specific timeline for the study process and encouraged all not to limit their thinking to only those issues that are

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presented in the staff report this afternoon. As discussion ensues, he envisioned that broader issues will develop and encouraged the Commission to solicit verbal and written comment. He also felt that outside experts will be valuable in assisting the Commission in its study process and asked how those could be facilitated. Mr. Morris also noted that he had had difficulty in accessing this afternoon's meeting on the City's website and encouraged the Commission to be as transparent as possible in its future discussions.

Mr. Morris alluded to the fact that he was aware of a Canadian firm that was in the process of buying land within the area of Winona for sand mining purposes. He noted that this issue is a land use issue and not an economic development issue.

Commissioner Eyden suggested that a discussion of habitat and wetlands be added to the study process. She also felt that it may be appropriate to include some sort of a definition of quality of life as a primary focal point to the Commission's future discussion of this issue.

In response to a question from Chairman Porter, Mr. Espinosa noted that future issue discussion will include basic scientific input/data from State Agency Representatives. Again, although the process could include other experts, he was aware of no budget that had been created to assist in facilitating that input.

Commissioner Buelow strongly suggested that staff look at what the County had recently adopted in addressing sand mining operations. Mr. Espinosa stated that staff would do so. Additionally, it was conceivable that a County Representative could be asked to attend a future meeting for that purpose.

Commissioner Eyden stated that the plan generally felt a bit stiff at this point, and suggested that the study process be a bit more fluid in addressing other concerns that may surface in the coming months.

Commissioner Porter stated that he felt that an adequate public input process could be designed without compromising the overall planning structure. He again reminded those present that the Commission will be serving as the steering committee in this matter.

Commissioner Olson noted that if experts are brought in to address various issues, they should be well grounded, knowledgeable, and, most importantly, neutral in their presentations.

**Other Business**

It was noted that the Winona Radio tower on East Garvin Heights Road has been fully removed. Mr. Moeller reminded those present that a condition of the approved Environmental Assessment Worksheet for the new tower located in Riverbend Industrial Park was that the bluff site tower be removed.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned.

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Mark Moeller  
City Planner

## **PLANNING COMMISSION MINUTES**

**DATE:** May 14, 2012

**TIME:** 4:30 p.m.

**PRESENT:** Chairperson Porter; Commissioners Boettcher, Gromek, Ballard, Davis, Buelow, Eyden and Olson

**STAFF PRESENT:** City Planner, Mark Moeller; and Assistant City Planner, Carlos Espinosa

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The meeting was called to order at 4:30 PM by Chairman Porter.

### **Sand Moratorium Study: Habitat, Wetlands and Quality of Life**

Chairperson Porter noted that given decisions made at the Commission's last meeting, this discussion would begin with an open public segment during which time any person may offer comments relative to the sand moratorium issue. He then opened the public comment period by asking that any person who wished to speak present first their name and address.

Jane Cowgill, 317 Walnut Street, stated that given the sand mining discussion, her greatest concern related to air quality. Given the Board of Adjustments recent approval of an application by the CD Corp. to undertake a sand shipping operation at the Commercial Harbor, she explained that that approval had been granted without an adequate Dust Mitigation Plan. In her opinion, the plan included no monitoring or enforcement mechanisms. Given the previous, she strongly encouraged the City to more closely scrutinize sand mining and processing operations in order to ensure that citizens are protected from any health risks.

Jim Gurley, 22505 Betty Jane Drive, Winona, noted that although he did not intend to offend the Commission, he was concerned of the process which has been started relative to the sand mining moratorium issue. Although the Commission had decided to permit limited public involvement at the beginning and end of each of its meetings, he felt that citizen involvement needed to be more substantial. By this, it was suggested that the Commission create a number of round tables where staff, citizens, and elected officials could have serious dialogue and discussion. He noted that in his particular case, he has spent the last six months researching the silica sand industry and felt that he could bring a significant amount of information to the table, if offered. However, this would be difficult to achieve during two minute comment periods. He encouraged the Commission to develop a process that would permit citizen comment to hold a more central role to the identification and solution of silica mine and processing concerns/issues.

There be no further public comments at this point, Chairman Porter called on Carlos Espinosa, Assistant City Planner, to provide a summary of information presented in this afternoon's agenda package.

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Mr. Espinosa began his summary by reviewing a flow chart related to various activities that would be studied during the moratorium period. As proposed, this chart shows that the Commission would be completed with its final recommendations by January of 2013 at which point the matter would be referred to Council for action. Additionally, as requested by Council, the chart does reflect bi-monthly Council reports which will provide a status of progress being made. He emphasized that the chart does not reflect specific round table discussion sessions that the Commission may wish to initiate or other specific forms of citizen input at this point. He suggested that some of these may be established as the process begins to evolve a little bit further.

Chairman Porter then asked for Commission feedback relative to the flowchart. Commissioner Eyden stated that she would like to see flowchart discussion items be expanded to identify what expectations might be achieved through study. She stated that she felt that it was very important that these categories be as specific as possible in order to facilitate appropriate public input.

Commissioner Boettcher explained that he did not want to see any part of the process become bogged down by a single study area. Should that occur, the study schedule could be seriously compromised. Additionally, the end result of the moratorium process will require give and take, and balance by all.

Chairman Porter stated that he agreed with Commissioner Eyden's comments in that more specificity to timeline categories may help move the process along more quickly.

Mr. Espinosa stated that he was still looking at facilitating a large initial meeting that would include representation by various State/other agencies. Again, it was his understanding that these agencies had recently met to discuss the silica mine issue. In part, the purpose of this meeting would serve to kick off further study of sub issues at outlined in the timeline. During that additional study, he would again invite agency representatives to attend and provide additional information. These individuals would be a significant resource to the study process.

At this point, Mr. Espinosa reviewed habitat, wetland, and quality of life portions of his staff report. Here, he again noted that the expansion of any existing sand mining or processing facility would require a conditional use permit. Should existing or new facilities be proposed, all would be subject to applicable environmental standards that may exist. For example, in the case of the wetland discussion, if a planned new or expanded facility would impact wetlands, the State Wetland Conservation Act would apply. He further noted that during the planning process, there are ways of defining where wetlands may be evident. One of these would be through the use of soil maps to define if a project site was located within hydric soils. Again, those policies and standards presently exist and would be implemented within any project site whether related to sand mining/processing or any other use.

Although special/protected habitat impacts are a little more difficult to quantify, with proper study, these could be identified. As with wetland impacts, he emphasized that habitat impacts and mitigation strategies be considered in any potential development.

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Finally, although quality of life has not been defined for the purpose of this study, its meaning could come into play where M-2/Residential Zoning relationships exist. Where these exist, the purpose of this study could serve to develop mitigation strategies that minimize or eliminate conflicts. He felt that this is something that could be achieved through the study.

Mr. Espinosa noted that he had also included, in the Commission's agenda package, a map showing where any land extraction activity could occur within the City. He emphasized that the results of this map are based upon three basic factors including:

- 1) Inclusion in the A-G zoning district
- 2) Location outside of a 1,000 foot residential buffer (required by the City mining ordinance)
- 3) Location outside the Bluff Impact Overlay (Bluff Impact Overlay Districts do not permit mining activities)

Outside of these three factors, there are a number of "other" parameters that could serve to render many of the sites shown on the map as unusable for mining purposes. Some of these include sheer size, depth to desired extraction material (silica sand), as well as environmental factors. In short, additional study would be required to certify that any of the sites shown be valid mining sites. He noted that the County has done a significant amount of study in terms of developing mining standards. In further addressing this issue, he hoped to be able to dovetail that information with future City criteria.

In concluding, Mr. Espinosa stated that the approach to the overall study would be to begin with a broad spectrum of ideas, questions and issues, and to focus these to more specific solutions by the end of the study period.

At this point, Chairman Porter asked the Commission if it had additional feedback of the staff report.

Commissioner Eyden stated that it was her understanding that the Biesanz Quarry had been greatly expanded since its annexation into the City and that it is now being used for silica sand extraction. She asked how the quality of life discussion could be applied to that property or to any other sand mining impact that may be identified within the community. She was greatly concerned of potential impacts on tourism within the community.

Both Chairman Porter and Commissioner Davis asked how quality of life could be defined. Mr. Espinosa responded that all in attendance may have a definition for this term; an example of the term may result from the simple relationship of adjoining lands to each other. Commissioner Boettcher stated that in his opinion, the term related to the relationship of all living things to each other.

Chairman Porter suggested that the Commission needed to identify what outcomes it hoped to achieve during the study process. Again, he suggested that staff look at what

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the county has done in this area and to consider infusing some of these ideas into City policy.

Commissioner Eyden noted serious concerns with potential transportation impacts resulting from the sand mining industry.

Commissioner Davis stated that, as a new member to the Commission, she was having a bit of difficulty in tracking the Commission's progress in getting to this point in time. It was suggested that she meet with staff in order to obtain this information.

Commissioner Boettcher noted that he felt the initial agency meeting would be key to the process.

Chairman Porter agreed and again noted that he would like to see a little more detail to the proposed schedule which had been presented to the Commission this afternoon. Mr. Espinosa responded that staff would provide a more detailed schedule at its next meeting.

Commissioner Gromek stated that, given the complexity of what we are dealing with, it was important that each meeting be well framed, with defined expectations and suggested results.

Commissioner Buelow stated that although public comments are currently restricted to two minute limits, he asked if this could be varied to allow for more professional comments that come from the public. Chairman Porter replied that he felt this could be accomplished. If desired, he suggested that persons contact staff with a request to exceed the two minute limit.

At this point, Chairman Porter reopened the public input segment.

Marie Kovecsi, 133 Whispering Lane, Winona, MN, again presented her laundry list of concerns pertaining to the study subject. These included:

- Wetlands, habitat concerns.
- The floodplain location of the sand processing facility located on Old Goodview Road.
- Blasting at the Biesanz Quarry and its relationship to groundwater impacts. Here, she noted that the County does not permit sand extraction below the groundwater layer.
- Property value. Here, she noted that she does information related to the value of property in relation to mine distance from the property.
- Trucking problems. Here, she felt that truck impact analysis should be required of any sand mining or processing facility.
- Traffic and other safety as related to quality of life.
- Impacts on tourism.

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- Air quality. Here, she noted that the recent approval of the CD Corp Conditional Use Permit at the Commercial Harbor completely ignored any concept of monitoring or enforcing air quality standards.
- The process. With this issue, she noted concerns that citizens may not have adequate input into the process. As such, she encouraged the Commission to expand the process to include a greater level of face to face meetings with citizens.

Jane Cowgill again referenced the health risks from silica sand. Although she had no problem with new business ventures, the silica mine industry does introduce health concerns that are beyond the realm of "normal". She further noted that most of the beneficiaries of the end product do not live in town and are not concerned with its impacts.

Joe Morris explained that he would like to see the term "quality of life" defined before the study starts. He further asked what the term "habitat" would mean. In defining the quality of life definition, he suggested that he could find a person who is currently impacted by silica mining to attend a Commission meeting for the purpose of presenting their experience. He asked if citizens would be able to continue to ask questions of experts/agency representatives when they are in town. The response here was that they would.

Mr. Morris asked how he would be able to get professionals in front of the Commission and if funds would be available to assist in this happening. Chairman Porter stated that he was not aware of any available funding for professional assistance. Mr. Morris suggested that this might be reasonable.

Mr. Morris further noted that although the State has minimal water quality standards, City could opt for more restrictive standards. He suggested that this is something that might be a product of the study process. Chairman Porter responded that the Commission would certainly start with State standards and if it felt that they were not adequate it could look at recommending a more restrictive standard. However, he is not aware of any person on the Commission who is a scientist in this area.

Jim Gurley stated that he has spent a significant amount of time in researching the silica sand industry and suggested that there are winners and losers that are currently dividing Winona. Given that local sand operations are being driven by out of town owners, he did not feel a level playing field existed and suggested that the City needs to be very careful in what it does. Mr. Gurley stated that although he is not a professional scientist, he felt he had a fairly significant amount of information that he could offer to the Commission in terms of assistance. As such, he is more than willing to communicate with the Commission in providing advice at any time.

Mr. Gurley noted that when the study process was created by Council, it was his understanding that general citizens would play a dominant part in driving it. He suggested that this is difficult to do without a method of dialogue. As such, he again suggested that the Commission be more proactive in inviting him and other citizens into

the process. In closing, Mr. Gurley reminded the Commission that silica sand is dangerous and does not like to be disturbed.

**Other Business**

Commissioner Boettcher explained that he had observed that the assisted living complex on Mankato Avenue had constructed a driveway to Mankato Avenue. Given that it was his understanding that no direct access to Mankato would be permitted, he was wondering what this was about. Mr. Espinosa stated that this access would be used for emergency purposes only and was generally a requirement of the Winona Fire Department. The access point would not allow for general access into the development.

It was noted that the Commission's next meeting would be on Tuesday, May 29<sup>th</sup> being that May 28<sup>th</sup> is Memorial Day.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned.

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Mark Moeller  
City Planner

# PLANNING COMMISSION

**AGENDA ITEM: 3. Sand Moratorium Study: Habitat, Wetlands, and Quality of Life**

**PREPARED BY: Carlos Espinosa**

**DATE: May 29, 2012**

## Frac Sand Overview and Moratorium Process

In the multiple meetings and public hearings related to frac sand in a past few months, staff neglected to provide the Planning Commission with the frac sand overview presentation given to the City Council and the Board of Adjustment. The presentation should help give the Commission a better understanding of the frac sand activities occurring the City and the existing regulations which apply to the operations. Staff will give the presentation at the beginning of the Commission's meeting.

In addition, staff would like to clarify the five general expected outcomes of the moratorium study.

1. Potential amendments to the City's existing mining/extraction ordinance
2. Potential amendments to the City's existing Performance Standards
3. Potential amendments to the Sand Transportation and Processing CUP
4. A method of addressing existing operations and expansion at the Biesanz Quarry.
5. Potential amendments to the City's Comprehensive Plan

As the Commission progresses through moratorium timeline (as detailed in the next section), suggestions about potential amendments will be made by staff. Suggested amendments may also be made by the Commission. Suggestions on amendments should be based on reports by presenters, reports by staff, and public input. After deliberation, the Commission should vote on recommended amendments as appropriate. All of the amendments formerly recommended by the Planning Commission during the course of the moratorium study will be assembled into a draft report of recommendations (tentatively scheduled for November). The Commission will then deliberate and hold a public hearing on the final amendment recommendations before they are sent to Council.

During the study period, it is up to the Commission to decide on the speakers that present before the Commission. Staff will make suggestions based on the topic, but it is up to the Commission to vote and decide on speakers. The speakers may or may not be "experts." Speakers selected by the Commission will have time to present and have discussion directly with the Commission outside of the formal public input periods. If the public desires a speaker – that person may present during the public input periods. If

the public desires a speaker to present outside of the public input periods, a request should be made to the Commission. The Commission should then vote on whether or not to formerly add the speaker to the agenda. Accordingly, the Commission may want to discuss setting a time limit on the public input periods.

Staff is inquiring whether there is funding to bring in speakers, and also working on “field trips” to the sand operations in Winona. Please contact staff prior to the meeting if there are further questions about the moratorium process.

### **Moratorium Timeline Detail**

At the last Planning Commission meeting, Commissioners asked for more detail on the timeline of topics to be studied. The dates and topics are flexible:

#### May

- 14 Meeting: Habitat, Wetlands, and Quality of Life
- 29 Meeting: Frac Sand Overview, Moratorium Process; and Habitat, Wetlands, and Quality of Life.
- Other: None.

#### June

- 11 Meeting: Off
- 25 Meeting: Biesanz site analysis
- Other: Public meeting with state officials (date/time TBD). Visits to frac sand sites.

#### July

- 9 Meeting: Air permitting (speaker).
- 23 Meeting: Water permitting (Speaker).
- Other: Roundtable discussion prior to July 9 (topic = state permitting). Visits to sand sites not already discussed.

#### August

- 13 Meeting: Environmental review. Analysis of one or two sites.
- 27 Meeting: Traffic impacts (speaker).
- Other: None.

#### September

- 10 Meeting: Traffic impacts. Analysis of one or two sites.
- 24 Meeting: Traffic impacts. Road wear.
- Other: None.

#### October

- 8 Meeting: Road Wear. Analysis of one or two sites.

- 22 Meeting: Road Wear. Analysis of remaining sites.
- Other: None.

#### November

- 12 Meeting: Draft report and recommendations discussion.
- 26 Meeting: Draft report and recommendations discussion. Potential public hearing on final recommendations.
- Other: Roundtable discussion on draft recommendations prior to November 12.

#### December

- 10 Meeting: Public Hearing on final recommendations. Final recommendations sent to Council.
- 24 Meeting: Off
- Other: None.

#### January

- 14 Meeting: Final recommendations discussion. Final recommendations sent to Council. Off potential.
- 28 Meeting: Off potential.
- Other: None.

### **Habitat, Wetlands and Quality of Life: City and County Extraction Regulations**

The City's extraction ordinance is in Section 43.48 of the zoning code (Attachment A). The County's extraction ordinance is in Section 9.10 of the County Zoning Code (Attachment B). In addition, the County has added a list of special conditions particularly for sand mining operations (Attachment C). Overall, the County's regulations for extraction and sand mining are more detailed than the City's. As a result, staff would recommend adding additional detail from the County's ordinances to the City's general extraction ordinance. The additional detail would apply to any future mining operations and would help address concerns about habitat, wetlands, and quality of life associated with future mining activity.

The first section of the comparison is a basic comparison of the City's and the County's extraction ordinances. The second section is a list of recommended additions to the City's ordinance. The third section is a list of items from County regulations not recommended to be added to the City's ordinance and reasoning behind the recommendations.

#### **Basic Comparison of City's and County's Extraction Ordinance**

City Extraction Ordinance	County Extraction Ordinance
1) 1,000 ft. equipment setback to residential	1) 500 ft. setback to residential. 100 ft. processing setback to property line.
2) 50 ft. stockpile and extraction setback from property line	2) 30 ft. extraction setback to property line
3) 30 ft. stockpile and extraction setback to right of way (street)	3) 30 ft. setback to right of way (street)
4) Fencing required	4) Fencing required around water and steep slopes
5) All equipment shall minimize dust, noise, and vibration.	5) Noise, dust, vibration in line with zoning ordinance
6) Access roads must be dust free	6) Access roads required to be 25 feet from adjacent property boundaries
7) Hours of Operation = 6 a.m. to 9:00 p.m. for operations within 500 ft. of residential	7) Hours of Operation = 6 a.m. to 10:00 p.m.
8) All local, state, federal laws must be met	8) All local, state, federal laws must be met
9) Application required	9) Application required
10) Reclamation plan required: <ul style="list-style-type: none"> <li>• \$25,000 performance bond to ensure reclamation plan is followed</li> <li>• Extraction sites to be backfilled or ponded</li> <li>• Vegetation restored by planting or seeding</li> </ul>	10) Reclamation plan required: <ul style="list-style-type: none"> <li>• 110% of estimated reclamation expenses may be required in a performance bond</li> <li>• Topsoil redistributed in accordance with reclamation plan</li> <li>• Vegetation restored</li> </ul>
11) Other conditions may be imposed by Board of Adjustment to protect adjacent properties	11) Other information requested by the Planning Commission or governing body

**List of Recommended Additions to City’s Extraction Ordinance from the County’s Extraction Ordinance (9.10)**

1. Application information as detailed in County ordinance 9.10.2
2. Performance standards information as detailed in County ordinance 9.10.3 and related to the following topics:
  - a. Water Resources
  - b. Access Roads
  - c. Appearance

- d. Topsoil Management
  - e. Final Grading and Slopes
  - f. Driveway/Access for Site
3. Reclamation information as detailed in County ordinance 9.10.4

### **List of Recommended Additions to City's Ordinance from County Special Conditions for Sand Mining Operations**

1. Water Quality Monitoring (#8)
2. Prohibited Activities (#10)
3. Project Manager/Contact Person Required (#15)
4. Access Permit (#21)
5. Tracking Pad Required (#22)
6. Traffic Limited by the Permit for Due Process Considerations (#23)
7. Reporting Vehicle Weights (#27)
8. Street Maintenance and Sweeping Required (#28)
9. Requirement for Secure Loads (#29)
10. Traffic Impact Analysis Required (#30)
11. Reclamation Plan Required (#32)
12. Subterranean Engineering Analysis Required (#33)
13. Performance Guarantees Required (#34)

### **List of Items from County Regulations not Recommended to be Added to the City's Ordinance and Reasoning Behind the Recommendation**

#### County Extraction Ordinance:

1. Administration information in County ordinance 9.10.1 – Already in City Code
2. Performance information as detailed in County ordinance 9.10.3 and related to the following topics:
  - a. Safety Fencing – Already in City Code
  - b. Setbacks – Already in City Code
  - c. Hours of Operation – Already in City Code
3. Reclamation Plan Required for Non-conforming Extraction Pits in County ordinance 9.10.5 – Nonconforming issues related to Biesanz to be addressed in site by site analysis.

#### County Special Conditions for Silica Sand Mining:

1. Erosion Control Plan Required (#1) – Already required by Engineering Dept.
2. Hours of Operation (#2) – Already in City Code
3. Setbacks Required (#3) – Already in City Code
4. Air Quality Monitoring (#4) – To be addressed later in moratorium study

5. Watering Required for Crushing and Processing (#5) – Already in City Code
6. Fugitive Dust Plan Required (#6) – Already in City Code
7. Stockpiles (#7) – Already in City Code
8. Wetland Permitting (#9) – Already addressed in site development review
9. Noise Levels Restricted (#11) – Already in City Code
10. Lighting/Glare (#12) – Already in City Code
11. State BMP Guidelines (#13) – Already in City Code
12. State and Federal Requirement (#14) – Already in City Code
13. MPCA Fuel and Hazardous Materials Storage Rules (#16) – Already in City Code
14. Site Specific Requirements (#17) – Already in City Code
15. Violations and Penalties (#18) – Part of CUP Issuance
16. Requirements Prior to Mining to be Satisfied (#19) – Part of CUP requirements
17. Road Use Agreement Required (#20) – To be addressed later in moratorium study
18. Amendment to Traffic Levels Requires Review (#24) – related to road use agreement, to be address later in moratorium
19. Spring Load Restrictions (#25) – Does not apply in City
20. Seasonal Road Closures Apply (#26) – Does not apply in City
21. Local Road Use Agreement with Township Required (#31) – Does not apply in City
22. EAW or EIS May Be Required (#35) – Already may be required in CUP approval

### **Next Steps**

The Commission should discuss the recommended additions to the City's extraction ordinance. The Commission may also recommend that other additions be made to the ordinance. After discussion, staff requests the Commission vote on the recommended changes. Staff will then prepare a draft ordinance of recommended changes for review at the next meeting.

#### Attachments

- A) City Code Extraction Ordinance Section 43.48
- B) Winona County Zoning Ordinance 9.10
- C) Winona County Recommended CUP Conditions of Approval

43.65.1 AGRICULTURAL (AG) DISTRICT. A. Purpose. The Agricultural District is established for purposes of protecting and maintaining the use of land for agricultural purposes, preserving and promoting natural resource environments, discouraging untimely and unplanned urban sprawl, and the inefficient provision of municipal services, which are associated with this type of development.

- C. Conditional Uses. The following conditional uses shall be permitted only if specifically authorized by the Board of Adjustment in accordance with this chapter and of Section 22.21 of this code:
2. Extraction pits: provided that any power driven or power producing machinery or equipment shall not be operated within 1,000 feet of any R District and subject to the provisions of Section 43.48;

## ARTICLE XII. EXTRACTION PITS

### 43.48 EXTRACTION PITS.

- (a) General Requirements. Unless otherwise provided, the Board of Adjustment shall grant a conditional use permit for all such uses in accordance with Section 22.21, the underlying zoning district, and the following conditions:

- (1) No extraction operation shall be carried on or any stock pile placed closer than 50 feet to any property line, unless a greater distance is specified by the Board where such is deemed necessary for the protection of adjacent property; provided that this distance requirement may be reduced to 25 feet by written consent of the owner of the abutting property.
- (2) In the event that the site of the extraction operation is adjacent to the right-of-way of any public street or road, no part of such operation shall take place closer than 30 feet to the nearest line of such right-of-way.
- (3) Fencing shall be erected and maintained around the entire site or portions thereof where, in the opinion of the Board, such fencing is necessary for the protection of the public safety, and shall be of a type and height specified by the Board.
- (4) All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise, and vibration. Access roads shall be maintained in dust-free condition by surfacing or other treatment, as may be specified by the Board, following consultation with the City Engineer.
- (5) The crushing, washing, and refining or other similar processing may be authorized by the Board as an accessory use; provided that such accessory processing shall not be in conflict with the land use regulations of the district in which the operation is located.
- (6) Unless otherwise permitted by the Board, all operations which are located within 500 feet of any residential district shall be conducted between the hours of 6:00 a.m. and 9:00 p.m.
- (7) All local, state or federal laws applicable to the specific extraction activity and subsequent rehabilitation must be met.

- (b) Financial Ability of Applicant. In accepting such plan for review, the Board must be satisfied that the proponents are financially able to carry out the proposed extraction and rehabilitation operation in accordance with the plans and specifications submitted.

- (c) Application. An application for such operation shall set forth the following information:

- (1) The name of the owner of the land from which removal is to be made.
  - (2) The name of the applicant making request for such a permit.
  - (3) The name of the person or corporation conducting the actual removal operation.
  - (4) A map showing contours at two foot intervals, the location, and the size of the area from which the removal is to be made. Existing land use/zoning within 300 feet of the removal site and the location of any buildings and processing equipment to be used in the activity.
  - (5) The type of resources or materials to be removed.
  - (6) The proposed method of removal and whether or not the use of explosives will be required.
  - (7) A description of all equipment to be used.
  - (8) A plan showing the method and timing of rehabilitation and reclamation of the extraction site.
  - (9) Hours of operation.
- (d) Rehabilitation. To guarantee the restoration, rehabilitation, and reclamation of extraction sites, every applicant granted a permit shall furnish a performance bond running to the City in an amount of \$25,000, as a guarantee that such applicant, in restoring, reclaiming, and rehabilitating such land, shall, within a reasonable time and to the satisfaction of the Board, meet the following minimum requirements:
- (1) All excavation shall be made either to a water producing depth, such depth to be not less than 5 feet below the bow watermark, or shall be graded or backfilled with non-noxious, noninflammable and noncombustible solids, to secure (a) that the excavated area shall not collect and permit to remain therein stagnant water or (b) that the surface of such area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof, so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.
  - (2) Vegetation shall be restored by appropriate seeding of grasses or planting of shrubs or trees in all parts of such extraction area where such area is not to be submerged under water.
  - (3) The banks of all excavations not backfilled shall be sloped to the water line at a slope which shall not be less than three feet horizontal to one foot vertical and such bank shall be seeded.
  - (4) In addition to the foregoing, the Board may impose such other conditions, requirements, or limitations concerning the nature, extent of the use, and operation of the extraction pit as the Board may deem necessary for the protection of adjacent properties and the public interest. The conditions shall be determined by the Board prior to issuance of the conditional use permit.

## SILICA SAND MINING AND PROCESSING APPLICATION PACKET

### 6

## PERFORMANCE STANDARDS AND RECLAMATION PLAN GUIDANCE

	PERFORMANCE STANDARDS
<p><b>9.10 Extraction Pits/Land Alterations</b></p> <p>The objective of this provision is to control alterations of land surfaces, minimize soil erosion and land scarring, to monitor the consumption of natural resources and minimize its impact on the adjacent lands and persons residing in the area.</p> <p><b>9.10.1 Administration</b></p> <ol style="list-style-type: none"> <li>a. A Conditional Use Permit shall be required for all extraction pits and land alteration operations. The County Board may also require a performance bond of one hundred and ten (110) percent of estimated reclamation expenses from the land owner.</li> <li>b. The crushing, washing, refining or processing other than the initial removal of material shall be considered a conditional use. Quarries producing or manufacturing veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site shall be considered a conditional use. The manufacture of concrete building blocks or other similar blocks, the production or manufacturer of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the mining operation shall be considered as a conditional use. Wells used in the process of mineral exploration that use five (5) million gallons or more a year are considered a conditional use.</li> </ol>	
<p><b>9.10.2 Required Information</b></p> <p>The following information shall be provided by the person requesting the permit:</p> <ol style="list-style-type: none"> <li>1. Name and address of person requesting the mining permit.</li> <li>2. The exact legal property description and acreage of area to be mined.</li> <li>3. The following maps/documents of the entire site and to include all areas within five hundred (500) feet of the site. All maps shall be drawn at a scale of one (1) inch to one hundred (100) feet unless otherwise stated below.             <ul style="list-style-type: none"> <li>• Map/Document A - Existing conditions to include:                 <ol style="list-style-type: none"> <li>i. Contour lines at five (5) foot intervals.</li> <li>ii. Existing vegetation.</li> <li>iii. Existing drainage &amp; permanent water areas.</li> <li>iv. Existing structures.</li> <li>v. Existing wells.</li> </ol> </li> <li>• Map/Document B - Proposed operations to include:                 <ol style="list-style-type: none"> <li>i. Structures to be erected.</li> <li>ii. Location of sites to be excavated showing depth of proposed excavation.</li> <li>iii. Location of excavated deposits showing maximum height of deposits.</li> </ol> </li> </ul> </li> </ol>	<div data-bbox="998 1140 1263 1497" style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> <li>✓ Name &amp; address of person requesting permit.</li> <li>✓ Required maps.</li> <li>✓ Soil erosion &amp; sedimentation plan.</li> <li>✓ Plan for dust &amp; noise control.</li> <li>✓ Location &amp; species of vegetation to be replanted.</li> <li>✓ Location &amp; nature of structures to be erected in relation to end use plan.</li> </ul> </div> <p data-bbox="998 1503 1218 1543">Figure 9.17 Required information for Extraction Pits/Land Alterations.</p>

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- iv. Location of storage of excavated materials, showing the height of storage deposits.
- v. Location of vehicle parking.
- vi. Location of storage of explosives.
- vii. Erosion and sediment control structures.
- Map/Document C - Reclamation Plan to include:
  - i. Final grade of proposed site showing elevations and contour lines at five (5) foot intervals.
  - ii. Location and non invasive species of vegetation to be replanted.
  - iii. Location and nature of any structures to be erected in relation to the end use plan.
- 4. A soil erosion and sediment control plan.
- 5. A plan for dust and noise control.
- 6. A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation.
- 7. Any other information requested by the Planning Commission or governing body.

**9.10.3 Performance Standards**

1. **WATER RESOURCES:** The extraction pit or land alteration operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the operation. The work done shall not adversely affect the quality of surface or subsurface water resources. Surface water originating outside and passing through the mining district shall, at its point of departure from the site, be of equal quality to the water at the point where it enters the site.
2. **SAFETY FENCING:** Any operation adjacent to a residential zone or within three hundred (300) feet of two (2) or more residential structures shall be bound by the following standards:
  - a. Where collections of water occur that are one and one-half (1½) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence of at least four (4) feet in height.
  - b. In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slopes shall be barred by a fence or some similar effective barrier such as a snow fence at least four (4) feet in height. Earthen berms also may be constructed to prevent access to the steeper slopes.
3. **ACCESS ROADS:** The location of the intersection of access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance or public road in view so that any turns onto the public road can be completed with a margin of safety.
4. **SETBACK:** Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than five hundred (500) feet to any residential or commercial structures

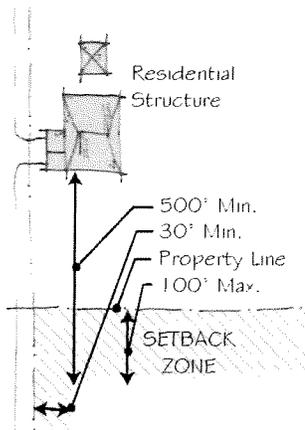


Figure 9.18 Setback for Extraction Pits/Land Alterations

- located prior to commencement of processing operations without the written consent of all owners and residents of said structures. Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than thirty (30) feet to the boundary of an adjoining property line, unless the written consent of the owner of such adjoining property is first secured in writing. Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of an existing or platted street, road or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.
5. **APPEARANCE:** All buildings, structures and plants used for the production of processing of sand and gravel shall be maintained in such a manner as is practical and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.
  6. **HOURS OF OPERATION:** All operations shall be conducted between the hours of 6:00 AM and 10:00 PM CST. Permission may be granted for operations beyond these hours to respond to public or private emergencies or whenever any reasonable or necessary repairs to equipment are required to be made.
  7. **TOPSOIL MANAGEMENT:**
    - a. **Removal:** Removal of on-site topsoil and topsoil substitute material removal, when specified in the reclamation plan, shall be performed, prior to any mining activity associated with any specific phase of the mining operation.
    - b. **Volume:** The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this chapter.
    - c. **Storage:** Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.
  8. **FINAL GRADING & SLOPES:**
    - a. All areas affected by mining shall be addressed in the approved reclamation plan, pursuant to Chapter 9 to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate high walls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated

materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this Subsection, the County may require that a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope.

- b. Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 4:1 horizontal to vertical incline, unless demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the extraction pit site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.
- c. When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically six (6) feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

9. DRIVEWAY/ACCESS FOR SITE:

- a. Driveway/access to the commercial/industrial site shall not be located within twenty-five (25) feet of adjacent property boundaries.
- b. Driveway/access shall also receive applicable Township/Highway Department/State/Federal approval.

**9.10.4 Reclamation**

All sites shall be reclaimed immediately after operations cease. Reclamation shall be complete within one (1) calendar year after operation ceases. The following standards shall apply:

- 1. Within a period of three (3) months after the termination of a operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a permit, all buildings, structures and plans incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and plants.
- 2. Topsoil Redistribution for Reclamation: Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter in a manner which minimizes compacting and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

3. Assessing Completion of Successful Reclamation:
  - a. The criteria for assessing when reclamation is complete shall be specified in the reclamation plan approved pursuant to this Chapter. Criteria to evaluate reclamation success shall be quantifiable.
  - b. Compliance with the re-vegetation success standards in the approved reclamation plan shall be determined by:
    - I. On-site inspections by Winona County or its agent;
    - II. Reports presenting results obtained during reclamation evaluations including summarized data on re-vegetation, photo documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or
    - III. A combination of inspections and reports.
  - c. In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.
  - d. Re-vegetation success may be determined by:
    - I. Comparison to an appropriate reference area;
    - II. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
    - III. Comparison to an approved alternate technical standard.
  - e. Re-vegetation using a variety of plants indigenous to the area is encouraged.
4. Maintenance: During the period of the site reclamation the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this Subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this Chapter.

#### **9.10.5 Non-Conforming Extraction Pits**

Existing non-conforming pits shall be required to submit a reclamation plan following the standards in this Section.

#### **9.11 Subsurface Mineral Exploration**

Exploration of oil and natural resources can have a serious affect on land and the groundwater below. It is the intention of this Section of the Ordinance to monitor any exploratory activity, to insure such activity is in compliance with state law.

Remote sensing/exploration that does not disturb any soil do not require a Conditional Use Permit.

**DRAFT 3.8.12****Planning Departments Recommended Conditional Use Permit  
Conditions of Approval for Sand Mining Operations****General Conditions**

1. **An erosion control plan is required.** Owner/applicant shall provide the County with a detailed erosion control plan which shall mitigate erosion on neighboring property, wind erosion mitigation and finished conditions stabilization. All crushing and processing work must include watering/misting operations to minimize airborne particulate.
2. **Hours of Operation are restricted.** Hours of operation at the mining site shall be limited to those specified in the application and shall not conflict with the minimum requirements specified in Section 9.10.3(6) Of the Winona County Zoning Ordinance. Additionally, there shall be no hours of operation on the following observed holidays: New Years Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas Day.
3. **Setbacks are required.** Mining operations shall not be conducted within 1,000 feet of an existing residential dwelling or within 50 feet of an existing well. The principal owner of the proposed mine site may submit a written consent letter to the County, waiving the 1,000 foot setback requirement, however, no home shall exist within 300 feet of a proposed mine and no waiver shall be granted for less than a 300 foot setback. The County reserves the right to impose greater setback restrictions on a case by case basis, where necessary to mitigate adverse impacts on neighboring land uses.
4. **Air Quality Monitoring.** In cases where residential homes exist within 1,320 feet of a proposed mining site, the owner/applicant shall be responsible for the costs of air

quality monitoring by a professional selected by the County. Air quality standards shall not exceed a maximum allowable limit of 3ug/m<sup>3</sup> levels. If these levels are exceeded, mining operations shall cease and be required to take necessary precautions to minimize airborne particulate.

5. **Watering required for crushing and processing.** All crushing and processing work must include watering/misting operations to minimize airborne particulate.
6. **A Fugitive Dust Plan Is Required.** Owner/applicant shall submit a comprehensive plan to control fugitive dust on the site and during hauling operations. Access drives, shall be watered and/or conditioned regularly to minimize dust at all times.
7. **Stock piles.** All stock piles shall be kept below 9 feet in height except where stockpiles are covered to prevent wind erosion or where stockpiles are regularly watered to prevent surface areas from drying out and becoming susceptible to windborne erosion or where stockpiles are protected by excavated banks, preventing windborne erosion. All stockpiles shall not encroach upon any easement, roadway or driveway and shall maintain a minimum setback of 30 feet as required in Section 9.10.3(4) if the WCZO.
8. **Water Quality Monitoring.** The mine operator/owner shall install groundwater monitoring wells adjacent to the proposed mine site where the site is adjacent to residential plats or suburban development, springs, sinkholes and/or wellhead protection areas or community wells and shall provide the County with groundwater testing by an independent environmental engineer, approved by the County, at the time of commencement of

disturbance activities and twice per year until 1 year after the mine has been completely reclaimed.

9. **Wetland Permitting.** No mining operation shall affect existing wetlands either on site or adjacent to proposed operations without the proper permitting.
10. **Prohibited Activities.** Blasting, milling and crushing shall not be permitted at the mine site, **except** by specific Planning Commission approval with specified time limits and mitigation of airborne particulate. Applicants intending on blasting must submit detailed information as to the frequency, duration, schedule and vibration standard/thresholds for review and approval by the County Planning Commission.
11. **Noise Levels Restricted.** Owner/applicant must conform to all County ordinances with regard to lighting and noise level thresholds.
12. **Lighting / Glare.** Lighting shall be hooded or controlled in some manner so as not to light adjacent property or public right of way as required in Section 9.1.7 of the WCZO.
13. **State BMP Guidelines.** Owner/applicant shall use the Minnesota Pollution Control Agency's Environmental Management Best Management Practices used as a guidance tool and reference document.
14. **State and Federal Requirements.** Owner/applicant shall abide by all local, state and federal regulations, including Mine Safety and Health Administration standards. All applicable permits shall be placed on file with the County prior to the commencement of mining operations.

15. **Project Manager/ Contact Person Required.**  
Owner/applicant shall at all times have an agent whose name, fax number, telephone number/cellular number and email address are on file with the County and Town Clerk in order to respond promptly to concerns. The agents name and contact information shall be available on site on a 2' x 3' placard or sign at the site entrance.
16. **MPCA Fuel and Hazardous Materials Storage Rules.**  
Owner/applicant shall follow Minnesota Pollution Control Agency regulations for Fuel and Hazardous Materials Management as applicable on site.
17. **Site Specific Requirements.** The County Board/Planning Commission reserves the right to review site specific details and impose additional restrictions or conditions to the issuance of a Conditional Use Permit, as it deems necessary to protect the health, safety and general welfare of the public. These conditions may include but are not limited to performance characteristics, enhanced setbacks, and matters relating to appearance in order to mitigate potential nuisances and land use conflicts.
18. **Violations and Penalties.** Any violation of the conditions of approval may result in the execution of a stop work order, bond withdrawal, legal action or any combination thereof until such violation is permanently corrected.
19. **Requirements Prior to Mining to be Satisfied.**  
Commencement of land disturbance and/or mining activity shall be prohibited until all required submittals and above stated conditions are met and approved by the County. It is highly recommended that the applicant provide the County Planning Department with a schedule of submittals and answers matching the conditions of approval and the timing of each submittal.

## **Road Use Conditions**

20. **A Road Use Agreement is Required.** Owner applicant shall be required to enter into a road use maintenance agreement with Winona County which shall specify the owner/applicant's responsibilities with regard to road maintenance costs based on the life expectancy of the quarry including but not limited to:
- Temporary posting and signage
  - Cracking
  - Sub base
  - Drainage
  - Surface conditions/distortion
  - Ride quality
  - Shoulder maintenance
  - Replacement costs based on pavement rating at the time of commencement of mining operations

The County reserves the right to deny permits for mining sites having inadequate infrastructure to support anticipated traffic characteristics of the proposed operation, unless the road use agreement accommodates infrastructure improvements supporting the intended use.

21. **Access Permit.** Owner/applicant shall obtain an access permit from the County for where mine traffic enters or exits onto a County highway. In addition, the owner/applicant shall obtain all required local permits for access to Township roads and shall place the same on file with the County.
22. **Tracking Pad Required.** The owner/applicant shall be responsible for paving the approach to the county road for a minimum distance of 40 feet from the shoulder of the county road with asphalt.

23. **Traffic is Limited by the Permit for Due Process**  
**Considerations.** The quarry operation shall not exceed 70 loaded trucks per day during normal operations, except as permitted by the County for short term operations which must be defined at the time of the conditional use permit review and approval. Any exceedance of 70 trips per day shall be immediately disclosed to the County for review.
24. **Amendment to Traffic Levels Requires Review.** Requests to re-evaluate average and maximum daily-loaded trips in order to adjust annual road maintenance fees may occur two years subsequent to the initial start up of the sand mining operation, subject to the County Highway Engineer approval. This condition shall be applicable where annual average traffic volume increase by 10% or more.
25. **Spring Load Restrictions.** Loads shall be required to comply with Spring Load Restrictions as per MN/DOT Office of Materials & Road Research unless waived by the County Highway Engineer.
26. **Seasonal Road Closures Apply.** The County reserves the right to close roads during freeze-thaw periods and conditions where roadways are deemed unsafe due to material spillage or resulting slippery conditions.
27. **Reporting Vehicle Weights.** Owner/Applicant shall be required to identify a method of positive controls regarding the weight of vehicles leaving the mine and method to insure vehicles do not exceed the weight limits of the roads and bridges upon which they will travel, and obtain approval by the County Highway Engineer on the methods and frequency of inspection used. Controls such as scales and regular reporting on vehicle weights shall be implemented with weekly reporting to the County Highway Department.

28. **Street Maintenance and Sweeping Required.** Owner/applicant shall be responsible for monitoring roadways and roadway sweeping as necessary to maintain safe conditions. All transportation routes used by the mine shall have any accumulation of visible debris or sand from the mine site. The owner/applicant shall take all necessary precautions to avoid spillage on Winona County roadways.
29. **Requirement for Secure Loads.** No vehicle shall be driven or moved on any roadway unless such vehicle has the load securely covered as to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping from vehicles.
30. **Traffic Impact Analysis Required.** Owner/applicant shall be responsible for the preparation of a traffic study indicating any required improvements for ingress and egress, vision/sight lines and traffic control within a service area defined by the County Highway Engineer. Owner/applicant shall be responsible for the cost of said improvements upon review and approval by the County Highway Engineer-prior to the commencement of mining operations.
31. **Local Road Use Agreement with Township Required.** The owner/applicant shall be responsible to enter into a road use agreement with the Township for the use of any local-township road and shall be responsible for maintenance and repair of any damage resulting from the proposed mining operation.

### **Reclamation Conditions**

32. **Reclamation Plan Required.** A complete and detailed reclamation plan shall accompany all applications which meets or exceeds the requirements of Section 9.10 of the

WCZO. The plan shall be prepared by a qualified professional with proper credentials for reclamation plan preparation, specifying the following:

- A systematic approach to land reclamation for the mining site, including phases and schedule for reclamation with no more than 5 acres open in any phase per year. The County reserves the right to review the conditional use permit annually to enforce compliance.
- Proposed land use after reclamation activities are completed-Reclamation plans for sand mining sites shall include a land use/cover plan equal to the actual land use/cover types previous to mining operations. Areas intended for post-mining agricultural uses must include approval by NRCS for best management practices.
- Inactivity at the mine site shall require reclamation in accordance with the terms of the NPDES permit. NPDES permit shall be placed on file with Winona County before extraction/mining operations commence. Inactivity shall be defined as when an operator of a surface mining operation has curtailed production at the site/operation with the intent to resume at a future date, for a period of one year or more by more than 90 percent of its maximum annual mineral production.

**33. Subterranean Engineering Analysis Required.**

Owner/applicant shall submit an analysis prepared by a qualified independent engineering firm of the existing geologic conditions both in the extraction area and sub-extraction area and the impacts of the mining operations, including the applicability of the reclamation plan including any potential adverse affect on area hydrology, springs or Karst formations. The County reserves the right to have this data reviewed by

state geologists/hydrologists and/or SWCD and NRCS staff.

34. **Performance Guarantees Required.** Performance bonds shall be required for the following:
- 110% of the estimated cost of reclamation for a period equal to the life of the quarry plus 2 years. Performance bonds for reclamation may only cover the areas of disturbance for the duration of mining activity and may 'roll' with disturbance activity accordingly in order to minimize financial burden on the applicant.
  - 110% of the estimated cost of the roadway maintenance agreement requirements for a period of 5 years..
  - A performance surety shall be provided in the amount of \$1,000 per acre for the total proposed site disturbance. The surety shall be used to reimburse the County for any monies, labor, or material expended to bring the operation into compliance with the conditions of the permit.
35. **An EAW or EIS May Be Required Before CUP Application Acceptance.** Discretionary environmental review can be initiated by the Planning Commission and County Board. The Owner/applicant shall provide an Environmental Assessment Worksheet for the proposed site in accordance with Winona County standards.