

**STATE OF MINNESOTA
COUNTY OF STEARNS**

**INTERIM USE PERMIT
FILE NO. 06-01**

Permittee: Dan Hansen, 23762 Mill St. S., PO Box 324, Rockville, MN 56369
Requested Use: To operate a gravel mining and processing operation on 23 + Acres in an A-40 zoning district.
Description: The sand and gravel products that will be mined are Class V and rock; the equipment to be used will be a screen, crusher, and loader. No gravel washing activities will occur at this location.
**Applicable Ordinances/
Statutes:** Zoning Code, Ord. 2003-04, Sec. 9, Subd. 13 Mining/Extractive Uses
Zoning Code, Ord. 2003-04, Sec. 27 Conditional Use Permits,
Zoning Code, Ord. 2003-04, Sec. 28 Interim Use Permits

The above entitled matter was heard before the City Council of Rockville on the 18th day of October 2006 for the following property:

PROPERTY ADDRESS: Near Highway 23 & Rausch Lake Road, Rockville, MN 56369

PARCEL NO. 76.41627.200

LEGAL DESCRIPTION: That part of the Southwest Quarter of the Southeast Quarter and that part of the Southeast Quarter of the Southwest Quarter, both in Section 16, Township 123 North, Range 29 West, Stearns County, Minnesota lying southerly of the south line of MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 73-47 and MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 73-48, according to the recorded plats thereof, said Stearns County.

IT IS ORDERED that Interim Use Permit No. 06-01 be granted subject to the following conditions:

1. The interim use permit will expire five (5) years after the date executed below, subject to annual review. Failure to meet any of the conditions of this agreement, or substantial change to the conditions in the neighboring properties, shall constitute grounds to terminate this permit after review by City Council. Permittee shall be given an opportunity to address the City Council prior to termination under this condition. Nothing in this condition shall limit the immediate termination of this permit for violation of any other condition.
2. No gravel washing occur on this or any site in Rockville without an interim use permit.
3. A letter of credit approved by the City Attorney is provided in the amount of \$75,000. The letter of credit, or a replacement security approved by the City, shall remain in effect for the entire term of this permit. The amount and terms of this letter of credit shall be reviewed by the City Engineer and City Attorney during the annual review. Upon review, the terms of letter of credit must be revised as directed by the City Attorney in order to ensure the ability of the City to draw upon the security. Also upon review, the amount of the letter of credit must be revised as directed by the City Engineer to reflect the estimated costs of reclamation of the site and of repairing and returning 230th Street to it original condition, as described in condition 12 below. Failure to obtain a new letter of credit for whatever reason, shall constitute a termination of this

permit, and authorize the City to immediately draw the entire amount of the letter of credit to be placed in escrow.

4. Compliance with all conditions of the Sec. 9, Subd. 13 of the Zoning Code, and all other City Ordinances.
5. Compliance with all County, state and federal laws and regulations, including, but not limited to, those governing public health and welfare, public and worker safety, water quality, air quality, noise pollution and waste disposal.
6. Right-of-entry is provided to the City of Rockville, and its agents, to inspect the site and determine compliance with all conditions imposed on the operation.
7. A copy of the restoration plan submitted to Stearns County to be provided.
8. Operation is limited to the hours of 7:00 a.m. to 9:00 p.m. with an allowance to warm up vehicles beginning at 6:00 a.m. The City reserves the right to amend the hours of operation to eliminate the allowance to warm-up, at any time, with two weeks notice.
9. All setbacks are observed, as identified in Exhibit 1B, with the additional requirement that no mining occur within 17 ft. of the right-of-way of any road, street or highway. The existing pile of dirt material may be removed from within the setback to the existing surrounding grade. No material shall be disturbed within the 17 ft. setback that is below existing grade, with a variance.
10. Silt fences are installed as described in Exhibit 5, with the additional requirement to install run-off prevention measure to the ditches which empty into wetlands.
11. Prior to the termination of the interim use permit, 230th Street is restored to its prior condition.
12. Prior to the termination of the of the interim use permit (for whatever reason), the site is reclaimed by, either: (a) grading the site to remove any slope greater than 10:1, replacing the topsoil to an adequate depth, planting a mix of seeds and plants appropriate to the area and taking all action necessary to prevent surface water infiltration; (b) performing the proposed improvements to establish the site as a wetland, as approved by Stearns County; or (c) an alternative plan is agreed to with the City and this condition is waived.
13. Landscaping is installed to the outer rim of the mining area so there is no outside drainage entering the mine pit.
14. All fueling, fuel storage, maintenance, and storage of the mining equipment is limited to an area outside of the mine pit, and on an area which has secondary containment for any spill or leak.
15. No bituminous hot-mix operations on site, or nearby.
16. No use of explosives which leave neither nitrate residue nor any residue which is a drinking water contaminant.

THIS INTERIM USE PERMIT SHALL TERMINATE UPON THE OCCURANCE OF ANY OF THE FOLLOWING EVENTS, WHICHEVER OCCURS FIRST: A. THE TERMINATION DATE: OR B. THE USE HAS BEEN DISCONTINUED FOR A MINIMUM PERIOD OF 90 DAYS.

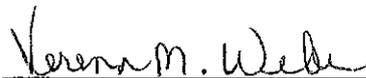
Approved this 18th day of October, 2006

CITY OF ROCKVILLE



Brian Herberg
Mayor

Affirmed:



Verena Weber
Clerk/Administrator

Rinke-Noonan

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Office Memorandum

To: Rena Weber
From: James A. Mogen
Direct Dial: 656-3520
Re: LID Questions
Our File: 16642.049
Date: October 27, 2008

You requested a response to questions posed by a resident during the October 15, 2008 Council meeting regarding the Grand Lake Improvement District. Please contact me if you have additional questions.

1. **If the Legacy Amendment to the Minnesota Constitution passes, will the Grand Lake Improvement District ("LID") dissolve?**
No. The Legacy Amendment is an amendment to the state Constitution authorizing a special sales tax, and allocating the proceeds of the special sales tax to stand-alone funds at the state level. The monies in these funds are separate from the state's General Fund, but are still allocated at the state level. The use of these funds is determined, not by local officials, but by state agencies. The presence of additional funds at the state level, does not automatically mean the needs of Grand Lake will be met.
2. **What happens if the LID does not requests a tax levy?**
The LID continues to operate. If the LID receives funding through a state grant or program, and does not request a property tax levy, a special assessment or special user fees, the LID would continue to operate to administer its program. While the LID has limited authority to impose property tax levy, special charges and special assessments for projects, it does not lose its status as an entity simply by not using these funding mechanisms.
3. **Can a LID receive state grants or other funding?**
Yes. The ability of a LID to receive funds from outside entities is not limited by the language of the enabling ordinance and bylaws. These documents specifically identify the authority of the LID, through the City, to impose charges and special assessments, and levy property taxes. This is not an exhaustive list of the funds available to the LID, but

identifies the limited authority of the LID in creating revenue sources.

- 4. Does Minnesota law require the LID to prove other sources of funding were sought prior to levying property taxes?**
No. While the language of MS 103B.155 notes that a LID should consider outside funds prior to levying property taxes, there is no requirement for the LID to demonstrate what sources of funding it sought or that it has been rejected. The language of MS 103B.155 is directory, as opposed to mandatory. It does not impose a requirement that must be met every time a tax is imposed, but provides guidance to a City and a LID that the additional tax levy should be limited to those circumstances where other funding for projects is unavailable. This language does not limit the scope of projects a LID can undertake, or limit the LID from starting new projects.
- 5. What happens if the enabling ordinance for the LID conflicts with the By-laws or includes typographical errors?**
Errors can be corrected by action of the Council and/or LID Board.
- 6. Is there a LID Board, if the LID has not held its annual meeting?**
Yes. The LID Board was established by resolution of the City Council pursuant to state law. This Board continues until the first annual meeting in 2009. The fact that the Board was not elected, is not relevant.
- 7. Is a property owner located with the LID “legally responsible” for the actions of the LID?**
No. The LID is a separate entity, and its residents are no more individually responsible for the actions of a LID than a city resident is for the actions of a City.
- 8. Is the LID required to include the entire area of the watershed, as recommended by the Department of Natural Resources?**
No. The recommendation of the DNR is not binding on the decision to establish the boundaries of the LID. The City Council considered the arguments regarding the boundaries of the LID, and determined that the current boundaries best served the goals of establishing the LID.
- 9. What is the requirement of the City Council to “read into the record” the letter from Peder Otterson, DNR?**
There is no requirement. There is no “requirement” for any letter or communication sent to the City to be repeated verbally into “the record.” The City is required to keep minutes of the Council meeting, but the minutes are not required to repeat, word for word, the testimony or evidence received by the Council. Similarly, the fact that a Council voice or video records a Council meeting does not impose a requirement to verbally repeat written correspondence. If considered by the City Council during its meeting, a written submission is considered part of “the record” in its written form.

10. What was the effect of the Council establishing the LID under its authority as a Council, instead of in response to the petition submitted?

None. The law provides two parallel options for establishing a LID. The first is by petition. The second is by action of the Council. The use of a petition is used to raise the issue to the Council, and to demonstrate support. It does effect the procedure in adopting the LID, in any meaningful way.

11. What is the notice requirement for the annual meeting of the LID Board of Directors?

14 days published notice and 10 mailed notice to the City and other governmental entities. The LID must publish notice of its annual meeting at least 14 days before it is held. In addition, it must send mailed notice of the meeting to the City, the DNR and the MN Pollution Control Agency at least 10 days in advance. There is no need to send mailed notice to property owners, except if a specific project is planned that will cost in excess of \$5,000.00. Since the City is the entity that imposes the tax levy, if the LID failed to meet the notice requirements it would likely not affect the levy. However, the LID may wish to call a special annual meeting to ratify the budget, if it includes items in excess of \$5,000.00, and mailed notice was not sent out.