



**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION  
February 26, 2024**

A meeting of the Planning Commission was held on February 26, 2024 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Becky Randall, Doug Ode, Mike Ralston, Adam Mohrhauser, Ryan VanDerVliet and Joe Kippley.

**STAFF PRESENT:**

Scott Anderson, Kevin Hoekman, and Mason Steffen – County Planning  
Maggie Gillespie – States Attorney's Office

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:43 p.m.

**PUBLIC COMMENT.**

Commissioner Duffy opened the floor for public comment and nobody moved to speak.

**ITEM 1. Approval of Minutes – January 22, 2024**

A motion was made by Commissioner Kippley and seconded by Commissioner VanDerVliet to **approve** the meeting minutes from January 22, 2024. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



**ITEM 2. ZONING TEXT AMENDMENT #24-01 to amend the 1990 Revised Zoning Ordinance for Minnehaha County to add Long-Term Lease or Rental regulations**

Petitioner: County Planning Staff

Staff Report: Scott Anderson

**Staff Report:** Scott Anderson

**Staff Analysis:** On December 15<sup>th</sup>, 2023, a court decision by Judge Houwan was made indicating that when short-term or long-term rental is not defined in the Zoning Ordinance, it is not permitted. In order to address this issue, staff has been counseled to amend the Zoning Ordinance to specify that long-term rental and leases of property in the county are permitted provided the use is lawful.

As a result of the court ruling, staff with the assistance of the States Attorney, has prepared some language that will correct this. The proposed ordinance amendment is attached for your review. The proposed amendment would add 12.19 to the Additional Use Regulations that states that it is not the intent of the Zoning Ordinance to prohibit the long-term lease or rental of property provided the use is legal. The proposed ordinance with the suggested language is attached for your review.

**Recommendation:** Staff recommends **approval** of Zoning Text Amendment #24-01 adding Article 12.19 to the 1990 Revised Minnehaha County Zoning Ordinance.

**Public Testimony & Discussion**

Scott Anderson, the County Planning Director, presented the proposed ordinance and staff report to the commission.

Tyler Childress, of 47675 Slip Up Creek Road Sioux Falls, SD, addressed the commission with his comments on the proposed ordinance. Mr. Childress stated that he believes the definition in this ordinance needs to be well thought out because right now long-term leases and rentals are not allowed at all in the county based on the judge's ruling.

**Action**

A motion was made by Commissioner Ralston and seconded by Commissioner Kippley to **approve** Zoning Text Amendment #24-01.

Commissioner Kippley commented that he sees this ordinance as a clarification of the intent of the zoning regulations out of respect for the judge's decision, and that the ordinance is more about form rather than substance.

The motion to **approve** Zoning Text Amendment #24-01 passed with 6 votes in favor and 0 votes against the motion.

**Zoning Text Amendment #24-01 – Approval Recommended**



**ITEM 3. CONDITIONAL USE PERMIT #24-06 to Expand the Existing Rock Extraction Quarry on the properties legally described as Lot 3 (Ex. H-1) SW1/4 NE1/4, W1534.04' (Ex. S1703.78') & N1875.55' E413.2' W1947.24' & N66' (Ex. W1947.24') SE1/4, W1534.04' S1703.78', SE1/4, Lots 1, 3, & 4 Royalwood Addition, SW1/4; all in Section 27 T101N-R48W to include the properties legally described as That Part of the SW1/4 NW1/4 Lying South of Lot H-1 & Tract 1 & 2 Everist Addition (Ex. H-1) SW1/4; all in Section 26 T101N-R48W Split Rock Township.**

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

Property Owner: L.G. Everist, Inc. (c/o Rob Everist)

Location: 48175 Highway 42

Staff Report: Mason Steffen

**General Information:**

Legal Description – Lot 3 (Ex. H-1) SW1/4 NE1/4, W1534.04' (Ex. S1703.78') & N1875.55' E413.2' W1947.24' & N66' (Ex. W1947.24') SE1/4, W1534.04' S1703.78', SE1/4, Lots 1, 3, & 4 Royalwood Addition, SW1/4; all in Section 27 T101N-R48W to include the properties legally described as That Part of the SW1/4 NW1/4 Lying South of Lot H-1 & Tract 1 & 2 Everist Addition (Ex. H-1) SW1/4; all in Section 26 T101N-R48W Split Rock Township.

Present Zoning – A1 Agricultural

Existing Land Use – Quarry/Pasture

Parcel Size – Approximately 326 Acres

**Staff Report:** Mason Steffen

**Staff Analysis:** The petitioner, L.G. Everist LLC, is requesting conditional use permit approval to expand their existing rock extraction quarry east of Sioux Falls. This quarry is referred to as the East Sioux Quarry. The attached narrative states that the existing quarry spans seven parcels and includes approximately 260 acres of land. The proposed expansion would add two additional parcels currently owned by L.G. Everist to the active mine footprint, and these parcels are approximately 79 acres of land. The narrative also explains that only 54.9 acres of the expansion area will be used for active mining area, and the other 24.22 acres will be used as support area. The petitioner last expanded the existing quarry via Conditional Use Permit #21-16, and this new conditional use permit will govern the existing quarry area and the expansion site. Planning staff sent notices for this public hearing to the thirty-seven closest property owners on February 1, 2024, as required by the zoning ordinance. The petitioner also sent notices for this public hearing to all the property owners within 500 feet of the quarry on February 9, 2024. Finally, the petitioner has explained to planning staff that the start date of extraction on the expansion site is not imminent, and that they are requesting this expansion in order to increase resiliency to fluctuating market conditions.

The conditional use application shall be accompanied by the following:

- (1). Maps showing the area within which the extraction operations will be conducted, including areas to be disturbed, setbacks from property lines, and the location of all structures,



equipment and access and haul roads.

*The site plans submitted by the petitioner include the current and proposed extraction limits for the quarry. The extraction area shown on the site plan is specifically drawn to maintain the 1,000 foot setback from the nearest residence. Finally, they also show the existing access point on to SD Highway 42, which is the only haul road for this quarry.*

- (2). A description of the surface land use and vegetation, including all pertinent physical characteristics.

*The proposed expansion area for rock extraction is currently pasture land with a mixture of rock, sand, and gravel at or near the surface. A portion of the subject property has an ephemeral stream and a pond, which is the remnants of a historical mine.*

- (3). A hydrologic study which shall include all available information from the State Geological Survey and other information pertinent to the application. If the applicant believes a study is not warranted, documentation shall accompany the application in support of this position.

*The narrative explains that the only defined stream within the expansion area is an ephemeral drainage channel that currently flows through the central area of the proposed expansion area. All stormwater discharges from the expansion area will be controlled in compliance with the SD Department of Agriculture and Natural Resources requirements. The petitioner has submitted a stormwater application to the DANR.*

*In order to mine the expansion area, the ephemeral drainage will be rerouted around the mining limits on the expansion property. The existing inflow for this creek, via a culvert under SD Highway 42, will be maintained. The discharge location for this creek will also be maintained on the south side of the property. All proposed surface water discharges from the mined area to the drainage system will be controlled as described in the previous paragraph. The applicant has provided an analysis of the floodplain, wetlands delineation, and groundwater conditions on the proposed site.*

- (4). A reclamation plan which takes into consideration the criteria listed in Subsection G - reclamation.

*The applicant provided a reclamation plan for the site as an impoundment with waterfront development. All berms will be removed and the recovered topsoil material will be used to cover disturbed areas. The edges of the existing quarry will be graded at a 3:1 slope down to below the expected water level.*

- (5). The applicant shall meet with the township supervisors of the affected township to discuss repair and maintenance responsibilities on township roads to be used as haul routes. A summary of the meeting(s) shall be presented with the application.

*The proposed expansion will utilize the existing haul road for the quarry, which is SD Highway 42. The extracted material from the expansion site will be conveyed over 482<sup>nd</sup> Avenue to the existing processing location. The petitioner will be holding a public meeting regarding this expansion on February 19. Finally, any work that is performed for this project within the township right-of-way will also require their approval.*



**MINNEHAHA COUNTY  
PLANNING COMMISSION  
MEETING MINUTES**

**FEBRUARY 26, 2024**

The zoning ordinance requires that rock, sand, and gravel extraction operations meet the following criteria when evaluating proposed extraction activities:

Buffer Area.

The nearest residence to the proposed rock extraction pit area is just over 1,000 feet. The site plan specifically shows that the proposed boundary of the extraction area is configured in a way to keep this 1,000 foot setback to the nearest residences

Hours of Operation.

In 2021, the petitioner requested to revise the hours of operation for the existing mine to be 6:00 am to 7:00 pm on Monday through Friday and 7:00 am to 1:00 pm on Saturdays. These hours of operation will also be enforced on the expansion area. Additionally, the petitioner will continue to not be allowed to operate on legal holidays such as New Year's Day, Memorial Day, 4<sup>th</sup> of July, Labor Day, Thanksgiving, and Christmas. Activities such as office duties and maintenance activities which produce no adverse off-site impacts will not be restricted by these hours of operation.

Visual Considerations.

The applicant will be constructing an eight foot tall screening berm around the entire perimeter of the expansion area. There will be also be landscaping completed along these berms, which will be similar to the existing berms around the current operation.

Blasting.

L.G. Everist explains in their narrative that have been working with outside consultation on blasting operational concerns and have installed four fixed seismograph locations to monitor blasts. The expansion area will continue to follow the blasting plan that was approved via Conditional Use Permit #21-16, and this plan has been included for review. Drawing #7 within the narrative materials also includes proposed future monitoring locations if they are needed in order to maintain compliance with the U.S. Bureau of Mines guidelines.

Noise.

L.G. Everist conducted a noise survey of the existing quarry operation in 2020. This survey showed that the operational noise of the site, excluding blasting, was below the conditions set forth by previous conditional use permits. The petitioner will continue to be required to adhere to these conditions regarding operational noise

Air Quality.



The petitioner has air quality permits from the SD Department of Agriculture and Natural Resources and has maintained compliance with each of these permits. In 2021, the Planning Department worked with the petitioner to install two dust monitors on the site, in order to confirm air quality standards. To date, these monitors have shown that the operation is within compliance of the previous conditional use permit.

#### Hydrology, Dewatering and Drainage.

The narrative explains that aquifer testing was performed in 2020 and it was determined that groundwater impacts to nearby wells will be minimal. As part of the conditional use permit, L.G. Everist will continue to monitor groundwater levels and dewatering rates from operation of the rock extraction quarry. Finally, the narrative explains that dewatering is expected during future mining activities, and additional discharge points will be added to their existing water discharge permit with the State of South Dakota as needed.

#### Haul Roads.

The existing entrance off of South Dakota State Highway 42 will be maintained for the proposed activity and no other entrances will be used for truck traffic, including asphalt or ready-mix trucks. The material mined in the proposed expansion area will be conveyed across 482<sup>nd</sup> Avenue via an overhead bridge or below road culvert, and this will allow the processing of material to take place within the existing boundary of the mine. Due to this condition, there will not be continuous truck traffic along 482<sup>nd</sup> Avenue, and therefore the petitioner will not be required to obtain a haul road agreement with Split Rock Township.

#### Operator Surety.

The operator shall file with the Planning Department a surety bond in favor of Minnehaha County in the face amount of \$20,000 to ensure compliance with all terms of the conditional use permit. Such surety bond shall ensure that the operator shall indemnify the County and hold it harmless from any and all liability, claims, damages and expenses which may arise as a result of the failure of the operator to abide by all terms of the conditional use permit, including but not limited to expenses, costs, and reasonable legal fees incurred as a result of any claim from an adversely impacted party. Such bond shall be held by Minnehaha County in trust for itself and the citizens of the County; and shall not be released until all reclamation activities have been completed and approved by the Planning Department.

#### Reclamation.

The narrative explains that the reclamation plan for the proposed expansion site will follow the existing plan laid out in Conditional Use Permit #21-16. The narrative states that the primary reclamation of the site is an impoundment with waterfront development,



and the petitioner has included an updated map showing the expansion area. Finally, based on the existing groundwater measurements and the elevation of the Big Sioux River, the expected water level is approximately 1,295 feet.

Additional Considerations.

L.G. Everist requested in 2021 for the maximum bench height in the quarry to be increased from 30 feet to 75 feet. At that time, they explained that the East Sioux Quarry had been using varying bench heights depending on the geology of the deposit. The existing mine and proposed expansion area will continue to use bench heights varying from 20 feet to 75 feet depending on which geologic horizon is being mined.

On February 6, 2024 staff conducted a site visit of the existing and proposed rock extraction quarry. The expansion area is bordered on the west by 482<sup>nd</sup> Avenue and on the east by Ledge Rock Avenue. The expansion will not utilize Ledge Rock Avenue at any time, but the project will require work within the right of way of 482<sup>nd</sup> Avenue. As of the writing of this staff report, the petitioner has not been in contact with Split Rock Township regarding this plan. The petitioner has explained to staff that they plan on having a public meeting on February 19<sup>th</sup> to allow individuals to learn about the proposed expansion request. Additionally, the east side of the expansion site does border Rowena, however there will be screening berms around the entire site, and the closest properties to the site in Rowena are zoned for commercial uses. The nearest residences to the expansion site will be within Kim Circle, which is a subdivision of twenty-four dwellings across the state highway to the northwest of the expansion site. Finally, the site plan shows that the extraction area is specifically designed to maintain the required 1,000 foot setback from these dwellings.

**Conditional Use Permit Criteria:**

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

The proposed land use is generally compatible with the existing rock, sand, and gravel pits, rubble pit, and commercial businesses in the immediate vicinity. The nearest residential single family dwellings to the northwest of the expansion area are just over 1,000 feet away. Additionally, the proposed expansion area will be approximately the same distance from these dwellings as the existing quarry area, and therefore this expansion will add a similar effect to these dwellings as the existing quarry. To the north the proposed rock extraction area is separated from the nearest dwellings by SD Highway 42. In Rowena to the east, the nearest properties to the extraction area are commercial uses, and will buffer the existing dwellings in Rowena from the extraction area. Finally, the change in the hours of operation in 2021 allowed for better traffic management on SD Highway 42 during the morning commute, and therefore the hours of operation from that permit will remain in place.

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

The predominant land use in the area is rock, sand, and gravel mining with a mixture of commercial businesses and residential subdivisions within a quarter-mile of the expansion area. The remainder





of the land is used for farmland or pasture. Additionally, the surrounding area is located in the Red Rock Corridor Overlay District that has an established Red Rock Corridor Plan to guide future development of land within a half mile to the north and south of SD Highway 42 from Sioux Falls city limits to the Iowa state line. The Future Land Use Map for the Red Rock Corridor Plan shows the expansion area being designated for agriculture and light industrial uses. The land surrounding the expansion is designated within the Red Rock Corridor Plan for a mix of agriculture, commercial, and residential uses. The proposed use of the property as a quarry should not overly impact the normal and orderly development and improvement of the surrounding vacant property.

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

The applicant explained that the existing driveway and haul road access off of SD Highway 42 will continue to be the only haul road access for the quarry. The narrative explains that the material mined in the expansion area will be conveyed across 482<sup>nd</sup> Avenue to the existing processing location. Any work conducted within the right of way of 482<sup>nd</sup> Avenue must be reviewed and approved by Split Rock Township, prior to commencing. All other utilities needed for the operation have been provided.

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

The applicant meets all off-street parking and loading requirements. The required number of parking spaces is one (1) off-street parking place for each employee and two (2) customer off-street parking spaces.

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

The applicant should take the necessary precautions to prevent any sound disruptions, physical disturbances, and air quality issues during operation of the rock extraction site to adjacent property owners as required by the zoning ordinance. In 2021, the petitioner installed permanent air quality monitors at the existing quarry location, and this monitoring will continue in order to ensure compliance with the appropriate standards. The visual screening plan shows a berm and landscaping around the entire perimeter of the expansion area, which will help reduce potential nuisances.

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

Goal 5 of the Environmental Stewardship chapter of the Envision 2035 Comprehensive Plan states, *"Recognize that sand and gravel deposits within the County are an un-renewable natural resource and beneficial to the economy of the County and welfare of its people."* This portion of the Envision 2035 Comprehensive Plan also has an action statement that explains that any conflicts with existing neighborhoods should be minimized. The area for the proposed rock extraction aims to minimize the impact on surrounding land uses by maintaining the appropriate setbacks from the subject property boundaries in accordance with the zoning ordinance regulations. The petitioner will also be installing a screening berm and vegetation around the entire property, which also aims to minimize the potential negative impacts on the existing neighbors.

**Recommendation:** Staff finds that the proposed conditional use permit for rock, sand, and gravel extraction is compatible with surrounding land uses as well as the goals and policies of the Envision





2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #24-06 with the following conditions:

- 1) The conditional use permit shall be reviewed in accordance with the requirements of Article 12.08 (F) of the zoning regulations.
- 2) An annual fee shall be paid in accordance with Article 12.08 (D) of the zoning regulations.
- 3) All operations with the exception of blasting shall be restricted to the hours of operation from 6:00 am to 7:00 pm, April 1 to September 30 on Monday thru Friday; 7:00 am to 7:00 pm, October 1 to March 31 on Monday thru Friday; and 7:00 am to 1:00 pm on Saturday. Operations shall not be conducted on the following legal holidays: New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving, and Christmas. Activities such as office duties and maintenance activities which produce no adverse off-site impacts shall not be restricted by the hours of operation.
- 4) The maximum depth of excavation shall be to the 900-foot elevation measure from mean sea level, provided there is no adverse impact on groundwater elevations recorded by monitoring wells required in condition #5.
- 5) The seven monitoring wells shown on Drawing #5, Groundwater Monitoring Map, shall be used to routinely monitor groundwater conditions. Any monitoring well destroyed by extraction operations shall be replaced. Groundwater levels shall be measured in each well on a quarterly basis by an independent party. An annual report on monitoring activities shall be submitted to the Planning Department.
- 6) The blast control plan prepared by L.G. Everist, Inc. dated January 27, 2021 shall govern blasting activities. All blast records shall be available for inspection by the Planning Department upon request.
- 7) Ground vibration and over pressure shall be recorded for each blast by three seismographs. The site of the blast, distance to residential properties and atmospheric conditions shall determine the appropriate locations for the seismographs.
- 8) Ground vibration shall not exceed the guidelines established by the U.S. Bureau of Mines as shown in Attachment A of the Blast Control Plan.
- 9) The air blast shall not exceed 133 dB (linear peak) when measured by an instrument with a frequency response above 2 Hz.
- 10) All blasting shall be restricted to Monday through Friday, except legal holidays listed in condition #3. No blast shall occur before 9:00 am or after 3:00 pm, except in an emergency situation. Upon request, residents within 1,500 feet of the conditional use area shall be notified of the approximate time of each blast.
- 11) The berms and shelterbelt areas shall be completed prior to operation of ready mix plant, asphalt plant, and rock extraction. All trees shall be maintained in a live state.
- 12) A contract shall be executed with the Minnehaha County Conservation District to plant and maintain the shelterbelt for a minimum of five years.
- 13) Air quality shall be as follows:
  - a. The ambient air quality standards for total suspended particulate matter shall be 150 micrograms per cubic meter of air as a 24-hour average not to be exceeded more than once per year, and 60 micrograms per cubic meter of air as an annual arithmetic mean. The standards for PM 10 (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota.



- b. The Planning Department shall have the authority to require air quality monitoring to ensure compliance. Monitoring shall be conducted at the operator's expense.
- 14) The haul road from the quarry to SD Highway 42 shall be maintained as a hard surface.
- 15) The sound level from on-site operations, excluding blasting, shall not exceed the following limits:
  - a. L10 (level exceeded for 6 minutes of an hour) – 65 dBA
  - b. L50 (level exceeded for 30 minutes of an hour) – 60 dBA
    - i. Sound measurement shall be made at a point of human activity which is nearest to the noise source and conducted at the operator's expense. Off-site activities which contribute to background sound levels shall be disregarded when measuring sound.
- 16) All trucks shall use the haul road which connects directly to SD Highway 42.
- 17) Fuel storage containment shall be in conformance with State and Federal requirements.
- 18) All stockpiles of material shall be located within the conditional use area.
- 19) Inoperable and discarded equipment and parts shall be screened from public view.
- 20) The proposed ready-mix concrete and asphalt mixing plant shall be reviewed within two years of construction of the plants, or by the April 2029 Planning Commission Meeting, whichever comes first.
- 21) Topsoil shall remain on site and be used in final reclamation.
- 22) Reclamation shall be in accordance with the plan filed with the State. The operator shall consult with the County Planning Department to ensure that final reclamation will result in the most appropriate future use of the area.
- 23) The operator shall file with the Planning Department a surety bond in favor of Minnehaha County in the face amount of \$20,000 to ensure compliance with all terms of the conditional use permit. Such surety bond shall ensure that the operator shall indemnify the County and hold it harmless from any and all liability, claims, damages and expenses which may arise as a result of the failure of the operator to abide by all terms of the conditional use permit, including but not limited to expenses, costs, and reasonable legal fees incurred as a result of any claim from an adversely impacted party. Such bond shall be held by Minnehaha County in trust for itself and the citizens of the County; and shall not be released until all reclamation activities have been completed and approved by the County Planning Department.
- 24) That the applicant shall maintain a minimum distance of 1,000 feet measured from the nearest residential single family dwelling to the edge of the rock extraction pit.
- 25) That the total sign area shall be 32 square feet and a maximum of 10 feet tall. A sign permit must be obtained from the County Planning Department prior to installation.
- 26) That Conditional Use Permit #21-16 shall be superseded by the above conditions, and that this Conditional Use Permit shall govern the entire quarry operation.



**Public Testimony & Discussion**

Mason Steffen, of county planning staff, presented the staff report and recommendation to the commission.

Commissioner Kippley stated that he remembers this item being before the commission in the last year, and that the SD Highway 42 reconstruction was impacting this property in some way. Mason Steffen explained that Commissioner Kippley was correct, and that this involved condition twenty of the conditional use permit regarding the ready-mix concrete and asphalt plant within the existing quarry. Mason further explained that the original condition that was approved in 2021 required this plant to be reviewed by the April 2023 planning commission meeting. L.G. Everist explained at the meeting in 2023 that the reconstruction of SD Highway 42 was delaying their plans for the ready-mix plant, and therefore condition twenty was changed to accommodate this delay in plans.

Commissioner Ode asked planning staff if there is a timeline for completion of the SD Highway 42 reconstruction. Mason explained that the reconstruction on the highway was completed up to Six Mile Road last year, and that he believes the next phase will not commence until 2025. Therefore, he explained that the earliest the reconstruction would be completed base on this timeline would be around 2026 or 2027.

The owner of L.G. Everist, Rick Everist, was present and available for questions from the commissioners.

Commissioner Duffy asked the owner to provide more details about the informational public meeting that was reference by planning staff. Mr. Everist explained that they had good participation at the meeting, and that most of the questions from the neighbors were the same as the last time they expanded the quarry in 2021. Commissioner Duffy also asked if the owner sent notice letters to the neighbors, along with the public meeting. Mr. Everist explained that they did send the notices as required by staff, and that they added the public meeting to allow for more engagement.

Commissioner Kippley asked Mr. Everist how many people attended the public meeting. Mr. Everist explained that approximately twenty-five to thirty people were in attendance.

Commissioner Ode stated that he attended the public meeting held by L.G. Everist, and that he thought they did a good job in answering the neighbors questions. He also commented that there is a concern regarding water and drainage in the area, but that he believes L.G. Everist has the expertise to do the work right. Rick Everist responded to these comments and stated that this is only step one in the process, and that they have more work to complete regarding the water management on the expansion site.

Dick Funke, of 48249 267<sup>th</sup> Street Brandon, SD, addressed the commission with his concerns regarding the quarry expansion. Mr. Funke explained that he lives to the southeast of the expansion site, and that he attended the public meeting where most of his concerns were addressed. However, Mr. Funke did state that he wants some answers regarding the drainage from the property to ensure that the water runoff does not impact his fields or Ledge Rock Avenue. Mr. Funke also explained that he uses the wells on his property for a variety of uses, and that he wants to make sure the quarry



will not impact his ability to use these wells. Finally, Mr. Funke stated that he would like to see a condition added that requires recessed lighting within the quarry, and he would also like to see air quality monitors installed at the expansion location.

Daniel Plaetz, of 48233 267<sup>th</sup> Street Brandon, SD, stated that he has some of the same concerns regarding the quarry as Mr. Funke. These included concerns regarding the impact to the wells in the area, and the potential for dust being blown onto neighboring properties.

RJ Wright, of 48198 267<sup>th</sup> Street Brandon, SD, stated that he is also concerned about the wells that he uses to support his livestock and the dust from the quarry. Mr. Wright stated that he owns the land to the south of the subject property, where the creek flows once it leaves the expansion property, and that he has concerns with the potential rerouting of this creek. Finally, Mr. Wright stated that during heavy rain events the current creek fans out over the subject property and is not contained in the creek banks, and the creek has also come close to overrunning the gravel road a quarter-mile south of the subject property.

Barbara Funke, of 48249 267<sup>th</sup> Street Brandon, SD, explained that she has the same concerns as the other neighbors and that she wants the concerns addressed now, so that they are not forgotten down the road once extraction has begun. Mrs. Funke also stated that the petitioner could install higher berms, or lower the material piles on site, in order to minimize the impact of dust to the neighbors.

Rick Everist returned to the podium to address the concerns raised by the neighbors. Mr. Everist stated that they will have to move Mr. Wright's drain tile when they reroute the stream, but once the reroute is complete, the drainage will be maintained as close to the same as possible. He also commented that L.G. Everist is in the process of rerouting a stream at their Dell Rapids location, and that there are many additional steps and permits that regulate this process beyond the conditional use permit. Additionally, he explained that once extraction starts on the site, the area will provide water storage, and L.G. Everist's dewatering plan will be a more controlled release of the stored water. Mr. Everist then commented that they are required to monitor groundwater in the area via various wells that surround the quarry, and that this monitoring has shown that the quarry has a minimal impact on these wells. Finally, Mr. Everist stated that the air quality monitors were installed by a third party, and that they could better speak to reasoning behind the locations of the air quality monitors.

Commissioner Mohrhauser asked the owner if he could explain where their material piles are currently located on the site. Mr. Everist explained that the material piles are located on the eastern and southeastern portion of the existing quarry site.

Commissioner Kippley asked what additional permits would be required for the petitioner to reroute the ephemeral stream within the property. Scott Anderson, the County Planning Director, explained that since the stream is designated in the 100-year flood plain by FEMA, the petitioner would be required to obtain a flood plain development permit from the county planning office. He also stated that they would potentially be required to obtain permits from the Army Corps of Engineers for the project.



Doug Hoy, a representative of Sayre Associates, explained that he was the third-party installer of the air quality monitors at the current quarry. Commissioner Ode asked Mr. Hoy to explain the locations of the existing air quality monitors. Mr. Hoy explained that the current monitors are installed in the southwest corner of the existing quarry, and in the northeast corner near the Red Rock Bar on SD Highway 42. Mr. Hoy explained that these locations allow him to monitor how the predominant winds impact the air quality in the area, and also allows him to determine the incoming air quality and outgoing air quality for the quarry. Mr. Hoy explained that these two measurements allow him to determine how the quarry is specifically impacting the air quality in the area. Finally, Mr. Hoy stated that L.G. Everist has also swept the highway in order to limit dust, and is always exploring new solutions to limit this issue.

Commissioner Ralston stated that it is important to remember that this is an active mine, and that it is the commission's responsibility to determine appropriate land use. Commissioner Ralston also commented that most of the neighbors stated that L.G. Everist has been a good neighbor, and that he believes the recommended conditions address the concerns raised by the neighbors.

#### **Action**

A motion was made by Commissioner Ralston and seconded by Commissioner Kippley to **approve** Conditional Use Permit #24-06 with the conditions recommended by staff, along with an additional twenty-seventh condition requiring that all lighting be fully-cutoff and fully-shielded.

Commissioner Kippley stated that he appreciates the effort from the petitioner to include the neighbors and answer their questions, and that he feels the conditions are sufficient for the proposed request.

The motion to **approve** Conditional Use Permit #24-06 passed with 6 votes in favor and 0 votes against the motion.

#### **Conditional Use Permit #24-06 – Approved with the following conditions:**

- 1) The conditional use permit shall be reviewed in accordance with the requirements of Article 12.08 (F) of the zoning regulations.
- 2) An annual fee shall be paid in accordance with Article 12.08 (D) of the zoning regulations.
- 3) All operations with the exception of blasting shall be restricted to the hours of operation from 6:00 am to 7:00 pm, April 1 to September 30 on Monday thru Friday; 7:00 am to 7:00 pm, October 1 to March 31 on Monday thru Friday; and 7:00 am to 1:00 pm on Saturday. Operations shall not be conducted on the following legal holidays: New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving, and Christmas. Activities such as office duties and maintenance activities which produce no adverse off-site impacts shall not be restricted by the hours of operation.
- 4) The maximum depth of excavation shall be to the 900-foot elevation measure from mean sea level, provided there is no adverse impact on groundwater elevations recorded by monitoring wells required in condition #5.
- 5) The seven monitoring wells shown on Drawing #5, Groundwater Monitoring Map, shall be used to routinely monitor groundwater conditions. Any monitoring well destroyed by



- extraction operations shall be replaced. Groundwater levels shall be measured in each well on a quarterly basis by an independent party. An annual report on monitoring activities shall be submitted to the Planning Department.
- 6) The blast control plan prepared by L.G. Everist, Inc. dated January 27, 2021 shall govern blasting activities. All blast records shall be available for inspection by the Planning Department upon request.
  - 7) Ground vibration and over pressure shall be recorded for each blast by three seismographs. The site of the blast, distance to residential properties and atmospheric conditions shall determine the appropriate locations for the seismographs.
  - 8) Ground vibration shall not exceed the guidelines established by the U.S. Bureau of Mines as shown in Attachment A of the Blast Control Plan.
  - 9) The air blast shall not exceed 133 dB (linear peak) when measured by an instrument with a frequency response above 2 Hz.
  - 10) All blasting shall be restricted to Monday through Friday, except legal holidays listed in condition #3. No blast shall occur before 9:00 am or after 3:00 pm, except in an emergency situation. Upon request, residents within 1,500 feet of the conditional use area shall be notified of the approximate time of each blast.
  - 11) The berms and shelterbelt areas shall be completed prior to operation of ready mix plant, asphalt plant, and rock extraction. All trees shall be maintained in a live state.
  - 12) A contract shall be executed with the Minnehaha County Conservation District to plant and maintain the shelterbelt for a minimum of five years.
  - 13) Air quality shall be as follows:
    - a. The ambient air quality standards for total suspended particulate matter shall be 150 micrograms per cubic meter of air as a 24-hour average not to be exceeded more than once per year, and 60 micrograms per cubic meter of air as an annual arithmetic mean. The standards for PM 10 (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota.
    - b. The Planning Department shall have the authority to require air quality monitoring to ensure compliance. Monitoring shall be conducted at the operator's expense.
  - 14) The haul road from the quarry to SD Highway 42 shall be maintained as a hard surface.
  - 15) The sound level from on-site operations, excluding blasting, shall not exceed the following limits:
    - a. L10 (level exceeded for 6 minutes of an hour) – 65 dBA
    - b. L50 (level exceeded for 30 minutes of an hour) – 60 dBA
      - i. Sound measurement shall be made at a point of human activity which is nearest to the noise source and conducted at the operator's expense. Off-site activities which contribute to background sound levels shall be disregarded when measuring sound.
  - 16) All trucks shall use the haul road which connects directly to SD Highway 42.
  - 17) Fuel storage containment shall be in conformance with State and Federal requirements.
  - 18) All stockpiles of material shall be located within the conditional use area.
  - 19) Inoperable and discarded equipment and parts shall be screened from public view.





- 20) The proposed ready-mix concrete and asphalt mixing plant shall be reviewed within two years of construction of the plants, or by the April 2029 Planning Commission Meeting, whichever comes first.
- 21) Topsoil shall remain on site and be used in final reclamation.
- 22) Reclamation shall be in accordance with the plan filed with the State. The operator shall consult with the County Planning Department to ensure that final reclamation will result in the most appropriate future use of the area.
- 23) The operator shall file with the Planning Department a surety bond in favor of Minnehaha County in the face amount of \$20,000 to ensure compliance with all terms of the conditional use permit. Such surety bond shall ensure that the operator shall indemnify the County and hold it harmless from any and all liability, claims, damages and expenses which may arise as a result of the failure of the operator to abide by all terms of the conditional use permit, including but not limited to expenses, costs, and reasonable legal fees incurred as a result of any claim from an adversely impacted party. Such bond shall be held by Minnehaha County in trust for itself and the citizens of the County; and shall not be released until all reclamation activities have been completed and approved by the County Planning Department.
- 24) That the applicant shall maintain a minimum distance of 1,000 feet measured from the nearest residential single family dwelling to the edge of the rock extraction pit.
- 25) That the total sign area shall be 32 square feet and a maximum of 10 feet tall. A sign permit must be obtained from the County Planning Department prior to installation.
- 26) That Conditional Use Permit #21-16 shall be superseded by the above conditions, and that this Conditional Use Permit shall govern the entire quarry operation.
- 27) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.





**MINNEHAHA COUNTY  
PLANNING COMMISSION  
MEETING MINUTES**

**FEBRUARY 26, 2024**

**Old Business**

None.

**New Business**

Kevin Hoekman, of county planning staff, presented a report regarding density zoning and potential amendments that could be made to the 2035 Envision Comprehensive Plan. The presentation was discussed amongst the planning commission and planning staff, and the County Planning Director asked the commission for guidance on how to proceed. After discussion, it was determined that the best next step would be to create a taskforce of people from various backgrounds to evaluate the pros and cons of each option regarding how to address density zoning. Scott Anderson explained that once this input has been received from the taskforce, the planning commission would then utilize this information on how best to move forward.

**Adjourn**

A motion was made to **adjourn** by Commissioner Ode and seconded by Commissioner VanDerVliet. The motion was approved unanimously. The meeting was adjourned at 9:03 p.m.