
CROW WING TOWNSHIP
PLANNING AND ZONING COMMISSION

AGENDA
April 11, 2022

1. Call to Order
2. Roll Call
3. Public Hearing(s)
4. Additions or Deletions to Agenda
5. Open Forum
6. Approval of Minutes
 - a. March 14, 2022
7. New Business
 - a. Brad Busbey – Review of possible extractive use on parcel 56100547
 - b. Town Board feedback on final draft enforcement policy and nuisance ordinance
 - c. Extractive use ordinance language
8. Old Business
 - a. Ream complaint
 - b. Jillson complaint
 - c. Anderson/Schuety septic noncompliance
 - d. Deason shoreland violation
9. P&Z Administrator's Report
10. Town Board Correspondence
11. Adjournment

This agenda is not exclusive. Other business may be discussed as deemed necessary.

Crow Wing Township Planning Commission Meeting March 14, 2022, 6:00 PM

Commission Members Present: Brad Arnold (Chair), Linda Schuety, Dan Lee, David Nelson, Tucker Schuety (Township Supervisor Chair) Amanda Peterson (Planning and Zoning Administrator), & Sue Kern (Township clerk).

Brad called the meeting to order at 6:00 PM and the Pledge of Allegiance was recited.

Public Hearings: None.

Additions or Deletions to Agenda & Open Forum: None.

Approval of Minutes: Linda made the motion to approve the minutes from February 14, 2022. Dan seconded. No discussion. Motion approved 5-0.

New Business: Eric Stangler was in attendance to the meeting tonight. Amanda explained that Mr. Stangler had been approached by Anderson Brothers regarding the possibility of extractive use on parcels 56160583 and 56160575. These parcels were recently rezoned to Commercial 1 from Agricultural Forestry. Extractive use is not allowed in the Commercial 1 zoning district. A rezone and conditional use permit would be required to move forward with the project. It would have to go back to Agriculture. The property owner is seeking a discussion on this proposed use. Anderson Brothers is wanting to crush asphalt and re-use gravel and use the space as a staging area. Mr. Stangler stated it is bad timing as they just recently rezoned it from Ag-Forestry to Commercial 1. The State and MN DOT have not yet been consulted. Crow Wing Township does not allow extraction or crushing. The Fletcher property is being monitored closely and if this was allowed here then it would open the door to that discussion also. There is a pit not that far off although this location would be convenient for Anderson Brothers use and save them money. This has just been presented to the Planning Commission and they have not had much time to research the situation. There have been others who have been denied this same request. After a significant discussion, it was noted that the bordering landowners would not be happy with the extraction & crushing, and with a rezone being done and then turn around and doing another rezone puts it at a time constraint. There was a question of how close this is to the Mississippi River. There would be significant long hours of noise and dust with extraction and crushing. Each commissioner expressed no support considering the above facts, and it is not in harmony with the long-range plan and without supporting findings of fact to support a possible spot rezone or any hardship to either party presenting a need for said action. Mr. Stangler was told this would be an uphill battle from a legal perspective. No action was taken.

At the March 1, 2022, regular Town Board meeting reviewed the enforcement policy and nuisance ordinance. There was a discussion in revising the language on 1.3, Section B on #4 regarding storage containers and the use of the words "may require a permit", the timeline and possible exceptions. Amanda will adjust the wording to satisfy the Planning Commission and it will be brought back to the Township Board.

Old Business: The Ream complaint and Jillson complaint will be reviewed as weather permits.

Regarding the Anderson/Schuety septic noncompliance, papers have been served by the Sheriff's Department. No response has been made. Amanda recommended waiting until the snow thaws, but the problem may need to go to the attorney at that time. The winter window ends April 15th and then possible seize and desist.

The Deason shoreland violation was discussed. Vegetation plans were presented. Amanda has asked him to be more specific regarding what types of trees he will be putting in place. The stumps will be cut flush and the roots to stay in the ground to help with erosion. Trees are to be planted by 6-1-2022 and be 6 feet tall. This should help with erosion. There will need to be an inspection. It was noted that the trees will need to be maintained and possibly re-inspected again at the 2-year mark. Justin and Amanda will continue to follow up.

P&Z Administrator's Report: There was discussion regarding a discrepancy of lot size of 2.5 contiguous acres of buildable land rather than bits of high ground here and there. Amanda will check with Justin and find the past amendment that was enacted into the ordinances.

It was decided that current Plat Books are needed, and Brad will check into getting one for each Commissioner and one for the Town Hall.

Amanda was asked to talk to Justin regarding the ordinance land use table Section 29 specifically regarding 29.6 C, part 6 regarding the river and run off and possibly getting a map with the Mississippi River. Brad wants to know the limitations of the river corridor critical area as time permits.

Brad mentioned the Clerk's Board of Audit revealed the Planning and Zoning Fund to be about \$2000 ahead which provides a cushion financially but that they are not making any money which they are not trying to make money but just maintain our own planning and zoning administration.

There was no other business to come before the Planning Commission.

Adjournment. Tucker made a motion to adjourn. Linda seconded the motion. No discussion. Motion passed 5-0. Meeting adjourned at 7:32 pm.

- c. **Extractive use ordinance language** – Discuss the current language and possibility of changes, to include making it an allowable use with an interim use permit.

LAND USE TABLES	S D	A G F	UG	RR 1	RR 2.5	RR 5, 10, 20	S S	C 1	C 2	W C	C/ LI	C/ HI	R E S
E. Commercial and Industrial Uses													
Extractive use, mining, gravel pit, aggregate		CU			CU	CU					CU	CU	

ARTICLE 29--EXTRACTIVE USE

The standards in this Article shall apply to extractive uses in all land use districts where such uses are allowed.

29.1 POLICY

Extractive Use mining is an important industry in Crow Wing Township and contributes directly and indirectly to the economy of the Township. Construction sand and gravel are used in concrete, aggregates, concrete products, asphalt, road base, fill, snow and ice control, and other miscellaneous uses. Peat, black dirt, rock, and other soils are used extensively for landscaping. Other extractive uses are or may be used to a lesser degree in Crow Wing Township.

29.2 GRAVEL EXTRACTION PERMIT CLASSIFICATIONS

G1. Top Soil Removal for Commercial purposes.
 Temporary borrow sites incidental to construction.
 No processing of materials or stockpiling of recyclable bituminous or demolition materials.
 Extraction and reclamation to occur in same construction season.
 Peat and humus extraction.

G2. All G1 uses.
 Natural material removal only, no processing with exception for screening equipment.
 Site may be used for many years and developed in phases.
 Site may be used for stockpiling of screened materials.

G3. All G1 and G2 uses.
 Site may include crushing, screening, washing, and processing of bituminous and demolition materials.
 Stockpiling of recyclable demolition and bituminous can occur.

G4. All G1, G2, and G3 uses.
 Site may include hot mix operations and bituminous reprocessing.

G5. All G1, G2, G3, G4 uses.
Site may include redi-mix concrete plant.

29.3 CONDITIONAL USE PERMIT REQUIRED

Extractive uses shall only be allowed as a conditional use in those districts indicated in the use classification list in Sec. 10.3. In addition to the general conditions that may be imposed by the Planning Commission/Board of Adjustment, the specific conditions in this Article shall apply to conditional use permit.

29.4 APPLICABILITY

All forms of extractive use shall be subject to the provisions of this Article including, but not limited to, gravel, sand, topsoil, quarry rock, mineral, peat, humus, sub-surface insitu-leach extraction, petroleum, and any other similar uses in which material is removed from the ground, except for the following:

- A. **Personal, non-commercial use.** Personal non-commercial extractive use by the owner of the land on which the extractive use takes place is exempt from permitting requirements but are subject to restoration requirements in Article 29.6 F within one year of suspension of extraction activities if the site is visible from the public road.

29.5 ADDITIONAL CUP INFORMATION AND REVIEW CRITERIA

As stated in Article 29.3 above, a conditional use permit is required for all new extractive uses, with the exception of the owner's extractive use for personal/non-commercial purposes. As part of the conditional use permit, an Operation Permit shall be required. In addition to the application, information, and review criteria for a general conditional use permit in Article 7, the following specific requirements shall be met for an extractive use conditional use permit:

- A. **Operation permit required.** It shall be required as part of the approval of the conditional use permit for an extractive use that an operation permit be issued. The operation permit shall not run with the land. The Operation Permit will be for a specific operator and for a specific time limit reviewed annually.
- B. **Specific evaluation criteria.** In addition to the general criteria for evaluating a conditional use permit in Article 7, the following specific criteria shall be used in evaluating an application for an extractive use conditional use permit:
 1. The ability of roads to handle extractive-related traffic.
 2. Air quality, dust, and noise control measures and ability to limit impact upon any adjacent residential properties according to MPCA Standards.
 3. Groundwater protection.
 4. Property controlling access.
 5. Control of erosion and sedimentation.

6. Impact within watershed.
7. In harmony with the Comprehensive Plan.
8. Compatibility with adjacent and surrounding land use, zoning patterns, and patterns of development.

C. **Application information.** In addition to the general application information for a conditional use permit in Article 7, the following specific application information shall be provided by the applicant for an extractive use conditional use permit:

1. A written description of the extractive use and operation thereof; including GPS coordinates;
2. Amount of truck activity at highest and average levels; ADT (Average daily total) counts;
3. Dust control measures;
4. Buffer area, on all sides of the operation;
5. Hours of operation, along with duration of proposed activity;
6. Truck routes to and from site;
7. Types of barriers established if necessary for safety of people and livestock by the active area of excavation;
8. Property line location; and full legal description of the site and easement documentation;
9. Reclamation plans;
10. Plans for screening from adjacent properties;
11. Plans for drainage from the site;
12. Long-range plans for the site; phase development and reclamation;
13. Anticipated vegetative and topographic alterations;
14. Proposed mitigation of effects on wildlife;
15. Erosion and Stormwater control plan;
16. Proposed mitigation for cultural and/or archaeological sites;
17. Noise abatement plan;

18. A description of all land uses within one-mile radius of the proposed extraction site.

D. **Site plan.** In addition to the general application information for a conditional use permit in Article 7, the following site plan information shall be provided by the applicant for an extractive use conditional use permit:

1. Location of all extractive use operations;
2. Horizontal and vertical dimensions of the extractive site;
3. All setbacks from roads and adjacent property lines;
4. Location, size, and use of all structures on the parcel;
5. Location of all adjacent structures and their uses within 1/4 of a mile;
6. Area of excavation or phases of proposed excavation;
7. Extent of vegetation in buffer area;
8. All lakes, streams, and wetlands on property;
9. Location of proposed stockpiles or slag piles;
10. Location of reclamation materials;
11. Depth to saturated soil and average water table depth;
12. All wells, both proposed and existing, all water sources and discharge sites;
13. USGS topographical map of the area delineating the site boundaries and access road.

E. **DNR permit.** If applicant excavates into groundwater or below, a permit must also be obtained from the MN-DNR or other statutory regulatory agencies, pursuant to Minnesota Statutes, Article 103G.245. Copy of permit shall be on file prior to commencement of operations.

29.6 REQUIRED CONDITIONS FOR EXTRACTIVE USES

In addition to the general conditions that may be imposed on a conditional use permit in Article 7, the following specific conditions shall be imposed on conditional use permits for extractive uses:

A. **Buffer area.** A 50-foot buffer area, and additional area needed to maintain a 3:1 slope, shall be established between the extractive use site and the property line containing the extractive use. This buffer area may be altered through a written agreement with the adjacent property owner. Proof of the agreement shall be filed with the Department and recorded with the County Recorder and specifically shall state what activities may take place in the buffer area. Without such agreement, the buffer area may be used under the following circumstances:

1. The buffer area may contain the haul road if it is determined by the Township that for safety purposes, the extractive site access needs to be within the buffer area.
 2. The haul road may also be placed in the buffer area to avoid wetlands.
- B. Depth to groundwater separation.** The applicant must indicate depth to groundwater table in plan. Boring may be required. A minimum separation of one foot above the groundwater table must be maintained unless permit is on file.
- C. Reclamation during operation.** All slopes shall be stabilized, equipment and structures removed, topsoil properly placed, and permanent seeding established, banks rounded and other reclamation actions completed on an ongoing basis.
1. Slope the banks at a minimum of 3:1 and otherwise properly guard and keep any pit or excavation in such condition so as not to be dangerous from caving or sliding banks.
 - a. The tops of banks shall be rounded to conform to the surrounding topography.
 - b. Properly drain, fill or level any excavation, after created, so as to make the same safe and healthful as the Planning Commission/Board of Adjustment shall determine.
 2. All trees, brush, stumps, and any other debris removed for the sole purpose of operation of an extractive use site, shall be disposed of in a manner acceptable to the fire warden and the local Solid Waste Department. A copy of the letter of acceptance shall be filed with the Department. In no case shall vegetation from over a 10-acre area be kept on the property unless it is burned or buried.
 1. Keep any extractive use, excavation, or impounded waters within the limits for which the particular permit is granted.
 2. **Closing reclamation plan.** Before any permit is issued, the applicant must submit a reclamation plan for approval by the Township. The plan shall meet the following minimum reclamation standards:
 - a. Reclamation of the site within one year of the expiration of the Operator Permit. All buildings, structures, and plants incidental to such operation shall be dismantled and removed by, and at the expense of the extraction operator last operating such buildings.
 - b. The peaks and depressions of the area shall be graded and backfilled to a surface, which will result in a topography is generally substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall. No finished slope shall exceed a 3:1 slope ratio.

- c. Reclaimed areas shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to be seeded with compatible plants.
 - d. Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosions and be based on SWCD recommendations.
 - e. Extractive use sites may also be reclaimed for wetland mitigation or creation and, if it is the intent of the operator to reclaim in that manner, it must be done pursuant to a plan approved by the Department.
 - f. Reclamation must occur within one year of the cease of operation.
3. **Permit review.** Conditional use permits for extractive uses shall be reviewed by staff every two years at no additional cost to the applicant.
 4. **Mississippi River corridor.** No extractive use, processing plant, crushing plant, wash plant, asphalt plant, concrete plant, or other extractive use shall be located within the Mississippi River corridor.
 5. **Water quality.** The extractive use operation shall not adversely affect the quality or quantity of surface or subsurface water resources as defined by MPCA, DNR, USACOE, or MDH. Surface water originating outside and passing through the extraction district shall, at its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision.
 6. **Facilities setback.** No processing equipment, such as screening, crushing, washing plants, etc., may operate closer than 1000 feet to a residence in existence at time of application unless the written consent of the resident is on file with the Department.
 7. **Hours of operation.** Hours of operation shall be set by the Planning Commission/Board of Adjustment.

29.7 PERFORMANCE SECURITY

The Planning Commission/Board of Adjustment shall require performance security, as specified in Article 3.6 of this ordinance, in an amount sufficient to pay all costs associated with restoration of the extractive use site.

ORDINANCE #2022-01
CROW WING TOWNSHIP NUISANCE ORDINANCE
DRAFT- FEBRUARY 14, 2022

NUISANCES

1.1 PUBLIC NUISANCE.

Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- (A) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public;
- (B) Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or
- (C) Is guilty of any other act or omission declared by law or the Crow Wing Township Land Use Ordinance, or any other part of this ordinance to be a public nuisance and for which no sentence is specifically provided.

1.2 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

- (A) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- (B) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- (C) All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this code;
- (D) The depositing of garbage or refuse on a public right-of-way or adjacent private property;
- (E) All other conditions or things that are likely to cause injury to the person or property of anyone.

1.3 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance.* The outside parking and storage on residential property of large numbers of vehicles and vehicles, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it (a) obstructs views on streets and private property, (b) creates cluttered and otherwise unsightly areas, (c) prevents the full use of residential streets for residential parking, (d) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (e) decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (f) otherwise adversely affects property values and neighborhood patterns.

(B) *Unlawful parking and storage.*

- (1) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on the residential property, unless shielded from public view by an opaque cover or fence.
- (2) A person must not cause, undertake, permit or allow the outside parking and storage of large numbers of vehicles on residential property, except as otherwise permitted or required by the township because of nonresidential characteristics of the property.
- (3) Vehicles, watercraft, and other articles stored outside on residential property

must be owned by a person who resides on that property. Students who are away at school for periods but still claim the property as their legal residence will be considered residents on the property.

(4) Storage Containers. The use of semitrailers, shipping containers, and other similar structures or containers for storage require a permit. This shall not apply to construction storage trailers used on-site during a construction project for a period of 120 days. If all required permits are obtained for the project, the project remains in compliance, and the trailer is removed from the lot upon completion of the project. No habitation is allowed under any circumstances.

1.4 INOPERABLE MOTOR VEHICLES.

(A) It shall be unlawful to keep, park, store, or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of anykind, or which is not properly licensed for operation with the state, pursuant to M.S. §168B.011, Subd. 3, as it may be amended from time to time.

(B) This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road or alley, or adjacent property and which does not foster complaint from a resident of the township. A privacy fence is permissible.

(C) Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that such vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin, and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.

Policy on Violation and Enforcement Actions

Goal: To develop a procedure for dealing with violation situations so that people are treated fairly, actions of the Township are well-thought-out and defensible, and the provisions of the Ordinance are consistently upheld.

Steps in the process:

1. Identifying violations.

Investigating and determining the extent of violations. The violation process begins when the Township receives a report of a violation. The name of the individual/organization making a report is not required. If a name is provided by the person filing the report, it will **not** be made public in accordance with MN Statute 13.44, Subdivision 1 and MN Statute 13.02, Subdivision 3. All reports of violation are documented in the property file, including a statement on whether or not it was determined to be a violation. Where possible, pictures should be taken of every violation. The Planning Commissioner is responsible for making the preliminary decision on whether or not something is a violation. The Planning and Zoning Administrator reports all violation complaints and administrative decisions to the Planning Commission for review and to the Township Board for their oversight.

2. Notifying property owners of violations.

The Zoning Administrator or member of the Planning Commission attempts to contact the property owner to notify them of the violation verbally. After making verbal contact or attempting to make verbal contact, the Zoning Administrator shall notify the property owner in writing. In the certified letter of violation, the property owner shall be directed to provide a written plan (and site plan if applicable) within 14 days to remedy the violation. The violation letter should cite both the local ordinance violation and any state statute violation. The letter of violation should indicate that the property owner could appeal to the Planning Commission the staff interpretation of the Ordinance. All interaction with property owners is to be handled in a friendly manner.

3. Discussion with property owner/seeking a resolution.

For unresolved violations, the Township Clerk is to issue a certified letter to the property owner requesting they meet with members of the Planning Commission to discuss the violation. This meeting is **mandatory**; the meeting will be set on the date of the next Planning Commission meeting at a specified time at Town Hall. If the owner or a representative cannot attend, **they must schedule an alternative time to meet, or further enforcement action will take place.**

4. The Planning and Zoning Administrator reports to the Planning Commission monthly on the deliberation and ongoing discussion for each violation.

Violations are expected to be resolved within 90 days from the first meeting (or within 100 days after the letter of violation is sent). Extreme conditions can be reviewed to satisfy the complaint.

5. Moving beyond negotiations.

For unresolved violations, the Planning Commission recommends a course of action to the Township Board. The Planning commission should consider testimony from the Planning and Zoning Administrator and the Township Attorney when recommending.

The Commission’s recommendation must include findings and shall recommend a course of action that could include:

- a. Criminal prosecution
- b. Civil litigation
- c. Placing a hold on a property owner’s file (not allowing any permits from the property until the matter is resolved)
- d. Any enforcement action listed in Section 3.5 of the Crow Wing Township Land Use Ordinance

The Township Board is to receive the recommendation from the Commission and make decisions on how to proceed. The board should receive all correspondence and other pertinent information to support the Commission’s recommendation. The property owner should be notified in writing of the decision of the Township Board. Confidentiality regarding the complainant will be maintained in all aspects of this process.

Key participants and decision-makers:

- Township Board (ultimate decision makers)
- Planning Commission (advisory board)
- Township Attorney
- Planning and Zoning Administrator
- Property Owner and Representatives

Policy Adopted on _____

Tucker Schuety, Town Board Chair

Brad Arnold, Planning Commission Chair

