

**Town of May
Washington County
Planning Commission
November 30, 2017**

The Planning Commission of the Town of May met for their regular meeting on Thursday, November 30, 2017, at the May Town Hall. Members in attendance were: John Arnason, Chairman; Steve Magner, Don Rolf, Lester Rydeen. Absent: Jyneen Thatcher, Mitch Otterson, Jeff Chase and Chad Nelson. Also present were Linda Klein, Town Clerk; Bill Voedisch, Town Board Chair and Town Planner Nate Sparks. Chairman Arnason called the meeting to order at 7 pm.

Approval of Minutes

Rydeen moved, seconded by Rolf, to approve the September 28, 2017 minutes. All approved.

Public Hearings

**BTG and BTG II Mining Permits
Washington County Mining Permit**

BTG and BTG II

Arnt Construction has submitted applications for new 5 year interim use permits to continue the operation of the gravel mines known as BTG and BTG II. The BTG mining pit is a 105 acre mine located off of May Avenue, south of the Washington County mine and west of BTG II. The BTG II mining pit is 134 acres in area and is located north of County Road 7, east of BTG I. The proposed request would allow for new interim use permits to be issued for both the BTG and BTG II mines through 2022.

There are three existing mines in the Town of May. (Washington County, BTG I and BTG II). The Comprehensive plan defines the boundaries of the mining area within a Mining Overlay District, which is an L-shaped area bordered on the west by May Avenue and the south by CSAH 7. Both the BTG and the BTG II sites are located within this overlay and are planned for future residential use in the Town's Future Land Use Plan.

BTG Mine. The BTG property is 105 acres in area. The current permit allows for the extraction of sand and gravel and the crushing of gravel, mined from this site only, in accordance with the submitted plans. Recycling of product (hauling in and crushing of blacktop and concrete) is specifically prohibited. The applicant has submitted a revised map illustrating the mining area proposed for 2017-2022. The mining area for 2012-2017 was on the eastern portion of the site and is proposed to move for this five-year period towards the west. The area to be mined is about 20 acres in size. The central portion of the site is intended to be used for a processing area.

A restoration plan illustrating existing and proposed contours is included with the plan set. There are areas within the mine that are no longer proposed for extraction and are proposed for final restoration consistent with the previously approved restoration plans. This work is intended to occur within this permit period.

BTG II Mine. The BTG II property is 134 acres in area. Mining and crushing of material is subject to the plans submitted by Bruce Folz and Associates in December of 1991.

The applicant has submitted a revised map illustrating the mining area proposed on the BTG II site for 2017 - 2022. The mining area is approximately 20 acres in area and is located at the northwest corner of the property. It is largely the same area as approved in 2012. An updated restoration plan showing existing and proposed contours is included.

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

The depth of the excavation on BTG is limited to an elevation of 954. The depth of the excavation on BTG II is limited to 934 feet. This is not changed from the previous approvals.

Hours of operation remain the same at 7 a.m. to 7 p.m., Monday through Saturday. Both mines are accessed through the BTG II site directly from County Road 7. Washington County uses this access route, as well, for access to their mine. The applicant is proposing to relocate the internal road as the current route is through an area intended for restoration. The new road will be slightly to the east on the BTG II site and then enter the BTG site and travel further north before going eastward towards the excavation area and the access to the Washington County mine.

Site access is proposed from County Road 7. Traffic to the site is intended to follow larger capacity roadways, such as this. The Town has received complaints that trucks coming to the site have been using lower volume Town roads that may not have the structural capacity of handling heavy truck traffic.

The subject mines have been in operation for about 40 years. The Town understands the importance of mining aggregate material, where it exists, as it is a finite resource. However, it also understands the negatives associated with the activity on the surrounding area. The Town and County regulate the use and attempt to control the negative aspects via this permitting process and the conditions placed on the permits.

Planning Commission Discussion

Town Planner Sparks presented the Commission with an overview of his staff report noting all the provisions of previous mining permits. Arnason asked Sparks to highlight any changes that might be noted in the new permits for BTG and BTG II. Sparks stated that the approved Master Plans are still being following, they are mining in increments, moving from east to west. He noted that the internal access road is being moved (also used by Washington County mines) because restoration will be taking place where the road is currently located.

Sparks noted that BTG activity is more carefully defined in this permit. He also stated that the amount of the restoration bond may need to be adjusted to account for material disposition and reclamation issues. The engineers from both entities (May Township, mining operators and

Washington County) will need to work together to determine an acceptable amount. The new permit also states that if the mine owners wish to build any additional structures, such as a scale for weighing materials, they will need to come before the Town Board.

Arnason asked if on-site crushing hours of 150 days are for both mines, or 150 days for each individual mine. Sparks stated it would be 150 for each mine.

Rydeen asked about noise generated by the crusher, noting that other mines have noise mitigating devices such as a hood that goes over the crusher. He also asked if they would be using new technology back-up sounds on their vehicles.

Magner asked if there had been complaints about truck traffic early in the morning. The commission discussed the longstanding difficulty of the mining operation receiving trucks before their scheduled opening. Jim Arnt, representing BTG, acknowledged that most drivers are at the site early. They are allowed to have the gates open at 6:45, which gets the trucks off Highway 7 and into the site.

Arnason asked about the depth of excavation, and Sparks replied that it is related to the known table. The terrain of the mining area is variable, which results in differing excavation depths.

Arnason moved, seconded by Rydeen, to open the public hearing for all three mines. All approved.

Sparks raised the topic of the potential insufficient bond amount, given the new areas of reclamation. He noted that the engineer will be discussing this with the operators and will determine an acceptable bond amount before the Town Board meeting.

Magner moved, seconded by Rolf, to recommend approval of the BTG and BTGII permits with the following conditions, noting that the Town Board could also consider asking for a more detailed crushing report (specific days) and possible inclusion of noise abatement requirements.

1. The standards and conditions from the previous permits shall remain in effect.
2. The applicant shall receive all necessary permits and shall adhere to all conditions from Washington County.
3. The applicant shall receive all necessary permits from the Watershed District. All correspondence for this permit shall include the Town Engineer.
4. The restoration plan and bond shall be reviewed and approved by the Town Engineer. The bond shall be in the amount required by the Town Engineer. A letter of credit or cash escrow may be substituted for the bond.
5. Mining areas shall be limited to that which is defined within the revised plan.

Washington County Mining Application

The Washington County Public Works Department has submitted an application for an interim use permit to continue the operation of their gravel mine. The mine has been in operation since 1974 and is located on 2 parcels north of the BTG Mine near where the railroad tracks intersect May Avenue. The eastern parcel is 26.86 acres and the western parcel is 39.55 acres in size. In historic documents this mine is referred to as the "Schroeder Pit". The property is currently

zoned Rural Residential and is partially in the Shoreland District due to its proximity to Carnelian Creek. The site is located within the Town's designated Mining Overlay Area and this use is permitted in this area with an Interim Use Permit.

The proposed use for the site is to extract sand and gravel, crushing and processing of gravel, and the stockpiling of asphalt materials (millings to be mixed) from County projects. Materials on the site do not require blasting and no sand or gravel washing is proposed. The concrete and asphalt products are not recycled. The previous 5 year permit anticipated removing 20,000 to 25,000 cubic yards of material from the site. However, the County did not do any active mining but was processing material previously mined and stored on site. The crushing operation created approximately 25,000 cubic yards of material.

This permit extension is seeking approval to remove 20,000 to 25,000 cubic yards of sand and gravel from the mine, which will all come from the current mining limits. The amount of material to be processed is proposed at 25,000 cubic yards which will incorporate asphalt millings. The millings and gravel will then be mixed in generally equal portions and mostly used for the shoulders of County roads. The materials are stockpiled on the pit floor for use by the County on an as-needed basis for various projects around the County.

Sparks went over details of requirements of the existing permit. Regarding hours of operation, he noted that the hours should be consistent with hours of operation for the other two mines in the area, which are 7 am to 7 pm. The Washington County Pit and the BTG mines share an access off of County Road 7. The site is accessed via the haul road through the BTG mines.

Andrew Geisen, Washington County, was not aware they needed a permit from Carnelian Marine. He will contact Jim Shave to clarify.

Magner moved, seconded by Rydeen, to recommend approval of the interim use permit for the Washington County Mine, subject to the following conditions:

1. The standards and conditions from the previous permits shall remain in effect.
2. The applicant shall receive a permit from the Carnelian-Marine-St. Croix Watershed District. All correspondence regarding this permit shall be provided to the Town for Engineering review and approval.
3. Regular hours of operation shall remain at 7:00 am to 6:00 pm on Monday through Friday except holidays.
4. The term of the Interim Use Permit shall be through 2022.
5. The restoration bond shall be in an amount as determined by the Town Engineer.
6. All comments from the Town Engineer and Attorney shall be satisfied.

All approved.

Public Hearing

Ordinance Amendments – Small Cell Wireless

In May 2017, the State Legislature amended State Statutes to allow for wireless service providers to place “small cell wireless” facilities within the right-of-way, in a similar manner to traditional telecommunications providers. Small cell wireless facilities are essentially small wireless antennae that are placed on structures other than large cell towers. This would allow for wireless

companies to place antenna and support structures in the right-of-way to provide service to their customers. This may be done by putting the facilities on existing light poles or installing poles and placing the antenna on the top. Municipalities may adopt some limited restrictions on the use and require permitting by ordinance.

Traditionally certain limited types of industries have the ability to use the public right-of-way: cable, telephone, electric, and gas utility companies. New legislation now includes wireless companies in the list of potential users of the right-of-way. These new statutes list the rules by which the wireless companies could install equipment in the right-of-way. They may place their facilities on top of streetlights, telephone poles, and other similar structures already present in the right-of-way. They may also install their own utility poles for use. The statutes state that no pole installed may be greater than 50 feet in height unless otherwise allowed by a municipality.

Municipalities can also impose other regulations, including requiring permits prior to installation. This would allow for review of its placement by the engineer to ensure there are no conflicts with the use of the right-of-way. Municipalities may also require CUPs in single family residential neighborhoods.

Sparks informed the commission that if the Town wishes to regulate how this new statute is applied on Township roads, an ordinance must be passed by December 31, 2017, stating the terms of the Town's regulation. He recommended requiring a permit, specifically a Conditional Use Permit, for these facilities to be installed in the Town's right-of-way. The purpose of this public hearing is for the Commission to discuss and review the proposed ordinance, which would then be passed on the Town Board for approval at the December meeting. Sparks is currently reviewing the Town's right-of-way use ordinances in an attempt to identify necessary changes and how necessary permitting provisions can be inserted into code.

Sparks went through the details of the ordinance and the Commission agreed on most items. They discussed existing setbacks for other poles in right of way and noted that they would not change. Arnason asked about adding a bond for removal to the ordinance. They also discussed requiring electrical be underground if it is underground already in the existing area.

Magner moved, seconded by Rydeen, to open the public hearing. All approved. Magner moved, seconded by Rydeen, to close the public hearing. All approved.

Magner moved, seconded by Rolf, to recommend to the Town Board that they adopt the right of way ordinance as written, taking into consideration the need for a removal bond and noting the requirement for underground electric where indicated. All approved.

Hearing no further business, Arnason moved, seconded by Rydeen, to adjourn. All approved.

Respectfully submitted,

Linda L. Klein
Town Clerk