

Houston County Planning Commission  
December 21, 2017

**Approved on February 15, 2018 by Jim Wieser and Ed Hammell**

The Houston County Planning Commission met at 7:00 p.m. on Thursday, December 21, 2017. A summary of the meeting follows.

The meeting was called to order by Chairman Burns. Roll call was taken. Members present were Bob Burns, Daniel Griffin, Larry Hafner, Ed Hammell, Rich Schild and Jim Wieser. Aaron Lacher, Zoning Administrator/Feedlot Officer was present for zoning. Justin Zmyewski, County Commissioner was present.

The agenda was reviewed. Dan Griffin made the motion to accept the agenda. Rich Schild seconded. Motion carried.

The minutes from November 16, 2017 were reviewed. Jim Wieser made the motion to approve the minutes of November 16, 2017. Larry Hafner seconded. Motion carried.

Guidelines for the public hearing were reviewed.

At this time Justin Zmyewski made a motion to close the Planning Commission meeting. Rich Schild seconded. Motion carried.

**Notice of Public Hearing No. 880** was read. **Skyline Materials, LTD**, 900 Montgomery Street, Decorah, IA 52101 is seeking a conditional use permit to do mineral extraction in an agricultural district in Section 8 and Section 5 of Winnebago Township. (Site location is 10159 County 5, Caledonia, MN 55921)

Chairman Burns asked if any member had a conflict of interest concerning this request. Ed Hammell indicated he would recuse himself from the final vote.

Aaron Lacher, Zoning Administrator/Feedlot Officer, pointed out the site on the Arc Map Photo. Mr. Lacher made the following comments in regard to the application:

- Petitioner requests a Conditional Use Permit for mineral extraction in an Agricultural District.
- Skyline Materials inquired about a proposed expansion of the existing Winnebago Quarry to the east of C.R. 5 in late 2016. The quarry was being operated without a permit and was argued to be a legal nonconforming use. Rather than having Houston County make a decision on nonconforming status, Skyline chose to begin the process of seeking a permit for the site.
- The request covers a previously mined 6.4 acre area as well an additional 27.9 acres east of C.R. 5. Skyline completed a voluntary Environmental Assessment Worksheet (EAW), which the County found to be complete; a resolution of negative declaration on the need for an Environmental Impact Statement was subsequently approved.
- A driveway permit is necessary on the east side of C.R. 5. The current driveway was issued a temporary permit in 2010 that allow for temporary access from 9/8/10 to 7/1/11.
- Traffic count is 170 vehicles per day on C.R. 5 at the quarry location.

- A zoning violation letter was sent on 11-17-10 due to a violation of setback from a property line. As a result a variance of 27' was sought and granted on 3/10/11.
- A problematic area exists on the existing 150' high wall that is experiencing erosion. At the County's request, Skyline has undertaken efforts to halt future erosion and is monitoring the area. If more drastic measures are necessary, the expectation is that Skyline would implement them.
- In the fall of 2016, Skyline had stockpiled materials in a drainage way and in a location atop the quarry. Rains washed this material off site and deposited it on private and public property, resulting in a Notice of Violation being issued by the MPCA. Stockpiled materials have been relocated to areas outside of the drainage and berms have been improved on the site. Skyline has cleaned up the discharge on their property and has agreed to clean up the discharge on a portion of private property. If necessary, a condition could be added to a CUP requiring cleanup.
- A lengthy discussion of site characteristics is contained in the included EAW. (On file).
- Winnebago Township and the ten closest property owners were notified. Comments from property owners received were that Skyline trucks servicing the existing quarry drive too fast, create too much dust, and create congestion by staging along County 5.

Chairman Burns asked for comments from Skyline Materials. Jeremy Bril, project engineer, and Ron Fadness, general counsel, spoke for Skyline Materials.

Ron Fadness gave some background on the quarry. The original 40 acre parcel is separated in half by County Road 5. They recently purchased additional land and have included all acres in the conditional use application. The product that comes out of the quarry is limestone for use in local road and building construction in Houston County. There is no sand of any kind. The topography and terrain are similar to the west side.

Jeremy Bril detailed the aerial photo (B-9 in the packet on file). Of the 27.9 acres, Phase 1 contains 15.5 acres and Phase 2 contains 12.4 acres. A crushing operation will be set up in the existing quarry (west side). Eventually the crushing operation will be moved on the other side (east side) in approximately 2-5 years. It will take approximately 70 years to use the east side. The Phase 1 option is advantageous as they are moving away from residents of concern.

Dan Griffin asked how long they plan to use the west side. Ron Fadness said that area is about exhausted. It will take approximately 2 to 5 years to have things fully up and running on the east side.

Bob Burns asked about the anticipated stormwater flow in Phase 1A and Phase 1B. Jeremy Bril indicated that it depends on the amount of water they run into during development. The aerial photos (Figure B.12 and B.13) were discussed and the locations of potential detention ponds and storm water berms. Bob Burns asked if they are advised where these locations have been determined. Jeremy Bril indicated they automatically set up berms right away, but the potential detention ponds are not a definite, as they are not sure how much water will be coming down.

Dan Griffin questioned the traffic count of 170 vehicles using County 5 per day and 150 trucks also using County 5. He is wondering if there should be signs or flaggers during busy haul times. At what level does there need to be traffic control. Jeremy Bril said they can put up signs or have flaggers on the road.

Dan Griffin continued to ask how often they would have 150 trucks in use. Jeremy Brill said they typically crush 3 to 5 days, 2 to 3 times per year. There could be up to 15-25 trucks per day when not crushing.

Bob Burns asked if there was approval granted on the access road from the Highway Engineer. Jeremy Brill stated they would need to confirm that with the engineer. This is generally approved after a permit is granted.

Larry Hafner questioned if it is 75 round trips per day for a total of 150 trucks. This was confirmed and they would be sharing road for about 300 feet.

Dan Griffin questioned if the overburden will be brought over to the west side. Jeremy Brill said some will and some will remain for the berms on the east side.

Dan Griffin asked about the issues with the west wall in the old quarry. Jeremy Brill said it is rare that they run into a problem like that. They plan to stair step operations on the new proposed site and be proactive about it. There was general discussion on how the clay fissure could be fixed on the approximate 100 foot wall. Jeremy indicated there is silt fencing in place right now and overburden can be used.

Dan Griffin asked how much space is available on the west side for stock piling. Ron Fadness said approximately one-third to one-half of the area is available for stock piling.

Rich Schild asked if they have worked with a structural engineer on the clay fissure issue. Ron Fadness indicated they have talked to the DNR, MPCA and ASCS. Dan Griffin asked if Skyline had people in house who know how to take care of situations like this. Ron Fadness said this is not very common. Dan Griffin stressed the fact that this a weak area. Ron Fadness said this is a seventy plus year-old quarry and they have owned it for 8 years. Dan Griffin said the fissure should have been noticed some time ago, and there is concern that this does not occur on the east side. Ron Fadness said the east side will be benched as the quarry develops, so anything like this can be caught early.

Rich Schild expressed the concerns of sediment being washed into Winnebago Creek. Ron Fadness said most of that has been taken care of. They are working with MPCA and the County to work with landowners (Gaustads and Almos) to clean up the area. The landowners have to grant permission for them to access their land and they have not received permission yet.

Dan Griffin asked about Skyline's MPCA stormwater permit and what is in place at the existing quarry site. Ron Fadness said water should not leave site, if it does, then reporting has to be done. Jeremy Brill also said there are monthly inspections done; they need to have a stormwater retention plan. Jeremy also talked about what they have done to clean up the existing site. They have made several improvements and are keeping the water on site.

Bob Burns asked if MPCA actually approves any of the improvements they propose. Ron Fadness indicated they do not get a response from MPCA, rather they must tell MPCA what their plans are.

Larry Hafner asked what happens when there is a 7 or 10 year rain event. Do they know what is considered standard and how do they handle it. Jeremy Brill said they have asked MPCA what is considered standard and they do not know. Ron Fadness said MPCA says they will know when they see it, but they give no guidelines.

Dan Griffin said there doesn't appear to be a berm there. Jeremy Brill said there is a berm; he passed out some photos on the improvements they have done.

Aaron Lacher suggested they could possibly use some of the east side overburden to fix the west side erosion issues.

Rich Schild referred to comments from the neighbors saying trucks will go too fast and dust concerns. Ron Fadness said the trucks will be going from east to west and would be going 10-15 miles an hour. A water truck will be on hand for any dust control issues. Dan Griffin also suggested they could be some chloride down.

Aaron Lacher asked about the comment that trucks are staged on the road waiting to get in. Ron Fadness said this is not an issue he has heard about except for when an asphalt plant is actually running.

Jim Wieser asked if they plan to have a wash plant for concrete products. Ron Fadness indicated they would not because it would require another conditional use permit. Jim Wieser then referred to photo B-12 and the fact that they are very close to the west side property owners. Ron Fadness indicated the quarry is near the end of its useful life and that is why they wish to expand.

Chairman Burns asked for comments from adjacent property owners.

Diane Fields spoke. Her main concern is the west side of the quarry and that it is collapsing. A variance was granted in 2011 because the setback was violated. She has concerns there may be a well or cistern on the quarry property. The ordinance requires a reclamation plan and she worries about promises that aren't kept. They have had fly rock incidents and some rocks have been large. Fire service specialist, Bruce Roed, is who they contacted about the problem. He made suggestions to Skyline on how to stop fly rock incidents from happening. Skyline did clean it up, but this did not have to happen. She is wondering about the existing quarry when they say it is nearing the end. Why don't they take everything they can out of it. Lastly, she hopes the planning commission finds that the intensity of the proposed commercial or industrial development is greater than the intensity of the surrounding use from the agriculture protection district standpoint. She believes this is more of an industrial project. She is very concerned that her property value will go down due to the mine proximity.

Michael Fields spoke. (A copy is on file). Mr. Fields stated that in March of 2011 the county officially designated the Winnebago (Lang) Quarry a non-conforming use. He stated that Skyline has enjoyed a grandfathered status for nine years and they should not be allowed to expand beyond the original 40 acre parcel. The ordinance states the cap size for an aggregate mine is 40 acres. In relation to the Houston County Comprehensive Land Use Plan

he believes the biggest problem with the Skyline expansion proposal is that bluffs aren't supposed to be mined at all, as well, Houston County has determined that it is important to protect the environmentally sensitive areas such as the bluffs, woodlands and water resources from scattered urban growth to minimize pollution to the ground water supply, to minimize soil erosion and to preserve wildlife habitat. He stated that the section of County 5 in question has bluffs, woodlands, a trout stream and wildlife habitat. He has concerns of the erosion happening in a portion of a 100-foot cliff-face next to his property. Skyline indicates there will be no benching or phased reclamation and this does not conform to the intent of the Land Use Plan. A 2006 report was shared on the Impact of Gravel Pits on Residential Property Values which states the loss in property value results from the negative consequences of the mining operation and reflects the deterioration in the area's quality of life due solely to the operation of the gravel mine. Mr. Fields believes the Zoning Ordinance needs to be revisited as terms need to be defined so there are no hidden meanings.

Robin Gaustad has property on the east and west side of County 5. They have been concerned about the mining practices of Skyline for some time and that Skyline is damaging their property and the dry runs. They were happy to hear that things may be cleaned up when they received a letter from the DNR. The Resource Protection Notification stated that the Bruening Rock Products/Skyline Construction, Inc. quarry at 10159 County 5 had materials washing into a dry run and into Winnebago Creek causing fill into the creek. Nicole Lehman, from the DNR office in Rochester, MN called and described the same issues and scheduled a meeting. The Bruening employees came with their lawyer and wanted the Gaustads to sign an agreement regarding work to be performed. She believes this is mismanagement. It was clear that they wanted to get the work done quickly since the hearing was coming up. They should have done their mining activities proactively and they wouldn't have these problems. She feels that they have had little to no time to react. The damage includes a dry run that drains into Winnebago Creek. She thinks this conduct will continue. She has not seen a resolution that current problems are being addressed. She agrees with the reclamation issues that Diane Fields brought up.

Dan Griffin asked Robin Gaustad when she first noticed the sediment in the dry run. Robin said about two years ago. She doesn't think the current remedy they are using is long term. Dan Griffin said that Skyline cannot control the amount of water that comes down the valley but they can control the sediment. Dan Griffin asked how many trucks she sees on the roads. Robin Gaustad said is an up and down nature and depends on the demand but they need to be proactive in their practices. Dan Griffin asked her what her main concern was of the operation. Robin Gaustad said degradation of the valley is her main concern and the beauty of the valley will be lost. Dan Griffin asked if she was aware of the existing quarry when they bought their property. Robin Gaustad indicated she was but in recent years the area has been heavily impacted. She also believes Bruening's track record is not very good and she doesn't trust them.

Audrey Almo letter was read. (A copy is on file). She is unsure why it took until 2 weeks before the hearing for Bruening to step forward to clear out the dry run. Her basement has been flooded at least 5 times in recent years, whereas the cabin had no water in the basement for the 45 years she's owned the cabin. Each time it floods, she loses a well pump, even after it was put on the basement ceiling. The waters bring in mud, which she's had to

have someone clean up. The land by her shed/outhouse has been eroding away along the dry run, where much of the flood waters leave her property since the dry run problem. With the MPCA violation or notice of problem unresolved, she doesn't feel a CUP can be issued. Adding a new mine across the road from the Winnebago Quarry, which is higher, will only exacerbate the problem. With Camp Winnebago being a new adventure now, Houston County/Caledonia will be bringing more visitors to Winnebago Valley. With another mine, it will no longer be the beautiful, peaceful Winnebago Valley. Trucks waiting on the road to enter the quarry hold up traffic. The road is too curvy to pass the trucks safely. Please think of the best interest of those living in the valley, and those who wish to "get away" for a peaceful retreat.

Chairman Burns asked for comments from members of the public.

Bruce Kuehmicel spoke. He stated that Skyline cannot continue their operation until the MPCA issues are resolved. The affected area is approximately 700 feet long and ranges in width from 10 feet to 15 feet and the depth ranges from 1 foot to 3 feet. He spoke to Steven Speltz in regard to the August 2016 rain event that was anonymously notified to the DNR and then forwarded to MPCA. It was proved that the materials came from the Skyline mine. Skyline created their own remediation project. A stop work order should be issued until the problem is fixed.

Bryan Van Gorp spoke. He stated he is not against mining and conditional use permits. However, he sees lack of planning in the Skyline application. Who was keeping an eye on it site, and how did the problem get out of hand. Their plan does not have a phased reclamation plan and that is troublesome. It also states that the maximum trips are 25 trips per day although 75 trips were talked about tonight. Skyline is a chronic offender and a stop work order needs to be issued. There is lack of clear information that has been made available and hopes the same mistakes are not made with this site.

Steve Hartwick spoke. He indicated there is supposed to be a 1,000 foot setback and he sees that it is only 500 feet. The reclamation plan on the west side doesn't start until 5 years out. The new driveway will need to have culverts. Off street and loading space is not available because they are talking about parking on County 5. The issues need to be dealt with now and not down the road.

Yvonne Krogstad is confused about the number of acres allowed for mining operations. She wonders if buffers are included as this is confusing. Skyline should take care of the problems with the west mine first and come into compliance before being granted to continue to the east side. Skyline's plan is not in line with the ordinance.

Ken Tschumper spoke. He agrees with Mike Fields that this is an expansion of a non-conforming mine. This was validated as a non-conforming mine by the county. He agrees that all current violations need to be taken care of before Skyline can continue operations. There has been an ongoing battle with individuals and the county on regulating mining operations.

Chairman Burns asked for any additional comments from Skyline Materials. Ron Fadness replied to some of the comments made. He said there are several references that they are expanding beyond 40 mine acres. They are not. They own a total of 55.5 acres, this

includes the east and west sides together. They have disturbed 6.5 acres on west side and plan to process 27.9 acres on the east side. The quarry will never be 55.5 acres. They are not mining bluffs, this is a hillside. The fire marshal mentioned came out and there were no violations given. There is no well or cistern on the property, the state archeologist had to verify this on the EAW. The MPCA violation referred to did not strong arm anyone. The guidelines say they must complete this work within 60 days and they can't do it without the permission of the Gaustads and the Almos. MPCA does not provide guidelines or tell them what needs to be done; they must come up with a plan of action and work with the landowners and this puts them between a rock and a hard place.

Dan Griffin questioned the agreement they wanted the Gaustads to sign. Ron Fadness said it stated they cannot go on their land without their permission. MPCA wanted an agreement drawn up on what they were going to do, but indicated they (MPCA) would not be responsible. The 60-day MPCA timeline is being used against them because they cannot gain permission from the landowners to do the work.

Jeremy Brill discussed the letter from MPCA dated August 2, 2017. They (Skyline) responded on October 6, 2017 with their answers as to what happened. Larry Hafner stated they were trying to comply, but they weren't seeing results.

Rich Schild wanted further clarification on the agreement regarding the work to be performed and what MPCA indicated they need to do. Ron Fadness stated MPCA does not tell you what to do; they want us to tell them what we plan to do. He wishes they would provide details on what they expect to be done. However, nothing can happen now because the landowners have hired attorneys, so everything must go through the attorneys.

Dan Griffin asked who Skyline would be servicing with their limestone. Ron Fadness indicated they service various projects and need to have quarries in several areas of the county. If they go farther than 15 miles to deliver to a site they are paying too much to truck it. They also do not have trucks waiting on the road to enter the quarry. There have been comments that the trucks go too fast and too slow.

Aaron Lacher asked if Skyline had reviewed the purposed conditions on the financial surety on the approaching reclamation. Ron Fadness said their bonding covers all their quarries no matter how large or small they are.

Larry Hafner has concerns with the erosion on west side. Ron Fadness stated they are taking progressive steps to solve that problem. Larry Hafner believes they need someone in there with knowledge on how to fix it and that credibility on fixing this is an issue. Silt fencing is a temporary fix.

Dan Griffin suggested it would be beneficial to come up with a solution to fix the wall erosion and the berm issue on the west quarry site.

Chairman Burns asked for a motion to close the public hearing.

Justin Zmyewski made a motion to close the public hearing. Larry Hafner seconded. Motion carried.

Larry Hafner made a motion to reconvene the planning commission meeting. Justin Zmyewski seconded. Motion carried.

At this time, there was general discussion on having Skyline come up with a detailed plan on fixing the issues at the old quarry. It was asked if members had visited the site. Justin Zmyewski indicated he had been to the site in the past, but not recently. Rich Schild was not able to attend a site visit either.

Dan Griffin made a motion to table further discussion of the application until the February meeting. Justin Zmyewski seconded. Motion carried.

The following issued Zoning Permits, which met all requirements of the Houston County Zoning Ordinance, were provided:

4629	Neal Thomas – Spring Grove Township Build ag shed (24' x 30')
4630	Brent Newgaard – Wilmington Township Build pole building (40' x 64') no animals
4631	Tim Morken/Morken Farms LLC – Black Hammer Township Build pole building to house turkeys (60' x 512') - (CUP #399)
4632	Tim Carpenter – Houston Township Build grain bin (10,000 bushels)
4633	Jerod and Naomi Hoel – Money Creek Township Build house (32' x 48') garage (32' x 34')
4634	Corey and Kerry King – Winnebago Township Build ag building (50' x 80')

**OTHER BUSINESS:**

Larry Hafner made a motion to adjourn the meeting, Justin Zmyewski seconded. Motion carried.

Submitted by the Planning Commission Clerk on December 26, 2017.