

Canosia Township Planning & Zoning

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WASTE WOOD RECYCLERS CONDITIONAL USE HEARING MINUTES Monday, February 5, 2018

1. **CALL TO ORDER:** Chairman Kurt Brooks called the meeting to order at 5:29 p.m. The pledge of allegiance was recited.
2. **OPENING STATEMENT:**
 - a. Chairman Brooks stated the following:
 - i. The purpose of the hearing is to consider the application by Waste Wood Recyclers, LLC for a Conditional Use Permit for an Extractive Use- Class II and Industrial Use – Class II at the address and legal description of the land as officially posted (formally the Ulland Brothers barrow pit.) Uses would include a barrow pit that may conduct gravel crushing and recycling of asphalt and concrete; a wood debris collection and recycling site; truck, trailer, and equipment parking; a maintenance and repair shop for equipment; and the sale of mulch, woodchips, compost, soils, and gravels.
 - ii. A previous Conditional Use Permit Hearing was conducted on 11/29/17 with a decision in favor of granting a permit to Waste Wood Recyclers. Subsequent to that hearing the Canosia Township Planning and Zoning Commission determined that the application was in error or not complete and the decision was voided as is required by the Zoning Ordinance 2017-01. A new application has been submitted and the hearing process will be done over again considering the testimony and evidence submitted at this hearing. The first part of the hearing we will hear testimony describing the proposal and get public comments on the proposal. The second part of the hearing will be the board deliberation and discussion of the testimony presented to determine if a conditional use permit will be denied or granted.
 - iii. Discussions will be limited to the stated purpose of the hearing.
 - iv. Anyone wishing to comment or ask questions will be allowed to do so.
 - v. No speaker will be permitted to speak more than twice except to ask a question or answer a question from the board.
 - vi. Each speaker will be limited to a total of five minutes.
 - vii. No applause or interruptions are permitted.
 - viii. All comments and questions must be directed to the board chair.
 - ix. Only one person will be allowed to speak at a time.
 - x. Each speaker must state his or her name, address, and the group he or she represents (if any) before speaking.
 - xi. The board may ask questions of the speakers.
 - xii. The board may recess the hearing to another date and time in order to properly hear all those concerned, it may collect further information, or may make a final decision of either denying or granting a conditional use permit.
 - b. Chairman Kurt Brooks and commission members Kyle Anderson, Tom Collard, Mike Podgornik, and Dan Jerieski, Secretary Amber Madoll, Zoning Director Tim Walburg, Supervisor Kevin Connick, Supervisor Dan Golen, and 32 residents were present.
 - c. Canosia Township Planning and Zoning Director Tim Walburg states that the application submitted by Waste Wood Recyclers was complete and that all fees were paid.

- d. This conditional use permit is being considered under the Canosia Township Zoning Ordinance 2017-01 Article V, Section 5.6.A.4.C and Article VI, Section 6.23 which states that this is an allowed use with a conditional use permit.
- e. The notice of the public hearing was posted on 1/19/18 by Secretary Madoll in the Duluth News Tribune, at the two official posting sites, and through 16 letters sent to local residents. No letters were returned.
- f. The following board members had conversations outside of this hearing concerning this conditional use permit:
 - i. Tom Collard contacted Waste Wood Recyclers and requested a tour of the barrow pit, which did occur.
 - ii. Mike Podgornik received two anonymous calls from concerned residents who wanted to know if information they had received was accurate concerning the conditional use permit application. He encouraged them to attend the hearing.
 - iii. Chairman Brooks received emails from Gordy Westendorf and Sheila Buchheit. The Township received four records requests via email from Jim Gilmore and Ryan Crurer. As a town supervisor, he attended the December 2017 and January 2018 regular town board meeting where multiple residents verbally brought up concerns related to the conditional use permit application.
 - iv. Kyle Anderson and Dan Jereiski state that they did not receive any communications.
 - v. Sheila Buchheit and Gordy Westendorf's emails were read out loud during the hearing. Motion made by Kurt Brooks, seconded by Mike Podgornik for the emails to be attached to the meeting minutes. Motion carried 5 – 0.

3. **APPLICANT'S COMMENTS by Garrett Campbell:**

- a. The conditional use permit will enable Waste Wood Recyclers to use the property as a barrow pit with a slight increase in activity for wood processing, and a maintenance building- to be determined later with a land use permit- that will hold company trucks.
- b. We have redesigned the land use permit application for the maintenance building moving the location as far back on the property as possible. It would be at least a quarter of a mile in from Industrial Road and a quarter of a mile in from Midway Road. There is a land use permit application for this building that has been submitted. The intent is to minimize the impact from noise, light and activity to the neighboring properties.
- c. We currently have four semi-trucks, and two regular trucks, which will leave in the morning and return at night. The only current lighting is from the trucks.
- d. The gravel pit was active, but will be less active moving forward as the reclamation process continues. It is nearly depleted. The reclamation process would be the majority of the noise heard from the property. Land will either need to be moved, removed, or added in with a frontend loader in order to finish the process, which is expected to last approximately five years. Once reclamation is complete, the intent is to sell off some of the land along the Industrial Road for residential homes and potentially use one parcel for the applicant's residence. The applicant acknowledged that as the owner of the property he is responsible for the reclamation of the gravel pit when it is depleted.
- e. The noise related to recycling is a small portion of the business. The wood grinder would not run daily. Typically, it would be run a couple of days a year, approximately 8 hours each of those days. We have no interest in constant crushing of asphalt, gravel or concrete. There are two piles of concrete on the property left there by Ulland Brothers. It will need to be crushed.
- f. This pit will be used similar to other pits in that it would process brush/wood piles and offer mulch, wood chips, etc. for sale in a limited quantity.
- g. The intent is still to build a family home on the property in the future. A land use permit has not been submitted for this home.

- h. The original application, as well as the current one always listed that the barrow pit was part of the application. In order for reclamation to occur, the barrow pit has to be used.
- i. The primary use for the property, though not the only use, is for the maintenance building and truck parking.
- j. Waste Wood Recyclers processes the majority of its materials onsite at remote locations and transports the chipped wood directly to power plants. It does not bring the materials back to the barrow pit for processing due to transportation costs.
- k. The legal description is accurate based on the purchase agreement and the public records on the St. Louis County land explorer.
- l. There is no water usage, septic system, waste, nor building/property lights are expected except related to the maintenance building. They will be reviewed as part of that separate land use permit application. Once the application is approved, a septic system will be reviewed by the county and an outside company will be hired to manage the waste.
- m. There is no known hazardous waste on the site. Concrete, asphalt and wood are not classified as hazardous material by the MPCA. No hazardous waste is expected to be processed on the site.
- n. There is no intent to change drainage patterns.
- o. The DNR, Corps of Engineers, and St. Louis County will be part of the reclamation process, as needed.
- p. This will be a place where local residents can bring their wood/brush. There would be limited hours and there would be staff present to make sure that no treated materials are received.
- q. There is no plan to remove the current buffer zones or trees, though it depends on the reclamation process requirements.

4. **PUBLIC COMMENTS:** The application answers and the location of the proposed site activities was discussed and the applicant answered numerous questions from the board and the public to help clarify the details of the proposed use. The clarifications are included in the preceding and following testimony.
- a. Chris McRae asked who would oversee the reclamation process. The board stated that the Planning and Zoning Director would be the point person who would work with Waste Wood Recyclers and St. Louis County.
 - b. Rick Walberg asked for clarification on the long term plan for reclamation. Mr. Campbell stated that he is estimating that the reclamation process will take five years. At that point, he is interested in selling some of the land for residential use.
 - c. Periann Iverson stated that she was concerned with the lack of studies. Chairman Brooks states that the studies are premature until the conditional use permit is approved. At that point, Mr. Campbell will need to obtain the required studies and permits from other entities.
 - d. Dan Urshan asked if there are any additional uses, would it come back to the board for review. Chairman Brooks states that the conditional use permit would only be for the items agreed upon in the hearing. For any additional uses or changes to the uses listed within the permit, the applicant would need to come back to the board for review and potentially another conditional use permit application.
 - e. Bruce Iverson asked about road grading, truck traffic, dangerous intersections, and if the main driveway could be moved. Mr. Campbell stated that he would be willing to consider moving the driveway, if it was feasible.
 - f. Hillary Crurer asked if the wood received from the community would be treated and how would it be regulated. Mr. Campbell stated that there would be staff on site to receive the wood/brush and that treated materials would not be accepted. The site would be gated and drop offs would be during specific times and limited.
 - g. Mary LePage stated that when Ulland Brothers was operating, there was a lot of dust and road debris. She stated that what Mr. Campbell is wanting is far less than what Ulland Brothers did. She believes that he has bent over backwards and done a good job. She believes that he will work with the powers to be. Ms. LePage stated that it is a shame that all of the fear creating and

- calamity howling has occurred for someone who has to come in and clean up the mess that Ulland Brothers made. She believes that the truck traffic will be reasonable and won't destroy the road. She sees nothing wrong with what Mr. Campbell is proposing and that he should be approved.
- h. Joel Peterson wanted to know if there would be a water or air permit. He stated that there is a creek on the property that is a designated trout stream. He wanted to know about the parking lot and if there would be run off. He also wants to know who will monitor the maintenance building for waste. Any permits would be obtained by Mr. Campbell, as required by law. Mr. Campbell stated that the parking lot already exists, is not paved and would not change. The maintenance building waste would be monitored by the corresponding agency.
 - i. Dave Kurkowski stated that the hearing this evening was much better than the previous one. He stated that the main thing is that the residents be heard. That is what citizenship is. He read an email from Mike Zupetz that was sent in that evening stating environmental concerns for the trout stream and area lakes and asking for an environmental impact statement. The board had not received the email prior to the hearing. Mr. Kurkowski went on to state that he didn't think that anyone on the board or with the township would take personal responsibility if someone was hurt on the road from one of the trucks. He does like that if any changes were needed, that Mr. Campbell would need to come back to the board. He is not in favor of Waste Wood Recyclers coming into the neighborhood as safety is his number one concern. He is ok with the reclamation process as described.
 - j. Victor Lund, St. Louis County Traffic Engineer and registered professional engineer, stated his professional credentials and the following information. The average daily volume of truck traffic for that stretch of Midway Road is only 5-10% of the traffic. When determining road safety, they look at the cross sections, bandwidth, intersections, commercial development, etc. Midway Road is at low risk. Most pedestrian injuries occur from signal intersections like what you see in downtown Duluth. He goes on to state that there is no elevated risk, no matter the type of traffic for Midway Road. He stated that road engineering has become more strict over the years, not less. In the last ten years, the county has moved from rebuilding roads to preserving them. There was no safety factors in rebuilding Lavaque Road. There is no data that you can tease out of anywhere that would state that safety is an issue for Midway Road. He was asked if the safety risk would increase on the Midway Road if you consider that, where the trucks would be traveling, it has no shoulders, has ATVs traveling on it, and walking pedestrians. He stated "In my professional opinion, no."
 - k. Dan Urshan asked if they wanted to relocate the driveway, who would they contact. He was advised that the Public Works Department with the county would issue the permit.
 - l. Tom Collard asked if Victor Lund could address the speed concerns with Midway Road. Mr. Lund stated that the road will be repaved in 2022. It will not be expanded. It will go from 5 tons per axel to 7 tons per axel. Roads are being redone based on which ones are the worst. He stated that when speed is reduced below the rate at which most drivers "naturally" drive, accidents increase. When you lower speed, the difference between speeders and non-speeders increases, which creates more accidents.
 - m. Mike Podgornik asked how many trucks come out of the county pit. Mr. Lund stated that traffic depends on the work projects, so there isn't a way to know. However, pits are all over the county are consistently being used. He went on to state that those pits also have traffic from townships and contractors buying gravel from them, as well as, recycling.
 - n. Nancy Brown stated that she appreciated Mr. Lund's input. She stated that she believes that there would be more risk in pedestrian harm with the increase in population density. She also stated that Ulland Brothers left a bad taste from previous years. She stated that the trucks come out too fast from the driveway and splashed mud on the road. She urged Mr. Campbell to consider moving the driveway. She is also concerned about school buses at that intersection.
 - o. Joel Peterson states that he has three near misses with trucks over the years.

- p. Barb Polosky stated that she did not receive a letter. She said that she did receive the Ulland Brother's letters in the past. She stated that she did not want the conditional use permit approved because of the following: added traffic, disputed facts with the application such as noise, a 2014 survey stated that safe walking was a concern for residents, that MUNS-5 does not allow for Industrial Class II, that the conditional use permit does not help the township's comprehensive plan, property values, well qualities, and quality of life. She states that it is unfortunate that Mr. Campbell bought the property, but he can just sell it. She asked the board if they would want the pit across from them and to please deny the permit.
- q. Ryan Crurer presented a summary of the documents that he provided addressing his concerns which are as follows: he believes that the planning and zoning board is bias; that there are concerns over the reclamation obligations; that the application is still incomplete; that the application doesn't conform to the township's comprehensive plan; that it doesn't conform to the MN licensing requirements for a waste wood and biomass recycling facility (statute 7035.2525 through 7035.2655;) that there are safety, financial, health, environmental, and other concerns; and that it is against the property owner's bundle of rights. He spoke on many of the items he listed. The complete documents will be attached to the minutes.
- r. Jim Gilmore presented a summary of the documents that he provided stating resident's concerns, requests for conditions, and a petition for denial with 65 signatures. The packet also included a statement questioning the authority of the planning and zoning board and a request for continuance. He spoke on many of the items listed. The complete documents will be attached to the minutes.
- s. Dan Urshan stated that he could see why some would not want the pit in their neighborhood. However, Waste Wood Recyclers does own the property now and is a neighbor. He stated that he is concerned with some residents insinuating that Waste Wood Recyclers lacks integrity. He believes that it isn't right. He stated that their integrity shouldn't be put in question and that he is disappointed that it has come up. He believes that neighbors should work together to figure out a resolution.
- t. Mary LePage stated that some of the residents have a lot to say, but it is mainly about the barrow pit. She wants to know what the residents would do with it if they couldn't use it to complete the reclamation process. She believes that there is not a lot of cooperation from some residents, that they are only naysayers, and that it makes her sick.
- u. Mr. Campbell states that the maintenance building will have a grease/waste trap that will be monitored by the proper agencies. He states that the parking lot is already there. It is not asphalt and it is already level. The driveway is paved and gated. He would have to ask the county about moving it. He does have plans for five years, however, he hesitates to state them as final plans because the reclamation may change them significantly. He stated that he has been to monthly planning and zoning meetings, talked with the PZ Director and PZ board on multiple occasions in an effort to make sure that he followed the ordinance and addressed any concerns.

5. **BOARD DELIBERATIONS:**

- a. The board acknowledged that a number of public concerns and issues were brought up and a lot of details about the proposed land use were presented and that this issue is complex. The board reviewed Article VIII, Section 8.4.C of the Canosia Township Ordinance 2017-01. They went through each of the five requirements for a conditional use permit as follows:
 - i. "The use conforms to the land use or comprehensive plan of the county, if any" The conditional use permit application is for parcel codes residing in Canosia Township and are in a MUNZ-5 zone. The proposed land use would be for Extractive Use- Class II which is allowed under Article V, Section 5.6.A.4.C with a conditional use permit and Industrial Use- Class II which is allowed under Article VI, Section 6.23 with a conditional use permit. The Canosia Township Comprehensive Plan was utilized when

- Ordinance 2017-01 was developed so that it would be in alignment with the plan. The board agrees that this requirement is met.
- ii. "The use is compatible with the existing neighborhood" There has been a barrow pit on that site for decades on which gravel crushing & extraction, concrete and asphalt recycling and hot mix plant operation is allowed. The board is in agreement that Waste Wood Recyclers are not changing the use of the land significantly with the addition of waste wood recycling which is also done at other pits in the county. In the Canosia Township Comprehensive Plan it states on page nine that the area is "light industrial use." The pit had a current conditional use permit until the end of 2017. Waste Wood Recyclers has the responsibility for reclaiming the pit, and the resources to do so. If they were allowed to proceed with the reclamation, then the land would be cleaned up and turned into more residential land which would be more desirable to the neighbors. The board agrees that this requirement is met.
 - iii. "The use will not impede the normal and orderly development and improvement in the surrounding area of uses permitted by right in the zone district" The Waste Wood Recyclers' operation is not centrally located. The majority of wood recycling activities occur outside of Canosia Township and on the sites where raw materials are. There are already trucks on the roads coming from other area pits, logging, public land, private land, and residential homes. The MUNS-5 zone is for multiple uses. The current neighborhood already has multiple home businesses and other mixed uses. The conditional use permit gets the neighborhood closer to where it wants to be with the reclamation of the gravel pit and development of residential property along the Industrial Road. The board agrees that this requirement is met.
 - iv. "The location and character of the proposed use is considered to be consistent with a desirable pattern of development for the area" The residents can bring untreated wood and brush for recycling and can purchase mulch, wood chips, etc., which is a benefit to the community. The reclaiming of the pit would create more residential land, which is of benefit to the community. The board agrees that this requirement is met.
 - v. "When in the opinion of the Planning and Zoning Commission a conditional use permit may result in a material adverse effect on the environment, the applicant may be requested by the Planning and Zoning Commission to demonstrate the nature and extent of the effect" There is a creek on the property which is overseen by the DNR. There may be the need for a wetland delineation plan, a site delineation plan, and a storm water runoff plan. Many of these plans are overseen by the DNR, MPCA, and St. Louis County. The township can request copies of those plans as part of the conditional use permit. Waste Wood Recyclers have already offered to move the maintenance building back to help with noise and light control. That building is part of a separate permit process. There is no blacktop except for the driveway and there is no request or plan for a hot mix plant. There are hours currently defined within the ordinance, however they can be changed during the permit process. The board can also restrict stockpiling, crushing and grinding. Mr. Campbell would be open to hours being altered.
- b. When the gravel is depleted in a pit, the reclamation of the pit needs to be completed as required in the Ordinance. The applicant believes that the gravel depletion and reclamation will be completed in five years. The reclamation plan will have to be determined in partnership with the county. There has been some reclamation of the pit done by the past owner but due to the season, it is hard to know how much. The PZ Director agrees with Mr. Campbell that there is not much gravel left.
 - c. The planning and zoning board reviewed Mr. Crurer and Mr. Gilmore's documents that contained their list of concerns.
 - d. Chairman Brooks states that he wished that those who signed the petition had been present at the hearing so that they could hear the details of the proposed use and the facts stated accurately. He

is very concerned about the misleading information that was presented to residents, such as traffic inaccuracies (30-50 vehicles daily) and misleading operation hours (24/7 operations.) There will not be that number of daily vehicles as stated by the applicant and the hours of operation are already limited in the ordinance and can be further limited by the board. General comments from residents included that they believe that the board did a good job of wading through information. Some residents requested that more people be notified in the future. Secretary Madoll explained the process and that it is following the current ordinance. Board members stated that it is better when people speak up when the ordinance is updated and that it is important for residents to attend town hall meetings.

6. **DETERMINATION:**

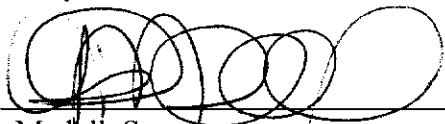
- a. A motion was made by Tom Collard, seconded by Mike Podgornik to approve the conditional use permit application for Waste Wood Recyclers with the following conditions:
 - i. The permit is issued to Ashley and Garrett Campbell and is non-transferable to another owner.
 - ii. Crushing, grinding, and stockpiling will be restricted to the hours of 7:00 a.m. – 6:00 p.m., Monday - Friday. No crushing, grinding or stockpiling operations may take place on Memorial Day, Independence Day, Labor Day, Saturdays, or Sundays.
 - iii. No hot mix plant activities.
 - iv. The following complete plans, or proof of compliance, must be submitted to Canosia Township by 2/9/2019, unless a letter from an overseeing agency is submitted stating that a specific plan is not needed: reclamation plan, wetland delineation plan, air quality(fugitive dust) plan, and storm water runoff plan.
 - v. This permit will undergo an administrative review by the Canosia Township PZ Director in October 2018, 2020, and 2022.

Motion carried 5 – 0.

7. **OTHER:** None

8. **ADJOURN:** Motion by Mike Podgornik, seconded by Kyle Anderson, to adjourn the meeting at 9:48 p.m.
Motion carried, 5 – 0.

Respectfully Submitted,



Amber Madoll, Secretary

2-14-18

Date

APPROVED:



Kurt Brooks, Chairman or Kyle Anderson, Vice-Chair

2-14-2018

Date