



Goodhue County Land Use Management

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To: Planning Advisory Commission
From: Land Use Management Staff
Date: November 18, 2013 PAC Meeting
RE: Public Hearing for the Save the Bluffs Zoning Ordinance Amendment Request
Various Silica Sand related amendments to Article 14 (Mineral Extraction)

Attachments: (from August 8, 2013 packet):

Zoning Amendment Application Submittal from Save the Bluffs
2013 Mining Study Committee Report
Goodhue County Zoning Ordinance Article 14 as amended on 6-18-2013
“**Planning Implementation Tools – Overlay Zoning**” produced by the Center for
Land Use Education at the University of Wisconsin
Email from Carol Overland dated 7 August, 2013 to support and supplement the Save the
Bluffs Application

In this mailing:

MSC Summary Report 3 October 2013

SUMMARY:

The Mining Study Committee (MSC) has met three times since the approval of the August 2013 ordinance to discuss and develop recommendations for the Planning Advisory Commission (PAC) and the County Board concerning the Save the Bluffs applications to amend the zoning ordinance and comprehensive plan as it pertains to silica sand mining.

BACKGROUND:

The packet sent out to the PAC for their August 19, 2013 meeting with the listed attachments mentioned above is available on the County website at:
<http://www.co.goodhue.mn.us/countygovernment/committees/PlanningAdvisoryComm/Agendas/2013/AgendaAugust192013.aspx> and is not being sent with this mailing, however, should be considered as background information and included and adopted into the findings.

The MSC Report 3 October 2013 outlines the Save the Bluffs initial application requests along with the supplemental request made by the applicant at the August 19, 2013 PAC meeting. The MSC discussed each item and provided recommendations and findings. In addition, the MSC does provide suggested text amendment changes to the ordinance and the comprehensive plan based upon the discussions.

The MSC recommendations listed below are the consolidation of the requests and suggested actions. The PAC should adopt the August 19, 2013 PAC information and the MSC Summary Report 3 October 2013 as the background information and findings for the suggested changes.

RECOMMENDATIONS:

Initial Application Requests:

1: Extension of Silica Sand Mining Interim Ordinance/Moratorium

The application requested an extension of the moratorium to allow time to establish a Silica Sand and Natural Resources Overlay District. **The application was submitted prior to the County Board's decision** on August 6, 2013 to extend the moratorium for an additional six months (ending March 6, 2014).

Recommendation: The MSC recommends denial of the request to extend the moratorium due to the fact that the County Board has already extended the moratorium.

2. Establishment of a Silica Sand and Natural Resources Overlay District:

Recommendation: The MSC recommends denial of the request to Establish a Silica Sand and Natural Resources Overlay District for the following reasons:

- Natural resources are identified, located, and reviewed as part of the mineral extraction application process (Article 14, Sec. 5, Subd. 1, A, 9,11,13; Sec. 6, Subd. 4, J)
- Bluffland areas are protected in the ordinance: Mineral Extraction Facilities cannot grade, excavate or fill within the bluff impact zones Article 12, Sec, 4, Subd. 7)
- The County Board can add additional setbacks and conditions (Article 14, Sec. 5, Subd 4, E) as part of a permit; the Board can approve, modify, or deny the request (Article 14, Sec. 5, Subd 4, F)

3. Overall Economic Cost/Benefit Analysis:

The application requests the County to prepare an Economic/Cost Benefit Analysis that would entail researching and analyzing the potential costs and benefits if a silica sand facility was established in Goodhue County.

Recommendation: The MSC recommends denial of request to prepare an Economic/Cost Benefit Analysis of analyzing the potential costs and benefits of a silica sand facility locating in Goodhue County for the following reasons:

- The Comprehensive Plan should outline the importance the County places on recreation and tourism before a study is sanctioned
- The request is too limited in scope and not cost effective to request a study to determine the **potential effects of just one type of industry on Goodhue County's resources**
- It was felt that just defining the scope of the research, the questions to ask, and setting the assumptions and parameters (how many mines, how big, where) would take many meetings of discussion before a Request For Proposal could be presented and a subsequent study performed

4. Requirement for Cost/Benefit Analysis for New Mineral Extraction Facilities:

The application requests new Mineral Extraction Facilities to submit a "narrative of cost/benefit analysis" and "cost benefit analysis addressing economic impacts of the proposed project" as part of the application process.

Recommendation: The MSC recommends denial of request that new Mineral Extraction Facilities submit a "narrative of cost/benefit analysis" and "cost benefit analysis addressing economic impacts of the proposed project" as part of the application process for the following reasons:

- Applicants currently have the potential requirement to perform Traffic Impact Studies and enter into Road and Development Agreements (Article 14, Sec. 6, Subd 5) as a condition of their permit. These studies and agreements would cover infrastructure issues, and any specific negotiations concerning impacts to the area.
- The County has not requested nor required a cost/benefit analysis for any previous conditional use permits

5. Amendment of provision related to use of Best Practices:

The application requests that the County establish Best Practices for Mineral Extraction Facilities.

Recommendation: The MSC recommends denial of request that the County establish Best Practices for Mineral Extraction Facilities for the following reasons:

- The County does not possess the expertise to determine Mineral Extraction Best Practices
- The ordinance establishes a Mining Technical Evaluation Panel that consists of licensed professionals with appropriate expertise to guide the County in Best Practices (Article 14, Sec. 7)
- The state has established a Technical Assistance Team (gleaned from Goodhue County's ordinance) composed of experts to aid governments in the review, permitting, and monitoring of silica sand operations

Additional Application Requests:

1. One mile setback from high population areas, such as cities, hamlets, and residential subdivisions

Recommendation: The MSC recommends denial of the request for the one mile setback from high population areas, such as cities, hamlets, and residential subdivisions for the following reasons:

- The County requires dust control (Article 14, Sec. 6, Subd 4, D, E, J) at the facility and within 600 feet of the facility
- If the facility is excavating, transferring, processing, or stockpiling silica sand, the operator must continuously monitor air quality/air particulate and weather conditions to determine if the dust is being controlled (Article 14, Sec. 6, Subd 4, E)
- The County can add additional setbacks and conditions (Article 14, Sec. 5, Subd 4, E) as part of a permit; the Board can approve, modify, or deny the request (Article 14, Sec. 5, Subd 4, F)
- Haul routes are to be submitted and approved through the permit process (Article 14 Sec. 5, Subd. 1, A, Map B. 17; Sec. 5, Subd. 1, H; Sec. 6, Subd. 5, A)
- Hours of operation can be controlled through conditions (Article 14, Sec. 6, Subd. 4, A; Sec. 5, Subd. 4, E, 2)

2. One mile from the high water mark of the Mississippi – which protects the Great River Road and related tourism

Recommendation: The MSC recommends denial of the request for a one mile setback from the high water mark of the Mississippi for the following reasons:

- It fails to cover the majority of the Great River road within the County
- It fails to recognize or protect other public waters in the County

3. Prohibit the use of flocculants (or better yet, permit only dry processing)

Recommendation: The MSC recommends prohibiting certain flocculants (see MSC Text Amendment Recommendations below for suggested wording) for the following reasons:

- There are available non-COC substitutes on the market that can be used
- There are dry processing procedures that can be used
- It prevents potential environmental abatement issues (such as contamination of water supplies) if **the waste containment, mine restoration, or storage and handling of COC's is compromised.**
- Negative effects of the use of these chemicals may not be evident for many years; these effects may not be discovered until long after an operation has reclaimed the site

4. Set harsh penalties (such as canceling the permit) for violations

Recommendation: The MSC recommends establishing procedures for the revocation of conditional/interim use permits. There are no specific text amendments at this time to act upon.

MSC Text Amendment Recommendations:

Goodhue County Zoning Ordinance Article 14

Section 5, Subdivision 2: Supporting Documentation

U. Description of local public monies or subsidies anticipated to be used in the establishment, operation, monitoring, or reclamation aspects of the proposal.

Section 6, Subdivision 3: Use Restrictions

A. The following uses are prohibited unless specifically authorized in the mineral extraction permit:

1. A The production or manufacturing of veneer stone, sills, lintels, out flagstone, hearthstones, paving stone and similar architectural or structural stone, and the storing or stockpiling of such products on the site.

2. B- The manufacture of concrete building blocks or other similar blocks permanent ready-mixed concrete, or permanent asphalt production plants and any similar production or manufacturing processes.

B. The use of flocculants, such as acrylamides, or any known chemical that is considered to be a Contaminant of Concern (COC) as defined by the Environmental Protection Agency, is prohibited from use in the washing or processing of the mineral resource.

Section 6, Subdivision 4:

T. Best Practices. In order to protect the environment and the public's health, safety and welfare, ~~The County expects~~ applications ~~to~~ shall incorporate Best Practice standards into the design, operation, and reclamation of Mineral Extraction Facilities. A list of Best Practice documents is available through the Zoning Administrator. The County reserves the right to update the list as appropriate.

Section 7, Subdivision 7:

If the Mineral Extraction Facility is excavating, stockpiling, processing, or transporting silica sand a Mining Technical Report shall be required.

Section 4, Subdivision 7:

Mineral Extraction Facilities shall be prohibited within 1000 feet from Public Waters as defined in MS 103G.005 or to the limit of the floodplain of the Public Water whichever is greater, within the Bluffland Subsection area as defined in the Ecological Classification System defined by the Minnesota DNR.

OR

Mineral Extraction Facilities within 1000 feet from Public Waters as defined in MS 103G.005 or to the limit of the floodplain of the Public Water whichever is greater, within the Bluffland Subsection area as defined by the Minnesota DNR in the Ecological Classification System, shall submit a hydrogeological risk assessment report which includes information necessary to assess potential impacts to hydrogeological features as a result of the operation. This report must be submitted as part of the Conditional/Interim Use permit application.

MSC Comprehensive Plan Recommendations:

In response to concerns expressed by County residents, business owners, and the Save the Bluffs Group; the Mining Study Committee has recommended that the Planning Advisory Commission and County Board consider amendments to the Goodhue County Comprehensive Plan to emphasize the importance of recreation and tourism to the **County's economy and quality of life**. **The MSC has recommended revision** of Comprehensive Plan, Element 3 (Conservation, Water, and Sustainable Development), Goal 4 and Element 5 (Economic Development), New Goal 4 (Recreation and Tourism) as follows: (proposed new text shown in red)

ELEMENT 3 (Conservation, Water, and Sustainable Development)

GOAL 4: PROTECT CULTURAL, HISTORIC, SCENIC, AND RECREATIONAL AMENITIES

Protect our cultural, historic and scenic areas including public and private recreation facilities and uses from incompatible land use change.

SUMMARY

The scenic beauty of Goodhue County was cited as one of our most distinctive features. Bluff lands, river valleys, farmland and woodland were all mentioned as having significant importance. Concern was expressed that these views not be lost to the built environment.

Policy

1. Sign controls measures shall be in place along county roads and highways to preserve the unobstructed view of the natural beauty of the County.
2. An adequate amount of open space shall be preserved.
3. **The natural, historic and cultural visual elements that define a community's sense of place** shall be preserved.
4. Development **including temporary land use activities such as mineral extraction or timber harvesting** shall be compatible with the natural environment and accomplished without destroying environmental character or natural amenities.
5. Development **including temporary land use activities such as mineral extraction or timber harvesting** shall be compatible with the cultural environment, historic structures and historic districts and accomplished without destroying the historical and cultural character or amenities.
6. Community design patterns shall promote effective and efficient use of natural, historic and cultural resources.

Element 5 (Economic Development)

Goal 4 (New): Recreation and Tourism

Summary: Recreation and tourism contribute to the Goodhue County economy and quality of life by directly and indirectly supporting local businesses.

The Inventory document **for this Comprehensive Plan includes a section on "Recreation and Tourism** (pages 64-66). Key recreation and tourism uses and activities are identified including: preserved natural lands; historic sites and tourism amenities; recreational facilities; airports, marinas, boat access and dams; and recreational trails.

Policies:

1. Recognize public and private recreation facilities and activities that serve both the local population and visitors.
2. Recognize economic benefits generated by recreation and tourism businesses and activities.
3. Consider potential impacts on recreation and tourism when evaluating any significant land use change that may result from a change of zone or zoning permit such as a conditional use permit or interim use permit.
4. Coordinate with local Chambers of Commerce, Tourism Organizations, the State of Minnesota, the Prairie Island Indian Community and existing recreation and tourism oriented businesses to promote Goodhue County.

Findings of Fact to support proposed amendments to the Goodhue County Comprehensive Plan:

- The Comprehensive Plan currently includes Element 2 (Housing and Livable Communities), Goal **9 (Parkland and Open Space)** which reads **“The creation and preservation of open space and undeveloped natural areas are an important value in Goodhue County”**.
- During previous public hearings held to accept public comments regarding proposed amendments to the County Comprehensive Plan and Zoning Ordinance (Mineral Extraction Regulations); residents, business owners, representatives of local governments and the Safe the Bluffs Group expressed significant concerns regarding the potential negative impacts on recreation and tourism related uses and activities from potential land use change associated with Silica Sand Mining and related activities.
- The Inventory of the County Comprehensive Plan identifies a significant number of recreation and tourism related land uses and activities which collectively reflect an important part of the local economy.
- The County Mining Study Committee considered various points of view regarding the importance of recreation and tourism and decided at its October 9, 2013, Meeting to recommend these amendments to the Comprehensive Plan for consideration by the Planning Advisory Commission and County Board to ensure that this land use and component of the local economy will be taken into account when considering potential impacts from land use changes in rural Goodhue County including but not limited to mineral extraction facilities.