



# ST. LOUIS COUNTY ADMINISTRATIVE APPEAL STAFF REPORT

REPORT DATE: 7/24/2023

MEETING DATE: 8/10/2023

## APPLICANT INFORMATION

**APPLICANT NAME:** Melissa Bell

**APPLICANT ADDRESS:** 6383 Beaver River Road, Duluth MN 55803

**OWNER NAME:** Same

**SITE ADDRESS:** 6297 Lavaque Road, Duluth MN 55803

**LEGAL DESCRIPTION:** NE1/4 OF NE1/4 EX S1/2 OF NE1/4, EX SE1/4 AND E 330 FT OF NW1/4 OF NE1/4 EX S 400 FT AND EX W 175 FT OF N 380 FT OF S 780 FT AND N 920 FT OF W 330 FT OF E 660 FT OF NW1/4 OF NE1/4 AND W 175 FT OF E 330 FT OF N 380 FT OF S 780 FT OF NW1/4 OF NE1/4 AND PART OF NW1/4 OF NE1/4 DESCRIBED AS FOLLOWS BEG 920 FT SLY OF NE COR ALONG E LINE OF FORTY THENCE WLY AT RT ANGLES TO E LINE OF FORTY 330 FT THENCE SELY TO A PT ON E LINE 280 FT NLY OF SE COR OF FORTY THENCE NLY ALONG E LINE TO PT OF BEG , S27, T52N, R15W (Fredenberg).

**PARCEL IDENTIFICATION NUMBER (PIN):** 365-0010-04847,04855,04853,04851,04854

**NATURE OF REQUEST:** Appeal to the Board of Adjustment per St. Louis County Zoning Ordinance 62, Article VIII, Sections 8.1.E and 8.6, and Article X, Section 10.6.B, and Minn. Stat. § 394.27, Subds. 5–6 (2022), concerning the Director's administrative determinations for the Conditional Use Permit at 6297 Lavaque Road, Duluth MN 55803.

**PROPOSAL DETAILS & BACKGROUND INFORMATION:** The applicant is appealing the Administrative Determinations dated March 31, 2023, by Matthew Johnson, St. Louis County Planning and Community Development Director, regarding the operation of a permitted borrow pit at 6297 Lavaque Road, Duluth MN 55803. The Administrative Determinations were sent to Melissa Bell in response to her formal complaint against Lakehead Trucking at 6297 Lavaque Road, Duluth MN 55803. St. Louis County Planning and Community Development Director reviewed the complaint and determined that the borrow pit located at 6297 Lavaque Road, Duluth MN 55803 is in compliance per the administrative appeal. Correspondence between the Department and the applicant and other relevant materials are included with this report.

## PARCEL AND SITE INFORMATION

**ROAD ACCESS NAME/NUMBER:** Lavaque Road **ROAD FUNCTIONAL CLASS:** Collector

**LAKE NAME:** N/A

**LAKE CLASSIFICATION:** RD

**RIVER NAME:** N/A

**RIVER CLASSIFICATION:** N/A

**ZONE DISTRICT:** MU 4

## PARCEL AND SITE INFORMATION

**PARCEL ACREAGE:** Approximately 40 acres

**LOT WIDTH:** N/A

**FEET OF ROAD FRONTAGE:** 330 feet Lavaque Road

**FEET OF SHORELINE FRONTAGE:** N/A

**VEGETATIVE COVER/SCREENING:** Vegetative screening within the required no disturbance setbacks is being maintained.

**TOPOGRAPHY:** There is a fair amount of topographic relief on the property. The property has an elevation change of 46 feet.

**FLOODPLAIN ISSUES:** N/A

**WETLAND ISSUES:** N/A

## FACTS

- A. Is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, pursuant to an active conditional use permit?
1. Determination: The subject property is subject to an active conditional use permit, namely the CUP approved by the St. Louis County Planning Commission in February 2006.
  2. Ordinance: St. Louis County Zoning Ordinance 62, Article VI, Section 5.6.B, indicates general purpose borrow pits (Extractive Use) are an allowed use with a conditional use permit.
  3. Facts: The St. Louis County Planning Commission conducted a public hearing for the proposed extractive use and based on facts and findings and public testimony the request was approved with conditions on February 6, 2006.
- B. If there is an active conditional use permit, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, subject to, and compliant with the conditions of the 1988 Fredenberg Township conditional use permit?
1. Determination: The subject property is no longer subject to the CUP approved in 1988; again, the applicable CUP is the CUP approved by the St. Louis County Planning Commission in February 2006.
  2. Ordinance: St. Louis County Zoning Ordinance 62, Article VI, Section 5.6.B, indicates general purpose borrow pits (Extractive Use) are an allowed use with a conditional use permit.
  3. Facts: The property is subject to an active conditional use permit, namely the CUP approved by the St. Louis County Planning Commission in February 2006.
- C. If there is an active conditional use permit, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, in compliance with St. Louis County Ordinance 62, Article, VI, Section 6.22.H (Reclamation Standards)?
1. Determination: Based on information provided by the permit holder and review of aerial imagery of the property, an area in the south portion of the property has been reclaimed, an adjacent area to the northwest of the reclaimed area and another area in the north portion of the property area are partially reclaimed and are being sloped, and extractive-use activities are in progress in the remaining areas. The permit holder is in compliance with this provision.
  2. Ordinance: St. Louis County Ordinance 62, Article VI, Section 6.22.H, states all extractive uses shall implement reclamation standards and enumerates minimum standards with respect to reclamation.

3. Facts: Based on information provided by the permit holder and review of aerial imagery of the property, an area in the south portion of the property has been reclaimed, an adjacent area to the northwest of the reclaimed area and another area in the west are actively being reclaimed, and extractive-use activities are in progress in the remaining areas. The permit holder is in compliance with this provision.
- D. If there is an active conditional use permit, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, in compliance with St. Louis County Ordinance 62, Article, VI, Section 6.22.G.9 (no disturbance setbacks)?
1. Determination: Based on an evaluation of the subject property during an inspection conducted in August 2022 and review of aerial imagery of the property, the permit holder is in compliance with this provision.
  2. Ordinance: St. Louis County Zoning Ordinance 62, Article VI, Section 6.22.G.9, enumerates standards with respect to no-disturbance setbacks from property lines, public road rights-of-way, public utilities, municipal boundaries, and wetlands.
  3. Facts: Based on an evaluation of the subject property during an inspection conducted in August 2022 and review of aerial imagery of the property, the permit holder is in compliance.
    - Pit activity is setback from Lavaque Road approximately 750 ft.
    - No disturbance setbacks from property lines meet or exceed the setback requirements.
- E. If there is an active conditional use permit, and if water table or water retention issues have been observed, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, in compliance with the permit and St. Louis County Ordinance 62, Article, VI, Section 6.22?
1. Determination: We did not observe any water issues during our inspection in August 2022. With respect to the images included in the relevant portion of the applicant's e-mail of July 10, 2022, it does not appear that the water shown in the images implicates any condition in the applicable CUP or any aspect of Article VI, Section 6.22.
  2. Ordinance: St. Louis County Zoning Ordinance 62, Article VI, Section 6.22, does not include standards for water table or retention issues.
  3. Facts: We did not observe any water issues during our inspection in August 2022. With respect to the images included by the applicant, it does not appear that the water shown in the images implicates any condition in the applicable CUP or any aspect of Article VI, Section 6.22.
    - Note that Article VI, Section 6.22.G.18, provides, "All extractive uses shall take measures to control erosion and runoff that has the potential to damage adjacent land." This standard is being met.
- F. If there is an active conditional use permit, and if the setback from Lavaque Road is less than 800 feet, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, in compliance with the permit and St. Louis County Ordinance 62, Article, VI, Section 6.22?
1. Determination: The applicable CUP does not contain any condition concerning a setback from Lavaque Road. With respect to the ordinance, Article VI, Section 6.22.G.9.b, provides, in relevant part, "A no disturbance setback, including the haul road, shall be 50 feet from the edge of all public road right-of-ways." Based on an evaluation of the subject property during an inspection conducted in August 2022 and review of aerial imagery of the property, the permit holder is in compliance with this provision.
  2. Ordinance: St. Louis County Zoning Ordinance 62, Article VI, Section 6.22.G.9.b, states that a no disturbance setback of 50 feet from edge of all public road right-of-ways.
  3. Facts: Based on an evaluation of the subject property during an inspection conducted in August 2022 and review of aerial imagery of the property, the permit holder is in compliance with this aspect of the provision (and all other aspects of Article VI, Section 6.22.G.9).
    - Pit activity is setback from Lavaque Road approximately 750 ft.

## BOARD OF ADJUSTMENT DETERMINATION

This is an appeal concerning the Director's administrative determinations as set forth in his letter dated March 31, 2023.

As to each administrative determination, the Board of Adjustment may reverse or affirm wholly or partly, or may modify the administrative determination, as provided in Article VIII, Section 8.6.B.4.c.i, and Article X, Section 10.6.B.2, of the zoning ordinance and Minn. Stat. § 394.27, subd. 6.

To the extent the Board of Adjustment affirms the administrative determinations, the administrative determinations that the permit holder is in compliance will remain in full force and effect.

To the extent the Board of Adjustment reverses the administrative determinations, the matter will be returned to the Director for further action under Article VIII, Section 8.11.C, of the zoning ordinance, which establishes the procedures to be followed in the event of noncompliance.

The Board of Adjustment's decisions concerning this appeal are subject to judicial review in state district court, as provided in Article VIII, Sections 8.1.E.4 and 8.6.C, and Article X, Section 10.6.C.5, of the zoning ordinance and Minn. Stat. § 394.27, subd. 9.



# Land Use Permit

## APPLICATION St. Louis County, Minnesota

Permit # Permit # 

**About:** This application is used to apply for a Land Use Permit. Applicants will need to attach the appropriate worksheet(s) in order to process. For more information, see our website at: [www.stlouiscountymn.gov/land-use](http://www.stlouiscountymn.gov/land-use)

### PROPERTY IDENTIFICATION NUMBER (PIN) PIN is found on your Property Tax Statement

*Primary PIN	365 - 0010 - 04847	Associated PIN	365 - 0010 - 04855
Associated PIN	365 - 0010 - 04851	Associated PIN	365 - 0010 - 04853

E.g. 123-1234-12345. Primary PIN: Parcel where Structure/SSTS are located. Associated PIN: Additional and/or adjacent property that you own or that is related to the project. County Land Explorer: <https://gis.stlouiscountymn.gov/landexplorer/> Property Lookup: <http://apps.stlouiscountymn.gov/auditor/parcelInfo2005Iframe/>

### APPLICANT

\*Applicant Name: Melissa Bell I am a...  Contractor  Homeowner  Other \*Daytime #: 218-341-6215 Date: 27 Apr 23

\*Applicant Address Where to send permit.: 6382 Beaver River Rd \*City: Duluth \*State: MN \*ZIP: 55803

Applicant Email: melbell6382@gmail.com

Contact Person If applicable.: \_\_\_\_\_ Contact Person #: \_\_\_\_\_

Mailing Address If different than above.: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Email Address Where to email permit. Providing an email address will expedite the time in which a permit is received by an applicant.: \_\_\_\_\_

### SITE INFORMATION

Yes  No \*Is there a site address for this property? (If no, the application will be forwarded to 911/Communications to assign one.)

If yes above, please list site address: \_\_\_\_\_

Yes  No \*Is this leased property? If yes, leased from:  MN Power  MN DNR  US Forest Service  St Louis County  Other

Yes  No \*Do you have written authorization from the leased property owner? If yes, you must attach written authorization form.

\*How is the property accessed?  Public Road  Private Road  Easement  Water  Other

### PROJECT INFORMATION

Yes  No \*Is this project on a parcel less than 2.5 acres?

Yes  No \*Is this project within 300 feet of a stream/river or 1,000 feet of a lake?

Yes  No \*Is this project adding a bedroom? **Include home, garage, & accessory dwelling.**

# \_\_\_\_\_ \*Total # of bedrooms on property after project completion. **Include home, garage, & accessory dwelling.**

Yes  No \*Does this project include plumbing or pressurized water in proposed structure? If yes, please explain: \_\_\_\_\_

Yes  No \*Is the property connected to a municipal or sanitary district system?

**If you answered "Yes" to any of the project information questions above, it is required that you submit a copy of a septic permit to construct or certificate of compliance approval or municipal/sanitary district approval when applying for a land use permit.**

### AGREEMENT

By submitting this application, I certify and agree that I am the owner or the authorized agent of the owner of the above property, and that all uses will conform to the provisions of St. Louis County. I further certify and agree that I will comply with all conditions imposed in connection with the approval of the application. Applicants may be required to submit additional property descriptions, property surveys, site plans, building plans and other information before the application is accepted or approved. **Intentional or unintentional falsification of this application or any attachments thereto will make the application, any approval of the application and any resulting permit invalid.** I authorize St. Louis County staff to inspect the property to review the application and for compliance inspections. Furthermore, by submitting this application, I release St. Louis County and its employees from any and all liability and claims for damages to person or property in any manner or form that may arise from the approval of the application or any related plans, the issuance of any resulting permit or the subsequent location, construction, alteration, repair, extension, operation or maintenance of the subject matter of the application.

**\*Indicates required field. Incomplete applications will be returned.**

Pin 365-0010-04854



# Land Use Permit WORKSHEET

St. Louis County, Minnesota

**About:** Land Use Permits are required for most building construction activities. They are also required for a variety of other uses. For more information, check out our website at: [www.stlouiscountymn.gov/land-use](http://www.stlouiscountymn.gov/land-use)

**WHAT ARE YOU APPLYING FOR** *Check all that apply to the project.* **PLEASE MAKE CHECKS TO: ST. LOUIS COUNTY AUDITOR**

**#1 New Buildings Less than/equal to 1,200 square feet-\$165**  
**Greater than 1,200 square feet-\$325**

Dwelling-Home, Mobile Home, Hunting Shack, or Cabin (Includes attached deck, if applicable.)

Replacement of Existing Dwelling-Home, Mobile Home, Hunting Shack, or Cabin. Will the old dwelling be removed from the property?  Yes  No

*If yes, an affidavit must be filled out stating when the old dwelling will be removed.*

*If this dwelling is a mobile home, there is a special mobile home affidavit to be filled out.*

Accessory Dwelling-Guest cottage or bunkhouse. Must follow administrative standards.

Accessory Structure- Garage, Pole Building, shed, sauna, screenhouse or gazebo that either meets lake or river setback or not located in a shoreland area.

Water-oriented Accessory Structure-Boathouse, Sauna, Screenhouse/gazebo on a lake or river located at reduced shoreline setback. Must follow administrative standards.

Commercial Structure

Other Principal Structure

**#2 Other Construction/Change in Use-\$85**

Addition(s) to Dwelling  
 Is the dwelling location on a lake or river?  Yes  No  
 If Yes above, does the structure meet the required shoreline setback?  Yes  No  
 If No, structure does not meet the shoreline setback, a performance standard permit or variance may be required. See box #4 or #7.

Addition(s) to Accessory Structure

New Deck Only or Deck Replacement

Combination Addition(s) & Deck on the same structure

Moving a Structure

Sign

Structure Alteration or Component Replacement

Change in Use (i.e. converting an old cabin to storage)

What will the new use of the structure be?  
 Explain the current and proposed use.  
 Current: \_\_\_\_\_ Proposed: \_\_\_\_\_

**Other-\$60**

Permit extension beyond 2 years

**#3 Subdivisions/Parcel Reviews**  
**Additional Worksheets Required**

Plat-Minor Subdivision-\$650

Conventional or Conservation Plat-Less than or equal to 3 lots-\$650

Conventional or Conservation Plat-Greater than 3 lots-\$1,300

Lot Line Adjustment-\$85

Parcel Review-\$85

Performance Standard Subdivision-\$385

**#4 Performance Standard-\$385**  
**Additional Worksheets Required**

Borrow/Gravel Pit

Home Business

Land Alteration

Nonconforming Structure Replacement

Addition to a structure that does not meet shoreline setback

Other

**#5 Site Evaluation**

Site Visit/Evaluation-\$165

**#6 Wetland Reviews**  
**Additional Worksheets Required**

No Loss/Exemption/Replacement Plan-\$165

Wetland Delineation Review-\$385

Wetland Banking Plan Review-\$1,140

**#7 Public Hearings**  
**Additional Worksheets Required**

Administrative Appeal-\$1,275

Environmental Assessment-\$1,140

Conditional Use Permit-\$650

Conditional Use Permit Rehearing-\$210

Interim Use Permit-\$650

Interim Use Permit Rehearing-\$210

General Purpose Borrow Pit-\$650

Variance-\$650

Variance Rehearing-\$210

Multiple Hearing (Variance/conditional use)-\$980

Rezoning-\$650

**TYPE OF PROPOSED STRUCTURES** *Check all that apply to the project.*

<input type="checkbox"/> New Structure(s)	*Structure Type	*Foundation Type	*Maximum Length	*Maximum Width	*Maximum Sq. ft	*Maximum Height
	(Same as box #1 or 2 above)	(Basement, Slab, Pier, etc)	(Exterior Footprint Only)	(Exterior Footprint Only)	(Exterior footprint Only)	(Ground Level to Roof Peak)
			Feet	Feet	Sq. ft.	Feet
			Feet	Feet	Sq. ft.	Feet
			Feet	Feet	Sq. ft.	Feet
<input type="checkbox"/> Structure Additions	*Structure Type	*Foundation Type	*Maximum Length	*Maximum Width	*Maximum Sq. ft	*Maximum Height
	(Same as box #2 above)	(Basement, Slab, Pier, etc)	(Exterior Footprint Only)	(Exterior Footprint Only)	(Exterior footprint Only)	(Ground Level to Roof Peak)
			Feet	Feet	Sq. ft.	Feet
			Feet	Feet	Sq. ft.	Feet
			Feet	Feet	Sq. ft.	Feet

\*Indicates required field. Incomplete applications will be returned.

**CONTACT:** Planning and Community Development Department

**Technical Assistance**  
 Toll Free: 1-800-450-9777  
 Land Use Information  
[www.stlouiscountymn.gov/landuse](http://www.stlouiscountymn.gov/landuse)

**Duluth-Planning & Community Development Department**  
 Government Services Center  
 320 West 2<sup>nd</sup> Street, Suite 301  
 Duluth, MN 55802  
 (218) 725-5000

**Virginia-Planning & Community Development Department**  
 Government Services Center  
 201 South 3<sup>rd</sup> Avenue West  
 Virginia, MN 55792  
 (218) 749-7103

**Office Use Only**

Receipt # \_\_\_\_\_

Receipt Date \_\_\_\_\_

Payment Amount \_\_\_\_\_

Paid By \_\_\_\_\_

**From:** [County Attorney](#)  
**To:** [Thomas Stanley](#)  
**Subject:** FW: 2. Formal Complaint against Lakehead McKeever Gravel Pit  
**Date:** Monday, July 11, 2022 8:06:15 AM  
**Attachments:** [image.png](#)  
[McKeever 0454222 1988 - 5 year term.pdf](#)  
[McKeever decision 2006 expansion of less than 7 acres.pdf](#)  
[McKeever Lakehead Trucking app 2006.pdf](#)  
[LAKEHEAD MCKEEVER Insp report 2008.pdf](#)  
[McKeever Permit #41838 2003 Redacted - 7 day permit.pdf](#)

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**M Bell** [melbell6382@gmail.com](mailto:melbell6382@gmail.com)

**Forwarding #2**

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**From:** M Bell  
**Sent:** Sunday, July 10, 2022 2:12 PM  
**To:** Matthew Johnson <JohnsonM12@StLouisCountyMN.gov>  
**Cc:** Frank Jewell <JewellF@StLouisCountyMN.gov>; Patrick Boyle <BoyleP@StLouisCountyMN.gov>; Ashley Grimm <GrimmA@StLouisCountyMN.gov>; Paul McDonald <McDonaldP@StLouisCountyMN.gov>; Keith Musolf <MusolfK@StLouisCountyMN.gov>; Keith Nelson <NelsonK@StLouisCountyMN.gov>; Mike Jugovich <JugovichM@StLouisCountyMN.gov>; Kevin Gray <GrayK@StLouisCountyMN.gov>; Brian Fritsinger <FritsingerB@StLouisCountyMN.gov>; County Attorney <countyattorney@stlouiscountymn.gov>; Dean, Aaron A. <aaron.dean@lawmoss.com>; Radaj, Elise R. <elise.radaj@lawmoss.com>; Debra Roach <debroach@earthlink.net>; Patty Wheeler <pgwheeler3@gmail.com>; Fredenberg Township <fredenbergtwp@gmail.com>  
**Subject:** 2. Formal Complaint against Lakehead McKeever Gravel Pit

**WARNING: External email. Please verify sender before opening attachments or clicking on links.**

Mr. Johnson,

This letter is to formally file a complaint against the Lakehead McKeever Gravel Pit Located at 6297 Lavaque Road, Duluth MN 55803. We are formally requesting an official Extractive Use Inspection be conducted on this site in accordance with St. Louis County Ordinance 62, and/or SLC Ordinance 35 from 1980. McKeever Pit has three permits, the primary permit being 0454222 from 1988 which had a 5-year term. The permit from 2006 was for less than 7 acres.

Below are some of the reasons for filing the complaint.



1. Reclamation – refer to the 2008 inspection report. As you can see from the pictures there are slope and erosion concerns.

**Overall Status of Reclamation**

Major Compliance Concerns     Compliance Concerns     No Compliance Concerns     Unable to Determine

Please explain:

Pictures from September 2020







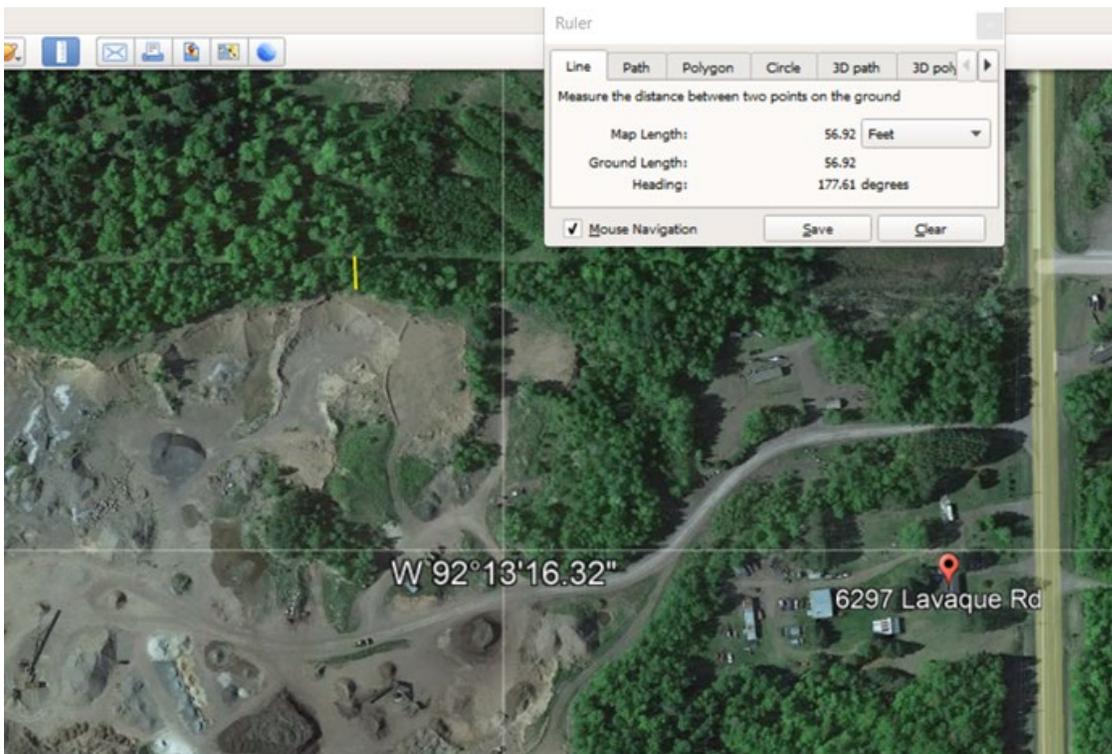
2. No disturbance zone – Refer to the 2008 inspection report. Currently the buffer area to the north is around 60 feet, which means they dug another 104 feet toward the north.

**Ability to Reclaim Pit Near Buffer Areas Due to Excavation Depth**

Major Compliance Concerns    Compliance Concerns    No Compliance Concerns    Unable to Determine

Please explain: Current pit wall in parcel 04855 is 164 feet from the Older property line on north. The height of wall will likely result in the sloping to the property line.





3. Issue with water table, dug too deep – there have been reports of flooding in the pit after 1-3 inches of rain.

a. What is the elevation currently at? Is this affecting the water table? If this is acceptable, is there a current MPCA permit?

b. These are pictures on the outskirts of McKeever Pit June 21, 2022, after less than an inch of rain.





hu, Jun 23rd 2022



Wed, Jun 22nd 2022



Tue, Jun 21st 2022

**High:** 84.2°f @3:35 PM **Low:** °f @11:55 AM   
Approx. Precipitation / Rain Total: 0.72 in.

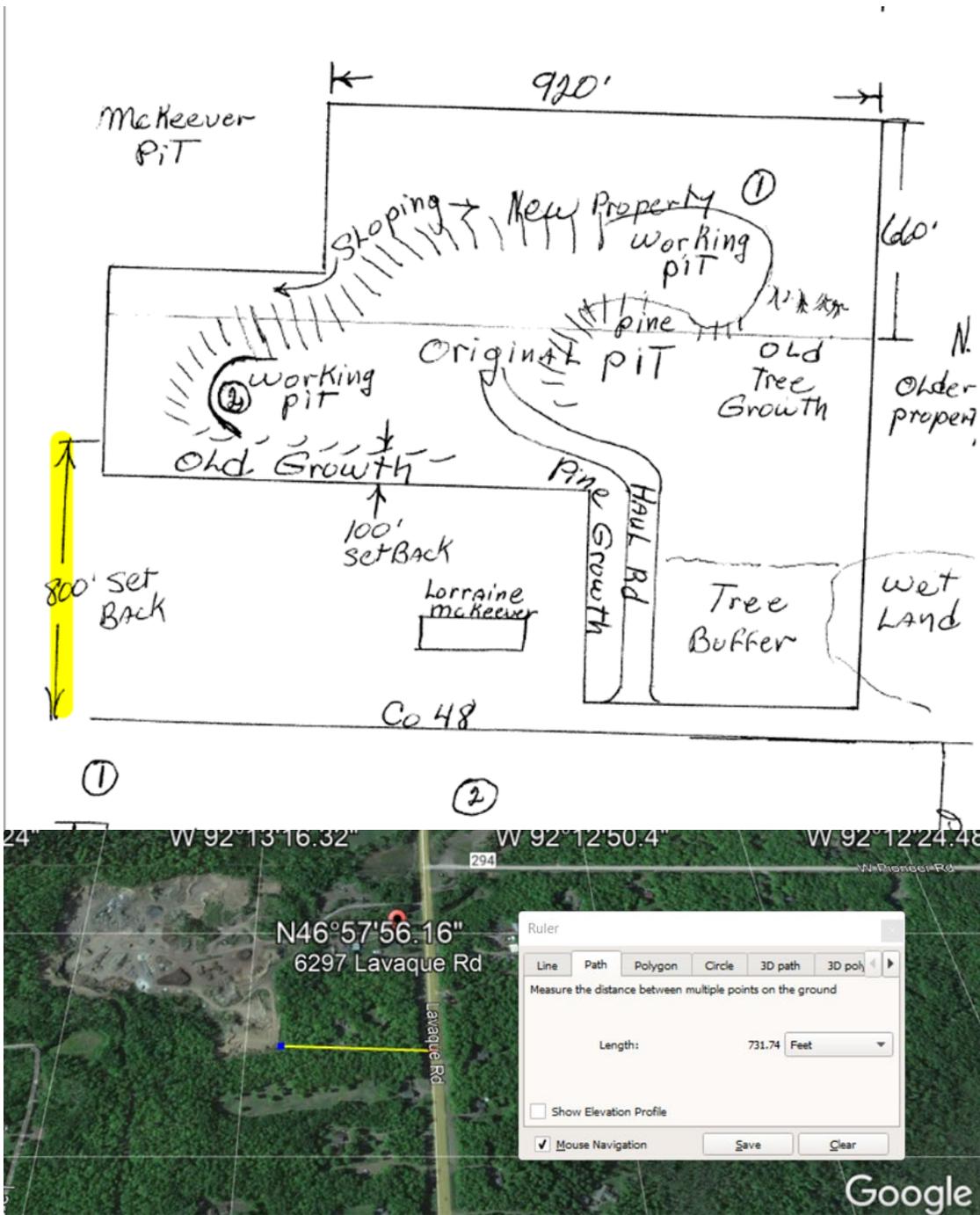






4. Set back to Lavaque Rd (Co 48) should be 800'. It is approximately 732'.





5. The only current active permit to be found is from 2006, which is only for less than 7 acres of the McKeever Pit.





# Saint Louis County

Planning and Community Development Department  
www.stlouiscountymn.gov

**Matthew Johnson**  
Director

August 14, 2022

Ms. Bell,

Thank you for your five emails of July 10, 2022, raising concerns regarding borrow pits in Fredenberg Township. Given the subject matter, St. Louis County Planning and Community Development staff are treating your communications as requests for administrative determinations of compliance with the Zoning Ordinance. As a result, staff will review the following potential Ordinance 62/permit compliance issues:

1. Email 1, "Gravel Pit Inspections clarification" highlights the standards for a conditional use permit issued by Fredenberg pursuant to the Fredenberg Township Zoning Ordinance and does not require an administrative determination related to the current St. Louis County Ordinance 62.
2. Email 2: "Formal Complaint against Lakehead McKeever Gravel Pit"
  - a. Is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, pursuant to an active conditional use permit?
  - b. If there is an active conditional use permit, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, subject to, and compliant with, the conditions of the 1988 Fredenberg Township conditional use permit?
  - c. If there is an active conditional use permit, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, in compliance with St. Louis County Ordinance 62, Article, VI, Section 6.22.H (Reclamation Standards)?
  - d. If there is an active conditional use permit, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, in compliance with St. Louis County Ordinance 62, Article, VI, Section 6.22.G.9 (no disturbance setbacks)?
  - e. If there is an active conditional use permit, and if water table or water retention issues have been observed, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, in compliance with the permit and St. Louis County Ordinance 62, Article, VI, Section 6.22?
  - f. If there is an active conditional use permit, and if the setback from Lavaque Road is less than 800 feet, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, in compliance with the permit and St. Louis County Ordinance 62, Article, VI, Section 6.22?

**Duluth Office**, Government Services Center  
320 West 2<sup>nd</sup> Street, Suite 301, Duluth, MN 55802  
Main Phone: (218) 725-5000  
Toll Free in MN: 1-800-450-9777  
On-Site Wastewater: (218) 725-5200  
Fax: (218) 725-5029

**Virginia Office**, Government Services Center  
201 South 3<sup>rd</sup> Avenue West, Virginia, MN 55792  
Main Phone: (218) 749-7103  
Toll Free in MN: 1-800-450-9777  
On-Site Wastewater: (218) 749-0625  
Fax: (218) 749-7194

3. Email 3: "Formal Complaint against Lakehead Main Gravel Pit"
  - a. Is the operation of the borrow pit located at 6035 Lavaque Road, Duluth MN 55803, pursuant to an active conditional use permit?
  - b. If there is an active conditional use permit, is the operation of the borrow pit located at 6035 Lavaque Road, Duluth MN 55803, subject to, and compliant with, the conditions of the 1988 Fredenberg Township conditional use permit?
  - c. If there is an active conditional use permit, is the operation of the borrow pit located at 6035 Lavaque Road, Duluth MN 55803, in compliance with St. Louis County Ordinance 62, Article, VI, Section 6.22.G.14 (entrance gates)?
  - d. If there is an active conditional use permit, is the operation of the borrow pit located at 6035 Lavaque Road, Duluth MN 55803, in compliance with St. Louis County Ordinance 62, Article, VI, Section 6.22.H (Reclamation Standards)?
4. Email 4: "Formal Complaint Against Dirt Works"
  - a. Is the operation of the borrow pit located at 6309 Beaver River Road, Duluth MN 55803, pursuant to an active conditional use permit?
  - b. If there is an active conditional use permit, is the operation of the borrow pit located at 6309 Beaver River Road, Duluth MN 55803, subject to, and compliant with, the conditions of the 2012 St. Louis County conditional use permit?
  - c. If there is an active conditional use permit, is the operation of the borrow pit located at 6309 Beaver River Road, Duluth MN 55803, in compliance with St. Louis County Ordinance 62, Article, VI, Section 6.22.G.15 (dust control)?
  - d. If there is an active conditional use permit, is the operation of the borrow pit located at 6309 Beaver River Road, Duluth MN 55803, in compliance with St. Louis County Ordinance 62, Article, VI, Section 6.22.G.9 (no disturbance setbacks)?
  - e. If there is an active conditional use permit, and if a settling pond west of the entrance to the pit no longer exists, is the operation of the borrow pit located at 6309 Beaver River Road, Duluth MN 55803, in compliance with the permit and St. Louis County Ordinance 62, Article, VI, Section 6.22?
  - f. If there is an active conditional use permit, and if there has been a disturbance of wetlands on the property, is the operation of the borrow pit located at 6309 Beaver River Road, Duluth MN 55803, in compliance with the permit and St. Louis County Ordinance 62, Article, VI, Section 6.22?
  - g. If there is an active conditional use permit, and if the pit activity can be viewed and heard from a neighboring property, is the operation of the borrow pit located at 6309 Beaver River Road, Duluth MN 55803, in compliance with the permit and St. Louis County Ordinance 62, Article, VI, Section 6.22?
5. Email 5: "Formal Complaint Against 6464 Fredenberg Lake Road Gravel Pit"
  - a. Is the operation of the borrow pit located at 6464 Fredenberg Lake Road, Duluth MN 55803, pursuant to an active conditional use permit?
  - b. If there is an active conditional use permit, is the operation of the borrow pit located at 6464 Fredenberg Lake Road, Duluth MN 55803, subject to, and compliant with, the conditions of the 2020 St. Louis County conditional use permit?
  - c. If there is an active conditional use permit, and if the pit activity can be viewed from a neighboring property, is the operation of the borrow pit located at 6464 Fredenberg Lake Road, Duluth MN 55803, in compliance with the permit and St. Louis County Ordinance 62, Article, VI, Section 6.22.G.11 (screening)?
  - d. If there is an active conditional use permit, is the operation of the borrow pit located at 6464 Fredenberg Lake Road, Duluth MN 55803, in compliance with

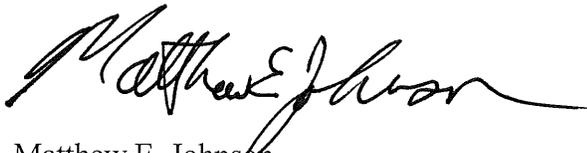
St. Louis County Ordinance 62, Article, VI, Section 6.22.H (Reclamation Standards)?

- e. If there is an active conditional use permit, is the operation of the borrow pit located at 6464 Fredenberg Lake Road, Duluth MN 55803, in compliance with St. Louis County Ordinance 62, Article, VI, Section 6.22.G.14 (entrance gates)?
- f. If there is an active conditional use permit, is the operation of the borrow pit located at 6464 Fredenberg Lake Road, Duluth MN 55803, in compliance with St. Louis County Ordinance 62, Article, VI, Section 6.22.G.9 (no disturbance setbacks)?
- g. If there is an active conditional use permit, and if vegetation has been removed in the direction of wetlands, is the operation of the borrow pit located at 6464 Fredenberg Lake Road, Duluth MN 55803, in compliance with the permit and St. Louis County Ordinance 62, Article, VI, Section 6.22?

We will notify you when an administrative determination is made. If we need clarification or additional information from you, we may ask you to provide any photos, documents, or other information you have that would be helpful to us in investigating your concerns.

In the interim, please note that investigations and subsequent resolution often take some time, so we appreciate in advance your patience and understanding.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew E. Johnson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Matthew E. Johnson

Director

Phone: (218) 725-5008

Email: [JohnsonM12@stlouiscountymn.gov](mailto:JohnsonM12@stlouiscountymn.gov)





# Saint Louis County

Planning and Community Development Department  
www.stlouiscountymn.gov

**Matthew E. Johnson**  
Director

March 31, 2023

VIA E-MAIL

Melissa Bell

Re: Administrative Determinations Concerning Lakehead McKeever Gravel Pit

Ms. Bell,

This is a follow up to the portion of my letter of August 14, 2022, regarding your requests for administrative determinations concerning what is sometimes known as the Lakehead McKeever Gravel Pit. The administrative determinations are set forth below:

- a. Is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, pursuant to an active conditional use permit?

The subject property is subject to an active conditional use permit – namely, the CUP approved by the St. Louis County Planning Commission in February 2006 and attached hereto as Exhibit A.

- b. If there is an active conditional use permit, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, subject to, and compliant with, the conditions of the 1988 Fredenberg Township conditional use permit?

The subject property is no longer subject to the CUP approved in 1988; again, the applicable CUP is the CUP approved by the St. Louis County Planning Commission in February 2006.

- c. If there is an active conditional use permit, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, in compliance with St. Louis County Ordinance 62, Article, VI, Section 6.22.H (Reclamation Standards)?

This provision of the zoning ordinance enumerates minimum standards with respect to reclamation. Based on information provided by the permit holder and review of aerial imagery of the property, an area in the south portion of the property has been reclaimed, an adjacent area to the northwest of the reclaimed area and another area in the north portion of the property area are partially reclaimed and are being sloped, and extractive-use activities are in progress in the remaining areas. The permit holder is in compliance with this provision.

**Duluth Office**, Government Services Center  
Center  
320 West 2<sup>nd</sup> Street, Suite 301, Duluth, MN 55802  
Main Phone: (218) 725-5000  
Toll Free in MN: 1-800-450-9777  
On-Site Wastewater: (218) 725-5200  
Fax: (218) 725-5029

**Virginia Office**, Government Services  
Center  
201 South 3<sup>rd</sup> Avenue West, Virginia, MN 55792  
Main Phone: (218) 749-7103  
Toll Free in MN: 1-800-450-9777  
On-Site Wastewater: (218) 749-0625  
Fax: (218) 749-7194

- d. If there is an active conditional use permit, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, in compliance with St. Louis County Ordinance 62, Article, VI, Section 6.22.G.9 (no disturbance setbacks)?

This provision of the zoning ordinance enumerates standards with respect to no-disturbance setbacks from property lines, public road rights-of-way, public utilities, municipal boundaries, and wetlands. Based on an evaluation of the subject property during an inspection conducted in August 2022 and review of aerial imagery of the property, the permit holder is in compliance with this provision.

- e. If there is an active conditional use permit, and if water table or water retention issues have been observed, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, in compliance with the permit and St. Louis County Ordinance 62, Article, VI, Section 6.22?

We did not observe any water issues during our inspection in August 2022. With respect to the images included in this portion of your e-mail of July 10, 2022, it does not appear that the water shown in the images implicates any condition in the applicable CUP or any aspect of Article VI, Section 6.22, of the zoning ordinance.

- f. If there is an active conditional use permit, and if the setback from Lavaque Road is less than 800 feet, is the operation of the borrow pit located at 6297 Lavaque Road, Duluth MN 55803, in compliance with the permit and St. Louis County Ordinance 62, Article, VI, Section 6.22?

The applicable CUP does not contain any condition concerning a setback from Lavaque Road. With respect to the ordinance, Article VI, Section 6.22.G.9.b, provides, in relevant part, "A no disturbance setback, including the haul road, shall be: . . . 50 feet . . . from the edge of all public road right-of-ways." As indicated in the administration determination with respect to item d, based on an evaluation of the subject property during an inspection conducted in August 2022 and review of aerial imagery of the property, the permit holder is in compliance with this aspect of the provision (and all other aspects of Article VI, Section 6.22.G.9).

Please be advised that, if you take exception to any administrative determination set forth above, you may appeal the determination to the St. Louis County Board of Adjustment within forty-five days of your receipt of this letter, as provided in Article VIII, Sections 8.1.E and 8.6, and Article X, Section 10.6.B, of the zoning ordinance and Minn. Stat. § 394.27, subds. 5–6 (2021).

Best regards,

**Matthew E. Johnson**



Planning & Community Development Director



# Saint Louis County

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Planning and Community Development Department  
www.stlouiscountymn.gov

**Matthew E. Johnson**  
Director

August 4, 2022

Gregory Kaneski  
6035 Lavaque Road  
Duluth MN 55803

Mr. Kaneski,

Our department completed a site visit of the extractive use/borrow pit located on parcel 365-0010-04847 to ensure permit conditions and borrow pit standard are met.

Our review determined that your extractive use is meeting ordinance requirements.

If you have any questions, feel free to contact me.

Thanks much,

Jenny Bourbonais, Land Use Manager  
St. Louis County Planning and Community Development



**St. Louis County Planning Commission  
Findings of Fact, Conclusions and Decision**

Inspection Date: January 19, 2006  
Report Date: January 24, 2006  
Meeting Date: February 9, 2006  
Report by: Mark Johnson

Applicant: Lakehead Trucking (Greg Kaneski)  
6035 Lavaque Road  
Duluth, MN 55803

Legal Description: Part of the NW<sup>1</sup>/<sub>4</sub> of NE<sup>1</sup>/<sub>4</sub>, Section 27, Town 52, Range 15 (Fredenberg)

Nature of Request: Expand existing borrow pit

**FINDINGS**

**GENERAL LAND USE:**

**Road access and functional class:** The property under consideration is located on the west side of the Lavaque Road southwest of the Lavaque/West Pioneer Road intersection. The Lavaque Road is a major collector highway.

**Watershed or lake name:** Fish Lake is within one-half mile to the south and to the west. Clearwater Lake is one-quarter mile to the northeast.

**Description of development in area:** The Fredenberg Community Center is located one-half mile to the north at the intersection of the Fish Lake and Lavaque Roads. Lakehead Trucking owns a borrow pit located about two-thirds of a mile to the south. Older Construction operates a borrow pit on adjacent property to the north. The Older family also operates a farm on the property to the north. There are approximately five homes within 500 feet from the intersection of haul road onto the Lavaque Road, including two homes immediately to the south of the haul road entrance and one residence on the haul road.

**Physical features of the area:** Rolling hills and scattered wetlands are common in this area. Soils throughout the area tend to be gravel, and as a result, several borrow pits have been developed in eastern Fredenberg.

**Development trends, if any:** There has been considerable year round residential development along the Lavaque and West Pioneer Roads. There is also a mixture of businesses that have received conditional use approval in recent years.

#### **SITE SPECIFICS:**

**Acres in development:** The parcel under consideration consists of 6.97 acres, and when the land is transferred from Minnesota Power, there will be a total of 14.39 acres of land owned by Lakehead Trucking in the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$ . Lakehead Trucking also owns 25 acres of land in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$ .

**Frontage on road or lake:** There is about 200 feet of frontage on the Lavaque Road. There appears to be a trail coming into the property off of the Pontoon Bay Road from the west.

**Topography:** Area has been subject to extensive excavation. Current working face is on a steep hill.

**Vegetative cover:** Borrow pit is not visible from the Lavaque Road due to vegetation and terrain.

**Existing and previous development on property and/or site:** This area has been an active borrow pit since the 1950's with pit operations beginning in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  and then in recent years expanding into the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$ . The first portions of the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  were sold to Lakehead Trucking in 1996. The application under consideration is on land owned by Minnesota Power and it will be sold to Kanaski if the application is approved. The air photo indicates the southern part of the pit may be within 50 feet of the south boundary line.

**Wetlands:** NWI wetland map indicates wetlands near the north boundary.

**Road access:** Lavaque Road provides north south road access. West Pioneer Road provides access to Highway #4.

**DESCRIPTION OF REQUEST (brief explanation of operation):** This is a northerly and westerly expansion of the existing borrows pit operation. The excavation depth will be 65 feet and there will be screening and crushing. The application is attached to this report.

**ZONING AND LAND USE (name of zone district and any appropriate policies from comp plan, as well as article and section number from the zoning ordinance or subdivision ordinance):** The property is in a MUNS-4 zone district. The borrow pit standards are found in Article VI Section 25 of the zoning ordinance. The existing pit meets the definition of a pre-existing pit, but those operations were not in NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  until after 1996 and pit operations had to begin prior to 1969 for this new area to be eligible for pre-existing pit permits. The area is under the jurisdiction of the Fredenberg Plan, which was adopted in 1989. The plan does not address the borrow pit issue.

## TESTIMONY AT FEBRUARY 9, 2006 PUBLIC HEARING

*Mark Johnson, Planner*, reviewed staff report.

*Greg Kaneski, Applicant*, the intent is not for any major sales. There will be no more permits for asphalt. *Paula Bloczynski* – there was concern about Clearwater Lake. *Greg Kaneski* – we are not into the water table.

*Lee Older, 6064 Lavaque Road*, owns a pit north of this pit, which the Planning Commission approved in 1997. Mr. Tony claims that the pit has moved locations because of wetlands and that the pit can be seen from the Lavaque Road. Neither one of the statements are true. We did test soils in that area. We applied for washing there but never did it and probably never will. In 1997, when I received my conditional use permit, I was told I had to stay 100 feet away on my north line. I don't understand why Kaneski only needs a 50 foot buffer and I need a 100 foot buffer. I am in favor of Greg Kaneski's application. *Mark Johnson* – Mr. Older would have to submit a new application to change the conditions of his permit. We can take a look at the wording of that permit. I think that buffer was on the north side. We will look into it.

*Dennis Fink* asked Mr. Kaneski regarding the quality of the sand. *Greg Kaneski* – we can meet the three percent on the sands.

### CONCLUSIONS (based on criteria for approval):

- 1. The use conforms with the land use plan:*** The plan makes no specific reference to borrow pits.
- 2. The use is compatible with the existing neighborhood:*** This is an expansion to an existing borrow pit and the expansion will be further away from existing development on the Lavaque Road.
- 3. The use will not impede the normal and orderly development and improvement of the surrounding area:*** Proper setbacks must be maintained in order to encourage development to the north. There is also some potential for access from the west and efforts must be made to ensure the trail cannot be used to access into the pit.
- 4. The location and character of the proposed use is considered consistent with a desirable pattern of development:*** The site has good access to major roads and is a traditional borrow pit area. The site is not visible from area roads and through buffering there would be limited impact upon adjacent properties.

### Discussion:

*Dennis Fink* – was the hole a wetland delineation? *Mark Johnson* – it was a wetland determination. *Mary Anderson* – it shows on the wetland map as a wooded swamp. The determination would be done in the spring (May 1 or shortly thereafter) so that they can verify the boundary line.

**DECISION**

Motion by Berglund/Envall to approve expansion of borrow pit operations in the East 1/2 of the NW1/4 of the NE1/4 with the following conditions:

1. No access into the pit from the west and any trails shall be blocked at the pit property line.
2. There shall be a 50 foot no disturb buffer area along the north property line. No excavation shall take place within 50 feet of the line except for final reclamation.
3. A 50-foot buffer from any wetlands shall be maintained unless the wetland technical committee authorizes wetland impact. Authorization for pit operations within 50 feet of the west and south boundary shall be obtained prior to issuance of a land use permit. There shall be a wetland determination relating to the existence of wetlands on the site. The determination must be done before July 1, 2006.
4. A reclamation bond be submitted to the county for the cost of reclaiming the borrow pit in the NW1/4 of the NE1/4 and the NE1/4 of the NE1/4, Section 27, Town of Fredenberg. The bond shall equal \$10,000 plus \$2,000 per acre of disturbed area. A reclamation plan for both forties shall be submitted to the Planning Department.
5. All minimum standards of the county borrow pit section of the zoning ordinance be followed by the applicant and all those utilizing the borrow pit. The operator and users of the pit shall sign an affidavit acknowledging that they have read the conditions of this permit and the minimum standards of the zoning ordinance.

In favor        Nienas/Envall/Fink/Huhta/Bloczynski/Maki - 6  
 Opposed:      Berglund - 1

By Order of the St. Louis County Planning  
 Commission

Subscribed to and sworn before  
 me on this \_\_\_\_\_ day of  
 \_\_\_\_\_, 2006.

\_\_\_\_\_

Chair

\_\_\_\_\_

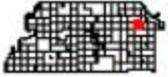
Secretary

\_\_\_\_\_  
 Notary Public

Recorded pursuant to MN Statutes 394.301, Subd. 4.



# LTI Holdings LLC



Prepared By: Planning & Community Development  
 (314) 725-4000  
[www.stlouiscounty.org](http://www.stlouiscounty.org)

Source: St. Louis County

Map Created: 5/4/2023

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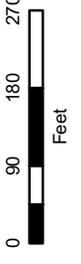
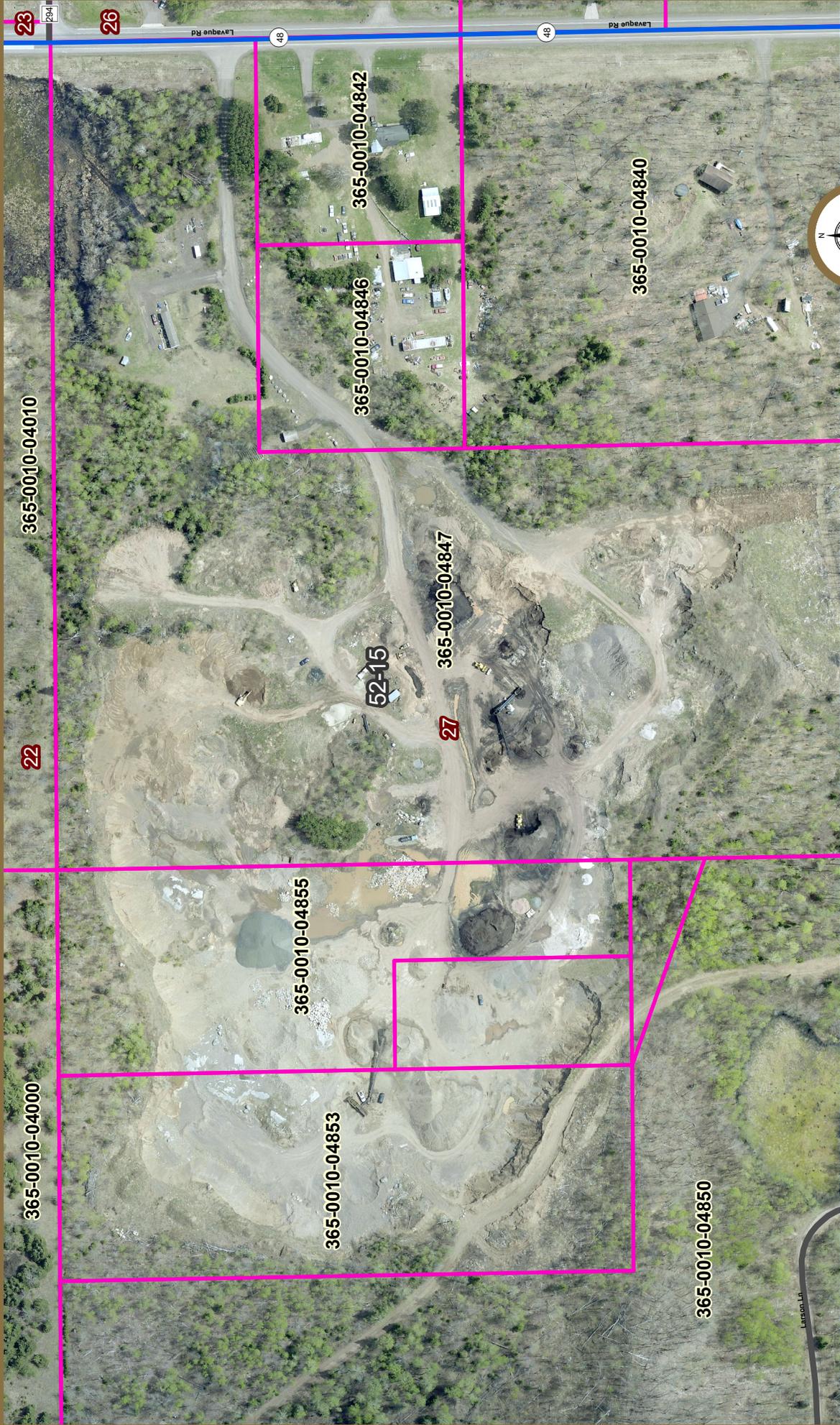


## Location Map

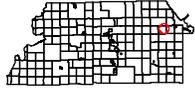




# LTI Holdings LLC



## Location Map



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Map Created: **5/4/2023**

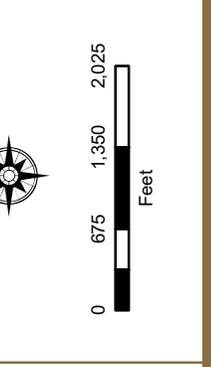
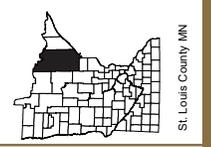
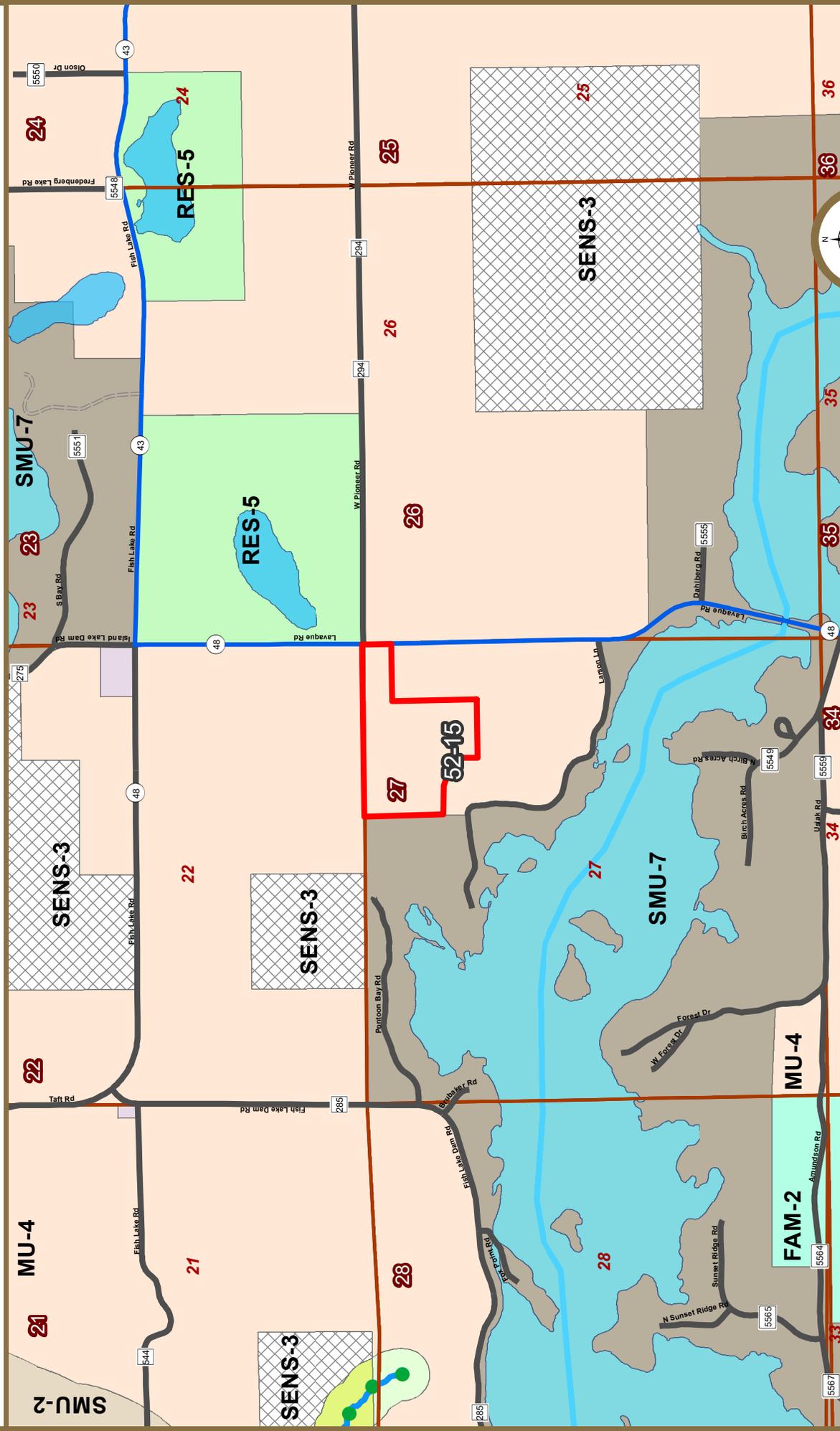
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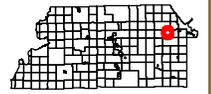


# July BOA

365-0010-04847, 4855, 4853, 4851, 4854



## LTI Holding LLC Zoning Map



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