

Presenter

Mark Lindhorst– Senior Planner



Melissa Bell

Appeal of Administrative Determination



S A I N T
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COUNTY
M I N N E S O T A

Request

- The applicant is appealing the Administrative Determination dated March 31, 2023, by Matt Johnson, St. Louis County Planning and Community Development Director regarding the operation of a permitted borrow pit at 6297 Lavaque Road Duluth MN 55803.



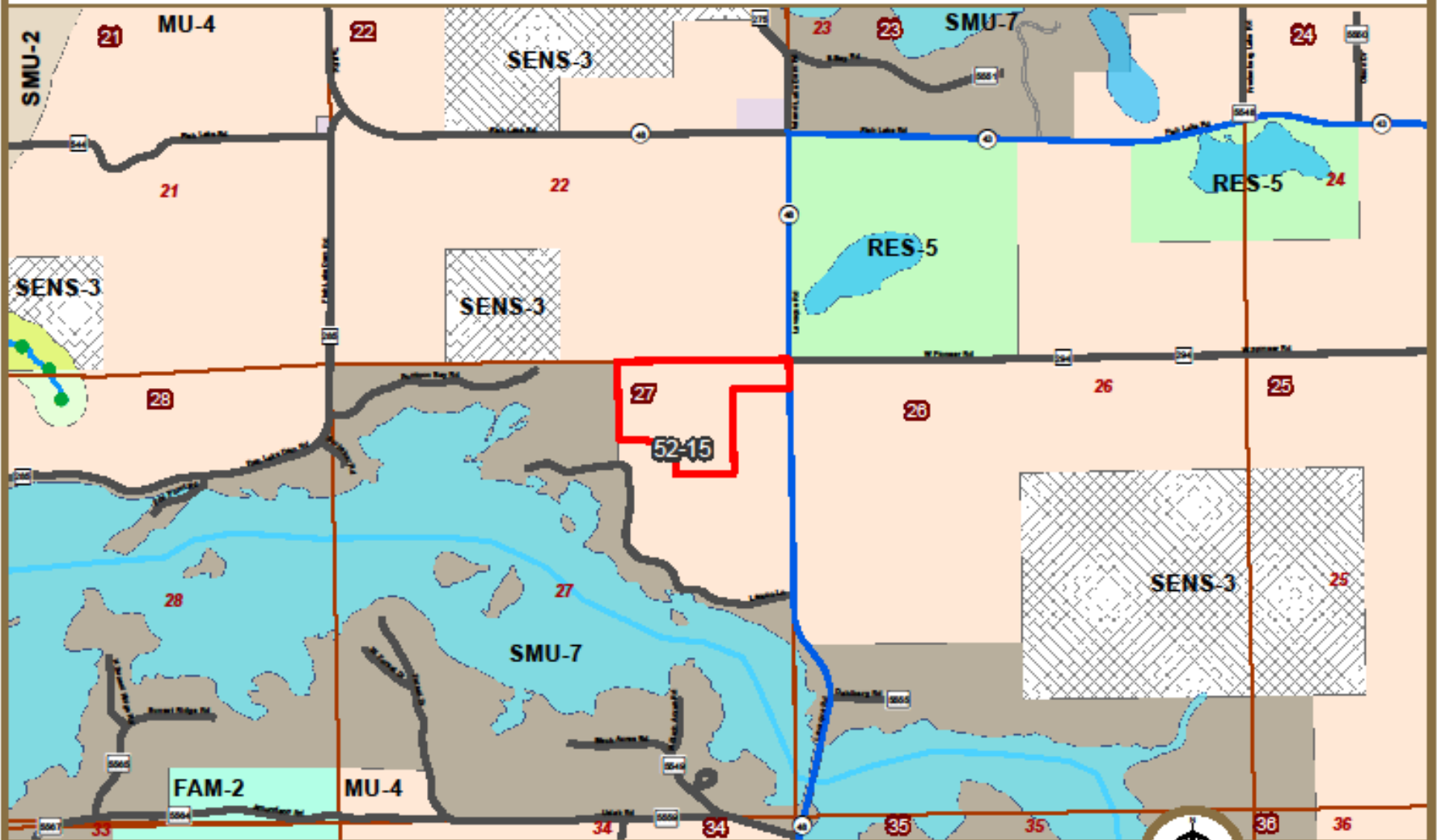
Background

- July 10, 2022, formal complaint filed against the borrow pit at 6297 Lavaque Road.
- August 14, 2022, Letter sent to Mrs. Bell regarding her formal complaint
- March 31, 2023, administrative determination sent to Melissa Bell regarding the formal complaint.
- May 1, 2023, appeal of the Administrative Determination.

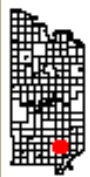


July BOA

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



Prepared By: Planning & Community Development
(314) 725-6000
www.stlouiscounty.gov
Source: St. Louis County
Map Created: 5/5/2023



LTI Holding LLC Zoning Map



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St. Louis County, MO

Gate

LAKESHORE TRAILING

HOURS: 7:00-9:00
CLOSED SAT. & SUN.
SPEED LIMIT HAS RIGHT
OF WAY
10
NO RIGHT TURN

NO RIGHT TURN



Facts & Findings

- 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 the St. Louis County Planning Commission in February 2006.



Facts & Findings

- 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.

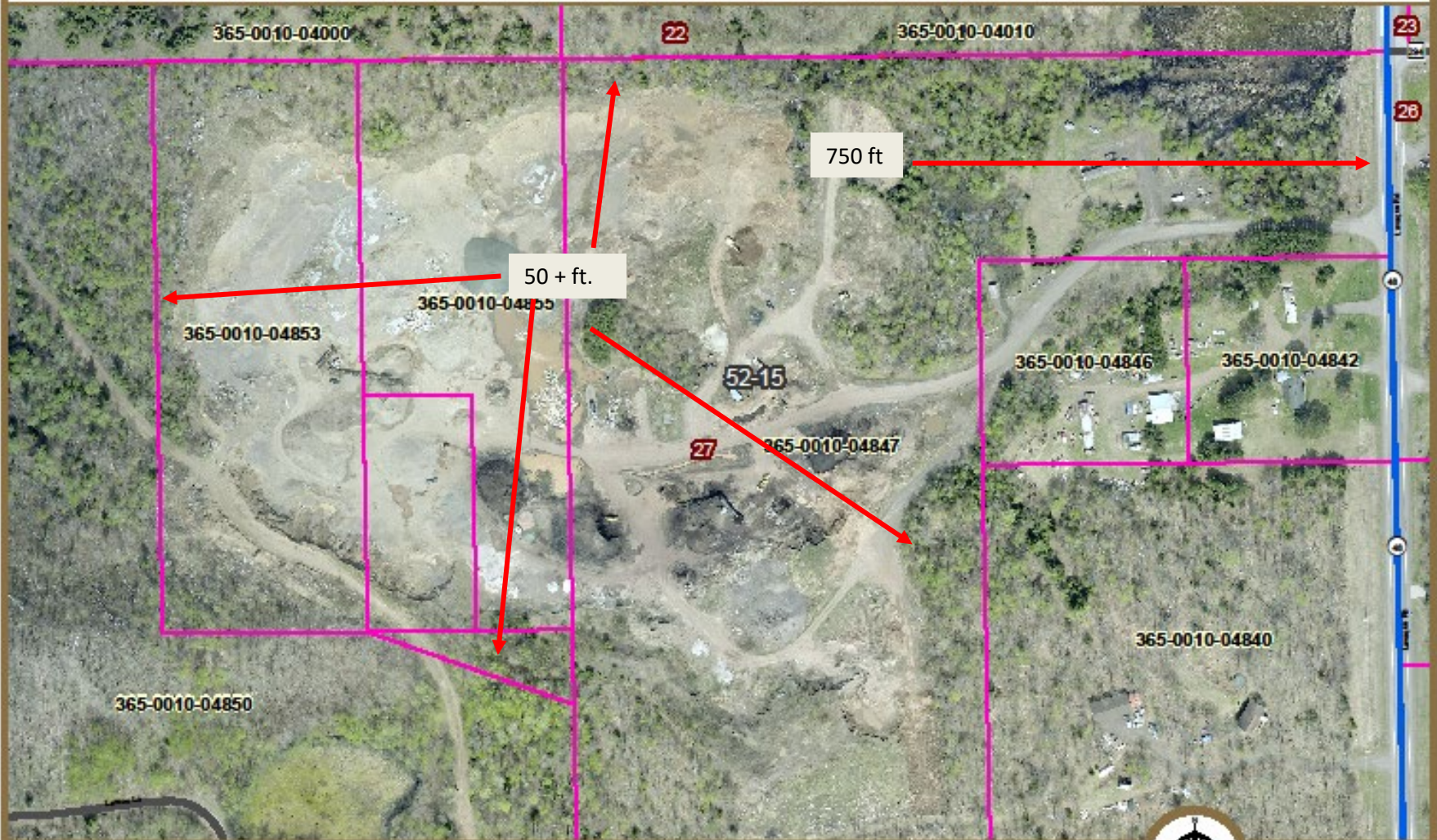


Facts & Findings

- 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.



LTI Holdings LLC

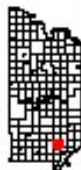


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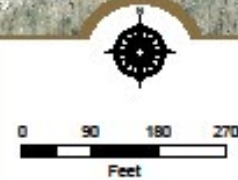
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Location Map



St. Louis County, MO



Facts & Findings

- 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.



Facts & Findings

- 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.



BOA 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.



Correspondence



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Board of Adjustment

Questions?





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