

December 6, 2007

To: Louisville Town Board  
From: Michael Cronin, Town Planner  
Re: Recommended Amendments to the Proposed Town Zoning and Mining Ordinances

Attached are copies of the proposed Louisville Township Zoning Regulations Draft 12/15 and the Louisville Township Mining Ordinance Draft 12/15. These drafts of the Town Ordinances contain the amendments in the format of CAPS for new language and ~~strikeout~~ for deleted language using the October 11 hearing drafts of the Ordinances as their base. The amendments are recommended to the Board to address comment received during the October 11 public hearing and the written comment received following the Hearing. Comment in five broad areas was received during the Hearing and in writing.

**A. The need to extend the Town Zoning Ordinance to the area where the frontage road (Dem-Con Drive) and other conditions differentiate this area from areas elsewhere in the Corridor.**

Comment from:

Mark Pahl & Jason Haus, Dem-Con Landfill, at the Hearing and their letter of November 8, 2007  
Bruce Malkerson, Malkerson Sales, Inc. at the Hearing and their letter of October 11, 2007, II Comments Relating Solely to the Proposed Changes to the Zoning Ordinance

The commentators noted these conditions in area on the west side of Hwy 169 north of the Dem-Con Drive cul de sac at approximately 133<sup>rd</sup> St that are not found elsewhere in the Corridor:

- The frontage road has been completed and provides a connection to Hwy 41 and Hwy 169 at controlled intersections
- Much of the area is held in two large parcels, Dem-Con - 144 acres, and Malkerson - 650 acres.
- The area between Hwy 169 and the Refuge is much broader in this vicinity, with the result that significant parcels in this area do not have frontage on Hwy 169.
- The parcels along Hwy 169 in the Township have been developed or are platted.
- These parcels located along Hwy 169 have access to the frontage road.
- The future development of the Dem-Con parcel is known, expansion of the demolition landfill, and has received all necessary approvals from the County and the MPCA.
- Significant scale (200 acres) gravel mining of the regional level gravel resource will continue for some years on a significant part of the Malkerson parcel, or is held by MnDot and therefore is exempted from County or Town regulation.
- Platting that provided a stormwater management plan and facilities that could be expanded to parcels that are not in the plat are in place.

*Response:*

By these conditions, much of the purpose and intent of the Town Zoning Ordinance have been provided or will not apply to development in this area. Therefore, the adoption of the amendment not extending the Ordinance north of the cul de sac of Dem-Con Drive (at approximately 133<sup>rd</sup> St) on the west side of Hwy 169 is recommended.

**B. The need to extend the Town Mining Ordinance to the area where the frontage road (Dem-Con Drive) and other conditions differentiate this area from areas elsewhere in the Corridor.**

Comment from:

Bruce Malkerson, Malkerson Sales, Inc. at the Hearing and their letter of October 11, 2007, II Comments concerning the Proposed Mining Ordinance Provisions  
Michael Caron, Tiller Corporation, November 13, 2007

These comments noted the three conditions that differentiate the mining of natural aggregates on the west side of Hwy 169 north of the Dem-Con Drive cul de sac and mining of natural aggregates in the remainder of the Corridor. First, the Tiller Corporation mining activity on the Dem-Con and Malkerson properties is occurring on the “Langdon Terrace” which is identified as the sole regionally significant source of gravel in the Township. Tiller has done drilling in the Town and believes, confirming the comments of the USGS/Metro Council Study, this is the last substantial reserve of quality gravel in Louisville Township. The remaining natural aggregate mining areas in the Corridor are identified as not regionally significant, shorter term sources of sand and gravel, primarily sand; mining activities whose regulation is identified as the purpose and intent of the Towns Ordinance. Second, this mining parcel does not front on Hwy 169 and access from this mining area is provided by a frontage road connecting to Hwy 41 and Hwy 169 at a controlled intersections. This condition is not found at other potential natural aggregate mining sites in the Corridor. Third, this mining parcel is of a significant size, 200 acres, and is part of a 650 acre parcel of common ownership. Mining at this scale minimizes the potential for impacts on and incompatibility with development on adjacent parcels. This mining area, and its surrounding parcel, are also of a scale where the comparison to the redevelopment potential with sites in Edina, Apple Valley and Maple Grove may be reasonable.

*Response:*

By these conditions, much of the purpose and intent of the Town Mining Ordinance have been provided or could not apply to mining in this area. Therefore, the adoption of the amendment not extending the Ordinance north of the cul de sac of Dem-Con Drive (at approximately 133<sup>rd</sup> St) on the west side of Hwy 169 is recommended.

**C. No additional restriction on natural aggregate mining in the south district (west side of Hwy 169, south of 145<sup>th</sup> St) is warranted.**

Comment from:

David Brockpahler, Scott Land Company, (Flood Brothers site), November 15, 2007  
Todd Becker and Scott Tennesen, (parcel north of Flood Brothers) October 11, 2007

Mining of these properties is an essential step to their development, and therefore should not be restricted.

*Response:*

These properties have the exact opposite conditions than those found in the northern district and described above. The Town’s proposed Ordinance by permitting mining to the level of the highway or railroad, and below with special conditions, balances the opportunity to mine to prepare the site for sustaining development and the capacity of the present infrastructure to serve it.

The proposed restrictions on a mining permit to two years and minimum annual activity provision may be too restrictive on these smaller sites. Therefore, adoption of the proposed amendments to the Mining Ordinance on these two conditions is recommended. No other amendment in response to these comments is recommended.

**D. Potential reclamation end use of the Gemco, Bryan Rock, Valley Mining quarry floor should not be limited at this time.**

Comment from:

William Bryan, Bryan Rock Products, November 14, 2007  
Blaine Eggum, Gemco, November 13, 2007

Bryan and Eggum, noting the quarry walls will shield from view activity on the quarry floor, conclude no restriction of potential reclamation uses and design are necessary at this time, and the best path is allowing the owners to select the appropriate reuse from the widest possible range of activities.

*Response:*

The reclamation and reuse of this approximately 230 acre parcel is significant to the commercial/industrial strategies of the County and the Town that encourage sustaining development that will realize the potential of the public investments in the upgrade of Hwy 169 with the designated County 14 access at the south edge of the quarry and the potential of extension of regional sanitary sewer service to the site. The Town's Ordinance accomplishes this in two parts. The Town's Ordinance first provides clear direction to the owners on the types of uses that will implement the County and Town commercial/industrial strategies and realize the benefits of the public investments that will allow and serve redevelopment at this site. Second, the Town's ordinance provides a clear statement of the expectation the redevelopment of the quarry floor across its several ownerships and parcels will be coordinated to provide the highest value from this important parcel.

Perhaps at the time the quarrying is nearing completion and with a clearer understanding of the status of the Hwy 169 upgrade, the new River Crossing and the availability of regional sanitary service or new on site septic alternatives, and when a specific plan for development of the site is being developed by the owners, amendments to the Town Ordinance and County Ordinances to allow an innovative plan for reuse of the quarry floor could be considered. Until that time the Town should keep the clear direction to the owners of the acceptable uses provided by the Town Ordinance intact.

No amendment in response to these comments is recommended.

**E. The regulations of the Town Zoning Ordinance are not warranted.**

Comment from:

Todd Becker and Scot Tennesen, November 15, 2007

Brad Lano, Lano Motor and Implement, November 11, 2007

Robert Velander and Herb Baldwin, East Union Nursery, November 7, 2007

Susan Lindstrom, Minnesota Valley Landscape, October 11, 2007

1. Creation of Nonconformity of Nursery and Retail Uses, Velander, Lindsrom

The Town Ordinance by design has the exact same wording on "Agricultural Uses" and "Retail Uses" as the County Zoning Ordinance. Therefore, if these uses are presently conforming by the County Ordinance they will be conforming by the Town Ordinance. If they are not conforming by the County Ordinance, the Town Ordinance cannot make them conforming as that would place it in conflict with the County Ordinance. If they are nonconforming, they will be regulated, as they are currently, by the provisions of Chapter 3: Non-conforming Lots, Buildings, Structures and Uses, of the County Zoning Ordinance.

Velander is located north of the Dem-Con Drive cul de sac and therefore will not be regulated by the Town Ordinance if the amendment recommended in "A" above is adopted.

2. Absent a detailed "end state" plan resolving all the planning issues and providing the exact best future use for each parcel in the Corridor, no Town Ordinance (or County Ordinance?) should be adopted, Baldwin.

It was neither the Town's intent nor within its ability to create a detailed development or reuse scheme for every parcel in the Corridor. Consistent with planning practice throughout the region, a "single detailed acceptable outcome/single acceptable path to that outcome" effort was not attempted. Instead, our Plan assumes "multiple acceptable paths to multiple acceptable outcomes." Our goal and purpose is providing a framework and direction to individual landowners as they consider the compatible and best present and end uses for their properties.

3. The Town Ordinance will not allow me to use my land exactly as I choose, is most convenient, or is presently most remunerative. Lano, Becker, Tennesen, Lindstrom

The Town has carefully selected the allowed uses and performance standards of the County Ordinance that: will implement the County and Town Goals and Policies for development under the exceptional conditions found in the Corridor; are within the ability of the Town, County and MnDot to serve; and reflects the Supervisor's responsibility to guide growth in the Corridor for the general welfare of the Town. These conditions and responsibilities were carefully balanced with the rights and expectations of individual landowners, whose comments were solicited and understood throughout the process.

No amendment in response to these comments is recommended.

**Town Planner's Recommendation:**

Adopt the proposed Town Zoning and Mining Ordinance provisions as amended.