

**DRAFT**  
**PLANNING COMMISSION MEETING**  
**August 5, 2020, at 7:00 PM**  
**Carlton County Transportation Building**

(1) Chairperson Ezell called the meeting to order at 7:02 PM.

Members Present: Jack Ezell, Jim Gottschald, Byron Kuster, Sam Huhta, Dennis Lundin, Erik Abrahamson and Keith Depre

Members Absent: None

Ex Officio Members Present: Commissioner Mark Thell and Heather Cunningham

Ex Officio Member Absent: None

(2) Motion by Abrahamson, seconded by Huhta, and supported by all ye a votes to approve the minutes of the March 4, 2020, meeting.

(3) The public hearing was called to order at 7:03 PM.

(4) Chairperson Ezell read a statement that legal ads were sent to the two legal newspapers. The Star Gazette ad was sent on July 16, 2020, and published July 23, 2020. The Pine Knot ad was sent on July 16, 2020, and published on July 24, 2020.

(5) Chairperson Ezell read statements regarding Findings of Fact and Finality of Decisions. Statements regarding Findings of Fact and Finality of Decisions were placed on the projector screen.

(6) Permit Requests:

**(A) Interim Use Permit #420001**

Jeffrey and Sheri Herman of 1976 Lakeview Drive, Carlton, MN 55718 have requested an Interim Use Permit to grade and fill in excess of 10 cubic yards on a steep slope, outside the building setback from the ordinary high water level (OHWL). The property is described as Lots 28 and 29 of Lee's Chub Lake Subdivision in Section 23, Township 48 North, Range 17 West on Chub Lake in Twin Lakes Township. The property address is 1975 Lakeview Drive (PIN 81-270-0500 and 0520).

Jeffrey and Sheri Herman were present to represent the request. Chairperson Ezell read the description of the request from the legal ad and asked the applicants to expound on the request.

Mr. Herman summarized the request. They would like to construct terraced retaining walls. There is 16 feet of elevation difference between the lake and the house. The slope is very steep and slippery. He almost flipped his trailer last week. They have contracted with an engineer and general contractor to complete the work. The slope will be terraced with retaining walls every two feet. It will be planted with native plants. The former owner had poured concrete down the slope and it is very slippery. The county requires a setback of 100 feet. Ideally they would like to start the project at 90 feet from the OHWL.

Chairman Ezell asked if there were any questions from the Planning Commission. There were none.

Cunningham played the development review video and the applicants narrated.

Kuster asked if the work would be completed on both parcels. Mr. Herman indicated it would be on both parcels. Kuster asked if the walls would meet setback requirements. Mr. Herman said it would meet the 10 foot side yard setback.

Chairman Ezell summarized the development review submitted by Zoning Administrator Cunningham dated July 30, 2020.

Chairman Ezell asked the applicants if they understood and agreed to the conditions. Mr. Herman indicated yes he understood and agreed to the conditions, but would like to discuss the 100 feet setback from the OHWL. Cunningham indicated that the condition should be amended to indicate the retaining wall should be 100 feet from the OHWL as it is considered a structure but the excavation could occur within 100 feet of the OHWL. Mr. Herman asked about how the OHWL was determined. Cunningham described the process that the DNR uses to determine the elevation. She indicated that the water level is down about two feet.

Chairperson Ezell asked if there were any comments in support or neutral of the request from the audience.

Tim Young of 1989 Lakeview Drive, Carlton, MN 55718 indicated he lives two houses down. He said the Herman's have improved the property and have maintained a good shoreline buffer. He indicated the project is not offensive or visible from the lake or neighbors. He stated he is in support of the project.

Chairperson Ezell asked if there were any other comments from the audience. There were none.

**(B) Conditional/Interim Use Permit #420002**

Douglas and Barb Omar, DBA Omar's Sand and Gravel, have requested a Conditional/Interim Use Permit for a pipe and contractor yard for equipment staging, material staging and parking, which includes vehicles and office trailers to support Enbridge Energy's Line 3. This request relates to previously permitted Conditional Use Permits #408006 and 414008. The authorized representative is Trevor Lindblom of Enbridge Energy, Limited Partnership of 11 East Superior Street, Suite 125, Duluth, MN 55802. The subject property is described as Part of the Southeast ¼ of the Southwest ¼ (81-050-3730); Part of the Southwest ¼ of the Southwest ¼ (PIN 81-050-3710); Northwest ¼ of the Southwest ¼ (81-050-3700); Northeast ¼ of the Southwest ¼ (PIN 81-050-3690); Southwest ¼ of the Northwest ¼ (PIN 81-050-3670); and the Southeast ¼ of the Northwest ¼ (PIN 81-050-3680) all in Section 19, Township 48 North, Range 17 West in Twin Lakes Township. The property address is 2081 and 2083 Highway 61.

Trever Lindblom and Christine Davis of Enbridge Energy located at 11 East Superior Street, Suite 125, Duluth, MN 55802 were present to represent the request. Chairperson Ezell read the description of the request from the legal ad and asked the authorized representatives to expound on the request.

Lindblom indicated they are currently operating under another conditional use permit. This application is different in that they would like office trailers and operation hours of 24 hours per day, seven days per week (24/7).

Chairman Ezell asked about the provision to operate 24/7 and how often it would be used. Lindblom indicated that the provision would be used in the winter when they are working in wetlands and need frozen ground. Chairman Ezell asked about when the provision would sunset. Lindblom indicated 18 months from the start of construction. Chairman Ezell asked about the projected start date. Lindblom indicated in Q4 (quarter 4, October). Kuster and Cunningham discussed the start date for the 24/7 provision and wording of the condition.

Chairman Ezell asked if there were any questions from the Planning Commission. There were none.

Cunningham played the development review video and Lindblom narrated.

Chairman Ezell summarized the development review submitted by Zoning Administrator Cunningham dated July 30, 2020.

Chairman Ezell asked Lindblom if he understood and agreed to the conditions. Lindblom indicated he agreed to the conditions. Chairman Ezell inquired about a sunset date for the 24/7 provision. Cunningham asked Lindblom if the Public Utilities Commission gave them a start date. Lindblom said no, they provide a date they can obtain permits from other agencies. Davis suggested that we use the authorized order to construct as a start date and mechanical completion of the pipeline as the end date. Gottschald suggested mechanical completion of the pipeline or 18 months, whichever comes sooner.

Gottschald asked how we would determine that the provision related to operating 24/7 is being used for the construction of the pipeline or gravel operation. Cunningham indicated that the office would rely on compliance inspections and complaints received to make that determination.

Kuster asked the authorized representative to expound further on what activities would be occurring on the property related to the request. Lindblom described the daily operation. He indicated the pipe is already at the property.

Lundin asked how many miles this storage yard would support. Lindblom indicated from Superior, WI to Gowan, MN.

Davis indicated that the provision to operate 24/7 would also be used to conduct daily safety meetings.

Lindblom and Davis indicated they have been in contact with Rick Norrgard and JinYeene Neumann of the Carlton County Transportation Department regarding condition number six.

Gottschald asked if, because of the presence of office trailers, this property would be an area for protests and do we need a condition to address this? Chairman Ezell indicated he didn't think it was appropriate. Cunningham indicated there have been protests adjacent to the property and the Sheriff's Office has handled it and would continue to handle it.

Chairperson Ezell asked if there were any comments in support or neutral of the request from the audience.

June Lind of 2601 Nasenius Road, Carlton, MN 55718 indicated she lives about a half mile from the property. She didn't realize they would be operating 24/7 for 1.5 years. She wanted to know when the start date and end date would be. She also wanted to know if people would be living in the trailers. Chairman Ezell said the trailers would not be used as living quarters. He asked how many trailers would be on the property. Lindblom indicated there would be five or six. Davis wanted to clarify that they would not be operating 24/7 all the time. It would mostly be used when they need to work in wetlands when the ground is frozen and for safety meetings.

Chairperson Ezell asked if there were any other comments from the audience. There were none.

**(C) Conditional/Interim Use Permit #420003**

Fond du Lac Band of Lake Superior Chippewa of 1720 Big Lake Road, Cloquet, MN 55720 have requested a Conditional/Interim Use Permit to construct and operate an electrical substation and associated electric transmission line on land they propose to lease from Carlton County. The transmission line will be energized to 230/23 kV and will be less than 1,500 feet in length. The subject property is described as Part of the North ½ of Section 11, and Part of the North ½ of Southwest ¼ in Section 11, Township 48 North, Range 17 West, lying south of railroad and lying north of State of MN DNR trail, in Twin Lakes Township. The property address is XXXX Highway 61 (PIN 81-030-2240).

Bruno Zagar of the Fond du Lac Band of Lake Superior Chippewa was present to represent the request. Chairperson Ezell read the description of the request from the legal ad and asked the authorized representative to expound on the request.

Zagar described the request. He indicated they have looked at several locations along Highway 210. This location is the most appealing and the safest location for the substation and distribution center.

Chairman Ezell asked if there were any questions from the Planning Commission. There were none.

Cunningham played the development review video and Cunningham narrated. Cunningham also placed a 2019 aerial photograph on the overhead projector to describe the location of the request.

Chairman Ezell summarized the development review submitted by Zoning Administrator Cunningham dated July 30, 2020.

Chairperson Ezell asked if Zagar understood and agreed to the conditions. Zagar said yes.

Gottschald asked if the lease has been drafted. Cunningham indicated it is in progress. Kuster asked if the lease could be renewed over and over again. Cunningham indicated it could potentially be renewed.

Chairperson Ezell asked if there were any comments in support or neutral of the request from the audience.

Ron Johnson of 1923 County Road 7, Mahtowa, MN 55707 asked why Minnesota Power isn't providing the substation and power line. Zagar indicated that the nearest substation is 10 miles away and it needs to be upgraded as well. He indicated the band has been studying the issue for six years.

Debra Johnson of 1641 Highway 210, Carlton, MN 55718 asked about access. Zagar indicated it would be from the Carlton Travel Center. Johnson asked about the lease and where the lease money would go. Cunningham indicated that the lease agreement is in progress. The band would like to obtain a grant from the federal government with a fast timeline for submission. Therefore, several processes and permits are happening at the same time. Johnson asked if the county would sell the property to the band. Cunningham indicated she didn't want to speak for the county board, but it is not their intent to sell the property. Cunningham described the previous work and permits completed for the subdivision and development of this property. She indicated that the process was stalled during the recession but that the process has begun again. Commissioner Thell indicated the county board gave a commitment to work with FDL on the substation and line. It would help support further development of this area.

Chairperson Ezell read a letter submitted by Minnesota Power via email and dated August 5, 2020, (attached as Exhibit A).

Chairperson Ezell asked if there were any other comments from the audience. There were none.

(7) As there were no additional questions, Chairman Ezell closed the public hearing at 8:43 PM. The Planning Commission deliberated the conditional/interim use applications as part of the Planning Commission meeting.

**(A) Interim Use Permit #420001**

Motion by Gottschald, seconded by Abrahamson, and supported by yeas to recommend approval of Interim Use Permit #420001 to the County Board in accordance with the findings of fact and approved by the Planning Commission with the conditions, as follows:

Article 4, Section 5, Subdivision H, 10, b of Carlton County Zoning Ordinance #27 indicates the standards for topographic alterations/grading and filling. This section indicates that an Interim Use

Permit shall be required from the County Board for grading and filling activities that involve the movement of 10 or more cubic yards of material per site within a steep slope. In addition, the following findings of fact shall be made to grant an Interim Use Permit.

**FINDINGS OF FACT:**

1. IS THE CONDITIONAL OR INTERIM USE SPECIFICALLY LISTED IN THE ZONING DISTRICT IN WHICH THE PROPERTY LIES? Yes. As stated above, a Shoreland Alterations Interim Use Permit for grading and filling is required for the movement of 10 or more cubic yards of material per site within a steep slope.

*If the answer is no, you must make the following findings:*

~~A.) THE USE IS SIMILAR IN NATURE TO OTHER USES LISTED IN THE SAME ZONING DISTRICT. WHY OR WHY NOT?~~

~~B.) THE PROPOSED USE DOES NOT CREATE A GREATER POTENTIAL FOR IMPACTS THAN OTHER USES LISTED THAT CANNOT BE MITIGATED WITH APPROPRIATE CONDITIONS. WHY OR WHY NOT?~~

~~C.) IS THE PROPOSED USE COMPATIBLE WITH ADJACENT LAND USES? WHY OR WHY NOT?~~

~~D.) THE PROPOSED USE IS CONSISTENT WITH THE CARLTON COUNTY COMPREHENSIVE PLAN OR THE INTENT OF THE ORDINANCE. WHY OR WHY NOT?~~

*If the answer to 1 is yes or if A – D are all yes, proceed to question 2.*

*If not, the request should not be approved.*

2. THE USE WILL NOT BE INJURIOUS TO THE USE AND ENJOYMENT OF PROPERTY IN THE IMMEDIATE VICINITY FOR THE PURPOSE ALREADY PERMITTED NOR SUBSTANTIALLY DIMINISH AND IMPAIR PROPERTY VALUES. Yes. The project has been designed by a structural engineer and should not degrade water quality on Chub Lake or be injurious to the use and enjoyment of property in the immediate vicinity.
3. THE ESTABLISHMENT OF THIS USE WILL NOT IMPEDE NORMAL AND ORDERLY DEVELOPMENT AND IMPROVEMENT OF SURROUNDING VACANT PROPERTY FOR USES PREDOMINANT IN THE AREA. Yes. The project has been designed by a structural engineer and should not degrade water quality on Chub Lake. It should not impede further development or improvement on the lake.
4. ADEQUATE UTILITIES, ACCESS ROADS, DRAINAGE AND OTHER NECESSARY FACILITIES HAVE BEEN OR ARE BEING PROVIDED. Yes. The project has been designed by a structural engineer and should not degrade water quality on Chub Lake. Erosion control practices will include two rows of silt fence and erosion control blankets. Long term erosion control includes deep-rooted plants in the terraced area.
5. ADEQUATE OFF STREET PARKING IS OR WILL BE PROVIDED. Yes. Not applicable.
6. ADEQUATE MEASURES HAVE BEEN OR WILL BE TAKEN TO PREVENT OR CONTROL OFFENSIVE ODOR, FUMES, DUST, NOISE AND VIBRATION SO THAT NONE OF THESE CONSTITUTE A NUISANCE. Yes. No offensive odor, fumes, dust or vibration should be generated by this use in the long term.

7. ADEQUATE CONTROL OF LIGHTED SIGNS AND OTHER LIGHTS IS PROVIDED SO THAT A DISTURBANCE TO NEIGHBORING PROPERTIES WILL NOT RESULT. Yes. Not applicable.

Article 3, Section 5, Subdivision E of Carlton County Zoning Ordinance #27 indicates additional evaluation criteria and standards apply within shoreland areas. However, this provision does not apply as grading and filling permits have their own criteria.

**CONDITIONS:**

1. The permit will be periodically reviewed by the County to assure compliance with Carlton County Zoning Ordinance #27, the permit and permit conditions.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinance.
3. The permit may be modified if the permittee violates one or more of the conditions in the permit.
4. Must comply with the standards listed in Article 4, Section 5, Subdivision H, 10, b of Carlton County Zoning Ordinance #27 for grading and filling permit standards which include conducting the alteration in a manner that ensures only the smallest areas of soil are exposed for the shortest time possible.
5. An erosion control blanket shall be placed over all disturbed areas. Two rows of silt fence shall be maintained until all disturbed areas have been adequately vegetated.
6. The retaining wall itself must meet the 100 feet setback of the OWHL of Chub Lake.
7. Deep-rooted plants used in the terraced area shall be native to Minnesota.

**(B) Conditional/Interim Use Permit #420002**

Motion by Depre, seconded by Lundin, and supported by yea votes to recommend approval of Interim Use Permit #420002 to the County Board in accordance with the findings of fact and approved by the Planning Commission with the conditions, as follows:

**IS THE USE REQUESTED TEMPORARY?**

Yes. The application indicates that the request is temporary. Conditional Use Permit #408006 indicates that the use was permitted as an interim use and expired on November 30, 2011. As interim uses had not been adopted in state statute for counties and not adopted in ordinance, there is some doubt that this use has expired. The applicants indicated that use has not ceased to exist for more than a year and pipe has continued to be stored on the property since 2008. This was verified via aerial photography. The applicant/authorized representative of Conditional Use Permit #414008 indicated that this use expired at the termination of the lease. Again, this may not have expired. Clarification is needed on the term of this request as well as the ability to operate 24 hours a day, seven days a week.

**IS THE USE OWNER SPECIFIC?**

No. The use should not be considered owner specific as indicated on the application.

**DOES THE USE LACK SPECIFIC EXISTING OR NEW INFRASTRUCTURE?**

No. According to the application, the use includes existing or new infrastructure.

IF YOU ANSWER ANY OF THE ABOVE QUESTIONS YES, CONSIDER PROCESSING AS IUP. PLEASE DESCRIBE WHY THE USE SHOULD BE CONSIDERED AN IUP OR CUP: This office recommends that the use is processed as an interim use. The use as a pipe storage yard and contractor yard for equipment staging, material staging and parking for vehicles, equipment and office trailers can continue as long as the use has not ceased, has not been discontinued, or has been abandoned for a period of one year and all conditions have been abided by. The use to operate 24 hours a day/seven days a week shall be limited to the construction of Enbridge Energy's Line 3. A date should be set by the applicant for this to sunset. At such established time, the use shall revert to the previously agreed Monday through Sunday, 7:00 AM to 8:00 PM.

**FINDINGS OF FACT:**

1. IS THE CONDITIONAL OR INTERIM USE SPECIFICALLY LISTED IN THE ZONING DISTRICT IN WHICH THE PROPERTY LIES? No. Article 4, Section 5, Subdivision A, B and F of Carlton County Ordinance #27 do not specifically list pipe and contractor yard for equipment staging, material staging and parking (including vehicles, equipment and office trailers).

*If the answer is no, you must make the following findings:*

- A.) THE USE IS SIMILAR IN NATURE TO OTHER USES LISTED IN THE SAME ZONING DISTRICT. WHY OR WHY NOT? Yes. Permanent forest processing activities, including sawmills, debarking and chipping facilities and yarding areas are listed as conditional/interim uses in Zoning Districts A-1 and A-2. Road maintenance shops and equipment storage areas, vehicle testing grounds and repair facilities are listed in Zoning District M-1. These activities would be similar in nature as they could potentially create nuisance noise, dust, vibration and traffic concerns. Also listed as a conditional/interim use is a regional pipeline.
- B.) THE PROPOSED USE DOES NOT CREATE A GREATER POTENTIAL FOR IMPACTS THAN OTHER USES LISTED THAT CANNOT BE MITIGATED WITH APPROPRIATE CONDITIONS. WHY OR WHY NOT? Yes. The proposed use and any potential impacts could be mitigated with appropriate conditions, as demonstrated in the past, and as detailed below. The request to operate 24 hours per day, seven days a week could be mitigated with lighting and noise restrictions.
- C.) IS THE PROPOSED USE COMPATIBLE WITH ADJACENT LAND USES? WHY OR WHY NOT? Yes. The existing land use as a gravel pit pre-dates official controls. The existing use and the proposed use are similar. This office is not aware of any complaints related to this use. The adjacent land uses appear to be agriculturally related. In addition, across Highway 61 is a property with a Conditional Use Permit for the storage and sale of semi-trailers.
- D.) THE PROPOSED USE IS CONSISTENT WITH THE CARLTON COUNTY COMPREHENSIVE PLAN OR THE INTENT OF THE ORDINANCE. WHY OR WHY NOT? Yes. The request does not appear to be in conflict with the intent of the Carlton County Comprehensive Plan or Carlton County Zoning Ordinance #27. This corridor has a historical use for light industrial.

*If the answer to 1 is yes or if A – D are all yes, proceed to question 2. If not, the request should not be approved.*

2. THE USE WILL NOT BE INJURIOUS TO THE USE AND ENJOYMENT OF PROPERTY IN THE IMMEDIATE VICINITY FOR THE PURPOSE ALREADY PERMITTED NOR SUBSTANTIALLY DIMINISH AND IMPAIR PROPERTY VALUES. Yes. It is unlikely that the

use of the property for a material storage yard and staging area would be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within immediate vicinity. This use has been established since 2008. This request adds office trailers, which shouldn't add additional impact to the immediate vicinity. However, this request includes operating 24 hours a day, seven days a week which could impact the immediate vicinity. If extended operating hours are allowed, additional lighting and noise conditions should be added as well as a sunset date.

3. THE ESTABLISHMENT OF THIS USE WILL NOT IMPEDE NORMAL AND ORDERLY DEVELOPMENT AND IMPROVEMENT OF SURROUNDING VACANT PROPERTY FOR USES PREDOMINANT IN THE AREA. Yes. The establishment of the interim use should not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area as long as appropriate conditions are placed on this use as described. The use has been in effect since 2008 and development has occurred in the immediate vicinity with the construction of new dwellings. This request adds office trailers, which shouldn't impede development in the immediate vicinity. However, this request includes operating 24 hours a day, seven days a week which could impair development in the immediate vicinity. If extended operating hours are allowed, additional lighting and noise conditions should be added as well as a sunset date.
4. ADEQUATE UTILITIES, ACCESS ROADS, DRAINAGE AND OTHER NECESSARY FACILITIES HAVE BEEN OR ARE BEING PROVIDED. Yes. It appears that adequate utilities, access roads and drainage have been or are being provided. The access road into the property already has signage indicating trucks are hauling. This office recommends the applicants consult with the Carlton County Transportation Department about any additional requirements. This office requests additional information on the use of portable bathroom facilities.
5. ADEQUATE OFF STREET PARKING IS OR WILL BE PROVIDED. Yes. No parking will be allowed on Highway 61.
6. ADEQUATE MEASURES HAVE BEEN OR WILL BE TAKEN TO PREVENT OR CONTROL OFFENSIVE ODOR, FUMES, DUST, NOISE AND VIBRATION SO THAT NONE OF THESE CONSTITUTE A NUISANCE. Yes. The applicant shall comply with any requirements of the Carlton County Transportation Department regarding traffic and dust control. A condition has been developed for noise compliance monitoring with audits to measure and take corrective action.
7. ADEQUATE CONTROL OF LIGHTED SIGNS AND OTHER LIGHTS IS PROVIDED SO THAT A DISTURBANCE TO NEIGHBORING PROPERTIES WILL NOT RESULT. Yes. A condition has been developed to control lights so that a disturbance to the neighboring properties will not result.

#### **CONDITIONS:**

1. The application is processed as an Interim Use Permit. The use as a pipe storage yard and contractor yard for equipment staging, material staging and parking for vehicles, equipment and office trailers can continue as long as the use has not ceased, has not been discontinued, or has been abandoned for a period of one year and all conditions have been abided by. The use to operate 24 hours a day/seven days a week shall be limited to the construction of Line 3 and shall terminate 18 months from the authorized order to construct or mechanical completion of the pipeline, whichever comes first. At such time, the use shall revert to the previously agreed Monday through Sunday, 7:00 AM to 8:00 PM.
2. The applicant must undertake the project according to the plans and specifications submitted to the County with the application or as modified by Carlton County.

3. The permit will be periodically reviewed by the County to assure compliance with the permit and permit conditions. The permit may be modified or revoked if the permittee violates one or more of the conditions of the permit.
4. The County may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinance.
5. Lighting shall be directed away from neighboring properties so as not to be a nuisance. Lighting shall be restricted to the same hours as in Condition #1.
6. The applicant shall comply with any requirements of the Carlton County Transportation Department regarding traffic, dust control and signage. This includes any road repairs required above and beyond typical road maintenance completed by the County.
7. The noise generated from the use shall not exceed the standards set forth by the Minnesota Pollution Control Agency (MPCA) in Minnesota Rules Chapter 7030. The applicant shall be responsible for the hiring of a qualified consultant to test for compliance of the aforementioned Rule during the first month of operation and if and when a signed, written complaint has been received by the Zoning and Environmental Services Office from a property owner within 0.25 mile of the subject property. The test results shall be filed with the Zoning and Environmental Services Office.
8. The applicant shall be compliant with Conditional Use Permits #408006 and #414008, except as modified by Interim Use Permit #420002 or the County shall pursue revocation of Conditional Use Permits #408006 and #414008 and Interim Use Permit #420002.

**(C) Conditional/Interim Use Permit #420003**

Motion by Abrahamson, seconded by Gottschald, and supported by yea votes to recommend approval of Interim Use Permit #420003 to the County Board in accordance with the findings of fact and approved by the Planning Commission with the conditions, as follows:

IS THE USE REQUESTED TEMPORARY?

Yes. The application indicates that the request is temporary.

IS THE USE OWNER SPECIFIC?

Yes. The application indicates that the request is owner specific.

DOES THE USE LACK SPECIFIC EXISTING OR NEW INFRASTRUCTURE?

No. The application indicates that the use lacks infrastructure, but the use requires construction of a substation and transmission lines. Therefore the answer should be no.

IF YOU ANSWER ANY OF THE ABOVE QUESTIONS YES, CONSIDER PROCESSING AS IUP.

PLEASE DESCRIBE WHY THE USE SHOULD BE CONSIDERED AN IUP OR CUP: This office recommends that the use is processed as an interim use and shall terminate at the expiration of the lease.

**FINDINGS OF FACT:**

1. IS THE CONDITIONAL OR INTERIM USE SPECIFICALLY LISTED IN THE ZONING DISTRICT IN WHICH THE PROPERTY LIES? No. Article 4, Section 5, Subdivision C of Carlton County Ordinance #27 does not specifically list substations or electrical transmission lines as permitted or conditional/interim uses in the R-1 Zoning District. Electrical transmission lines greater than 69 kV are listed as a conditional/interim uses in Zoning Districts A-1 and A-2.

*If the answer is no, you must make the following findings:*

- A.) THE USE IS SIMILAR IN NATURE TO OTHER USES LISTED IN THE SAME ZONING DISTRICT. WHY OR WHY NOT? Yes. Electrical transmission lines greater than 69 kV are listed as a conditional/interim use in Zoning Districts A-1 and A-2. Substations and electric transmission lines are defined as essential services as described above.
- B.) THE PROPOSED USE DOES NOT CREATE A GREATER POTENTIAL FOR IMPACTS THAN OTHER USES LISTED THAT CANNOT BE MITIGATED WITH APPROPRIATE CONDITIONS. WHY OR WHY NOT? Yes. The proposed use should not have any long-term impacts. Short-term impacts would only occur during construction. The area is surrounded by railroad property with no housing in the viewshed of the substation.
- C.) IS THE PROPOSED USE COMPATIBLE WITH ADJACENT LAND USES? WHY OR WHY NOT? Yes. The existing land use is railroad with no housing in the viewshed of the substation.
- D.) THE PROPOSED USE IS CONSISTENT WITH THE CARLTON COUNTY COMPREHENSIVE PLAN OR THE INTENT OF THE ORDINANCE. WHY OR WHY NOT? Yes. The request does not appear to be in conflict with the intent of the Carlton County Comprehensive Plan or Carlton County Zoning Ordinance #27. This is an essential service with a benefit to the surrounding community. It is a utility required for future development.

*If the answer to 1 is yes or if A – D are all yes, proceed to question 2. If not, the request should not be approved.*

2. THE USE WILL NOT BE INJURIOUS TO THE USE AND ENJOYMENT OF PROPERTY IN THE IMMEDIATE VICINITY FOR THE PURPOSE ALREADY PERMITTED NOR SUBSTANTIALLY DIMINISH AND IMPAIR PROPERTY VALUES. Yes. It is unlikely that the use of the property for a substation would be injurious to the use and enjoyment of property in the immediate vicinity. It is a utility required for future development. The existing land use is railroad with no housing in the viewshed of the substation.
3. THE ESTABLISHMENT OF THIS USE WILL NOT IMPEDE NORMAL AND ORDERLY DEVELOPMENT AND IMPROVEMENT OF SURROUNDING VACANT PROPERTY FOR USES PREDOMINANT IN THE AREA. Yes. The establishment of the interim use should not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. It is a utility required for future development. The existing land use is railroad with no housing in the viewshed of the substation.
4. ADEQUATE UTILITIES, ACCESS ROADS, DRAINAGE AND OTHER NECESSARY FACILITIES HAVE BEEN OR ARE BEING PROVIDED. Yes. Access will need to be resolved by Fond du Lac Band of Lake Superior Chippewa.
5. ADEQUATE OFF STREET PARKING IS OR WILL BE PROVIDED. Yes. The application indicates parking is not necessary.
6. ADEQUATE MEASURES HAVE BEEN OR WILL BE TAKEN TO PREVENT OR CONTROL OFFENSIVE ODOR, FUMES, DUST, NOISE AND VIBRATION SO THAT NONE OF THESE CONSTITUTE A NUISANCE. Yes. Fond du Lac Band of Lake Superior Chippewa shall comply with any requirements of the Carlton County Transportation Department regarding traffic and dust control if using an access off a county road.
7. ADEQUATE CONTROL OF LIGHTED SIGNS AND OTHER LIGHTS IS PROVIDED SO THAT A DISTURBANCE TO NEIGHBORING PROPERTIES WILL NOT RESULT. Yes. No lighting will be necessary for the use.

**CONDITIONS:**

1. The application is processed as an Interim Use Permit and will terminate with the lease.
  2. Fond du Lac Band of Lake Superior Chippewa must undertake the project according to the plans and specifications submitted to the County with the application or as modified by Carlton County.
  3. The permit will be periodically reviewed by the County to assure compliance with the permit and permit conditions. The permit may be modified or revoked if the permittee violates one or more of the conditions of the permit.
  4. The County may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinance.
  5. Fond du Lac Band of Lake Superior Chippewa shall comply with any requirements of the Carlton County Transportation Department regarding traffic, dust control and signage. This includes any road repairs required above and beyond typical road maintenance completed by the County.
  6. Fond du Lac Band of Lake Superior Chippewa shall comply with applicable state or federal permitting rules.
- (8) Old Business: None
- (9) Other Business: None
- (10) Motion by Kuster, seconded by Lundin, and supported by yea votes to adjourn the meeting.

Respectfully submitted,

Heather Cunningham  
Zoning and Environmental Services Administrator  
Recording Secretary

Attachment: Exhibit A (IUP #420003)



August 5, 2020

Jack Ezell  
Planning Commission Chairman  
Carlton County Zoning and Environmental Services  
301 Walnut Ave, Room 103  
P.O. Box 220  
Carlton, MN 55718-0220

Re: The Fond du Lac Band of Lake Superior Chippewa's Conditional/Interim Use Permit Application #420003

Dear Mr. Ezell,

On Monday, July 27, 2020 Minnesota Power was notified by Carlton County of the Fond du Lac Band of Lake Superior Chippewa's application for a Conditional/Interim Use Permit to construct and operate a new 230/23 kV electrical substation and associated transmission line within Minnesota Power's transmission control area. We are in the process of meeting with representatives of the Fond du Lac Band to better understand their objectives and technical needs related to this project, and we submit this letter to the Planning Commission to acknowledge receipt of the County's planning notice and communicate our intention to work collaboratively with the Fond du Lac Band.

Minnesota Power currently serves customers within the Fond du Lac Reservation, and we are dedicated to providing safe, reliable and affordable energy to all our customers. We hope to better understand how the proposed 230/23 kV interconnection would interface with and impact Minnesota Power's current service territory obligations and transmission and distribution system reliability, and we will work with the Band to address those questions. We intend to continue to collaborate with the Fond du Lac Band and build upon the work we have done together to increase energy efficiency, build new renewable energy projects, and deliver customer energy affordability programs.

#### *Technical and Interconnection Process Considerations*

As stated above, we look forward to learning more about this project and its corresponding technical considerations. For background, customers located within the Fond du Lac Reservation are currently served by both Lake Country Power and Minnesota Power. Both utilities have different service voltage configurations, and variations in service voltage configuration also exist within Minnesota Power's system. As an example, we currently serve customers located within the Fond du Lac Reservation from five separate feeders operating at three different service voltages. A 23 kV feeder from the proposed new 230/23 kV substation could presumably tie into Minnesota Power's existing 23 kV feeder, which currently serves the Black Bear Casino and surrounding area.

Based on our technical knowledge of the existing system, not all of the customers located within the Fond du Lac Reservation can be easily served by a single-voltage 23 kV system without significant infrastructure upgrades and reconfigurations. All five of the Minnesota Power feeders that serve customers located within the Fond du Lac Reservation also serve additional Minnesota Power customers outside of the reservation boundaries, which makes it difficult to separate service between customers. Any future separation in service could require technical upgrades, new distribution system infrastructure, and possibly voltage conversions.

In addition to providing this initial input to Carlton County and working with the Fond du Lac Band, Minnesota Power anticipates involvement in this project at various state and federal levels as it moves forward, including reviewing the transmission interconnection application and the Midcontinent Independent System Operator (MISO) transmission planning processes. As is normal industry practice, Minnesota Power would plan to enter into a transmission interconnection agreement with a party that is building infrastructure within our system. That agreement may need to gain approval from both MISO and the Federal Energy Regulatory Commission (FERC).

As stated above, Minnesota Power is grateful for the responsibility and privilege to provide electric service to parts of the Fond du Lac Reservation and we look forward to working collaboratively with both the County and the Fond du Lac Band on this permit application.

If you have any questions regarding this letter, please contact me at [jjpeterson@mnpower.com](mailto:jjpeterson@mnpower.com) or 218.355.3202.

Sincerely,



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