

WABASHA PLANNING COMMISSION

January 10, 2023 6:00 PM

Join via zoom <https://us02web.zoom.us/j/84899522183>

MEETING AGENDA

- 1) Call to Order
- 2) Election of Officers
- 3) Changes or Additions to Agenda
- 4) Approval of Minutes-
 - a) PC Minutes 10/11/2022
- 5) Public Comment
- 6) Public Hearings
- 7) Old Business
 - a) Small Mining Ordinance Discussion
- 8) New Business
- 9) Board of Adjustment Business
- 10) Other Business
- 11) Next Regular Meeting Date - February 14, 2023
- 12) Adjourn

Planning Commission

2)

Meeting Date: 01/10/2023

SUBJECT: Election of Officers

DEPARTMENT: Administration

TITLE:

Election of Officers

PURPOSE:

The commission should make nominations for both Chair and Vice Chair of the Planning Commission for the year 2023.

Planning Commission

4) a)

Meeting Date: 01/10/2023

SUBJECT: PC Minutes 10/11/2022

DEPARTMENT: Administration

TITLE:

PC Minutes 10/11/2022

PURPOSE:

Attachments

Minutes 10/11/2022

DRAFT

WABASHA PLANNING COMMISSION

October 11, 2022 6:00 PM

MEETING MINUTES

Commission Members:	Tim Wallerich, Chair	Sara Carrels
	Scott Durand	Sharon Burke
	Ozzie Goodman	Jeff Sulla
	Vacancy	

Present: Scott Durand; Chair Tim Wallerich; Sharon Burke; Sara Carrels; Jeff Sulla; Ozzie Goodman

Also Present: Kristi Trisko, Contracted City Planner; Wendy Busch, City Clerk

1) Call to Order
The meeting was called to order by Chair Wallerich at 6:00 p.m.

2) Approval of Minutes

a) Planning Commission Minutes 9-13-22

Motion made by Scott Durand, seconded by Jeff Sulla to approve the meeting minutes as drafted.

Vote: 6 - 0 Adopted - Unanimously

3) Changes or Additions to Agenda
There were no changes or additions to the agenda.

4) Public Comment
There were no public comments relating to items not listed on the agenda.

5) Public Hearings

a) Fitzgerald Rezone & Preliminary Plat

City Planner Trisko provided background information and pointed out the property under discussion using an aerial photo and zoning map. She reviewed a request to rezone the property from RRGT to R-1, noting that parcels in the adjacent subdivision are zoned R-1. She discussed allowed land uses and density in the R-1 zoning district and reviewed the proposed preliminary plat. She discussed the lot sizes and reviewed the standards. She reported that public hearing notices were sent to surrounding property owners. She discussed the park land dedication and reviewed the impervious surface maximums for this district. She noted that City utilities are in place to connect to the proposed lots. She stated that the Utilities Commission and the Street Commission offered no comments, other than recommending that the applicant work with the City Engineer to review the plat. She reviewed staff findings and stated that staff recommends approval of the rezone and the preliminary plat, noting that the proposed rezone and plat are in compliance with the Comprehensive Plan and Zoning Code. The lot depths in the area were clarified. Access points were discussed.

Chair Wallerich reviewed the public hearing procedure and opened the public hearing for this item at 6:11 p.m.

Toni Smith, River Drive, Wabasha, requested clarification of the action to be considered by the Planning Commission, and Chair Wallerich provided information in this regard. Ms. Smith also asked about traffic flow through the area, and additional information was provided in this regard.

Larry Glander, River Drive, Wabasha, asked whether only single family homes would be allowed. Chair Wallerich indicated that the land uses would be the same as the adjacent subdivision.

Carol Pagel, River Drive, Wabasha, asked about the public hearing notification process. It was clarified that property owners within a 350-foot radius of the property under discussion were sent public hearing notices. Ms. Pagel commented that the proposal would impact all of the residents of River Drive. She expressed concerns about the narrowness of the street.

City Planner Trisko further discussed road access. It was noted that if the 13 lots are approved, no additional lots would be approved in the future without building another road access.

No one else spoke during the public hearing. Chair Wallerich closed the public hearing at 6:16 p.m.

Suggested conditions of approval were reviewed. Chair Wallerich asked whether the future road access requirement should be a condition of approval. City Planner Trisko indicated that the applicant has been informed of this, adding that this could be stipulated as a condition of approval of the proposed preliminary plat. The development agreement was discussed.

Motion made by Sara Carrels, seconded by Jeff Sulla to approve the proposed rezone and preliminary plat, as presented.

Vote: 6 - 0 Adopted - Unanimously

b) Short-Term Rental Ordinance

City Planner Trisko provided background information, reviewed the proposed ordinance, and referenced past discussion of this topic. She clarified that the Planning Commission is being asked to consider zoning ordinance language relating to definitions, a land use chart update, and land use definitions. She noted that City Attorney Flaherty assisted with drafting the ordinance language.

Chair Wallerich opened the public hearing for this item at 6:20 p.m.

Brenda Pearson, 136 Bridge Avenue, Wabasha, expressed appreciation for the work that has gone into drafting the ordinance language. She expressed opposition to a proposed one-time \$200 flat fee for short-term rentals. She suggested considering an annual fee to help cover administrative costs. She suggested that applicants be required to provide State licensing information. She also provided suggestions relating to the definition of a short-term rental unit.

No one else spoke during the public hearing. Chair Wallerich closed the public hearing at 6:24 p.m.

The fee was discussed, and it was clarified that the City Council will consider the fee structure.

Motion made by Sara Carrels, seconded by Ozzie Goodman to approve the zoning ordinance language, as drafted. Next steps were discussed.

Vote: 6 - 0 Adopted - Unanimously

6) Old Business

a) Small Limited Mining Discussion

Chair Wallerich referenced past discussion of this topic. City Planner Trisko provided background information. She reviewed the administrative process, including the application, the interim use permitting process, and development agreement. She detailed standard practices for mining operations. She discussed the reclamation process and the road maintenance agreement.

The applicants expressed concerns regarding the proposed application fees and setback requirements and provided alternate suggestions. City Planner Trisko indicated that a meeting will be scheduled with the applicants for further discussion of the fees, the development agreement, the application and permitting process, setback requirements, and other issues.

The next steps were reviewed.

7) New Business

There was no new business.

8) Board of Adjustment Business

Chair Wallerich recessed the Planning Commission meeting, and BOA Chair Durand called the Board of Adjustment meeting to order at 6:47 p.m. Finding all members present : Goodman, Carrels, Burke, Durand.

a) Minutes BOA 9/13/22

Motion made by Sara Carrels, seconded by Ozzie Goodman to approve the meeting minutes. There was no other Board of Adjustment business. BOA Chair Durand adjourned the Board of Adjustment meeting at 6:49 p.m.

Vote: 4 - 0 Adopted - Unanimously

9) Other Business

Chair Wallerich reconvened the Planning Commission meeting at 6:49 p.m. There was no other business.

10) Next Regular Meeting Date - Need to reschedule due to the General Election on Nov 8, 2022.
It was decided to schedule the next Planning Commission meeting on November 15. The meeting agenda was discussed.

11) Adjourn

Motion made by Scott Durand, seconded by Jeff Sulla to adjourn the meeting. The meeting adjourned at 6:50 p.m.

Vote: 6 - 0 Adopted - Unanimously

Respectfully submitted by: _____
Wendy Busch, City Clerk

Adopted Date

Planning Commission

7) a)

Meeting Date: 01/10/2023

SUBJECT: Small Mining Ordinance Discussion

DEPARTMENT: Administration

TITLE:

Small Mining Ordinance Discussion

PURPOSE:

Please see the attached Mining Ord. Memo from City Planner Kristi Trisko.

Attachments

Staff Memo



Memorandum

To: Wabasha Planning Commission
From: Kristi Trisko, Planning Consultant
Date: January 4, 2023
Subject: Small Mining Ordinance Review

MEETING DATE: January 10, 2023

Past Meeting Review: (August-October 2022)

1. Statement of Purpose
2. Definitions
3. Size, scope, timeline for small/limited mines
4. Submittal Requirements, (Narrative & Maps)
5. Administration/ Application Process, interim use permit approval process, neighborhood meeting notices, City Council Development Agreement
6. Standard practices for mines i.e. outlined expectations for small mines.
7. Reclamation submittal Requirements

Final Meeting Review: (January 2023)

1. Permit Revocation – Violations
2. Financial Guarantees
3. Enforcement / Insurance
4. Complete ordinance summary and review

Ordinance Review Status: Mr. Flaherty has reviewed the entire Small Mining Ordinance in addition to the revocation, financial guarantees, and enforcement sections which are part of the final review for the Planning Commission in January. He and City staff may have some grammatic edits and/or small changes to the ordinance language that will be reviewed during our February meeting, but they will be very minor in nature.

Small Mine Code Location: The Small Mining Ordinance will be located directly next to the Mining Ordinance in Wabasha City Code – within Chapter 158 but has been written as a stand-alone ordinance with more applicable standards for a limited size, limited mining operations, and limited timeline mine with standards that more closely follow a larger multi-year construction project. This has been clarified in the Statement of Purpose.

Definition: The definition of a small mine has been edited to ensure that the intent and scope of small mines are for individual parcels that have limited materials that can be effectively mined within a three-year timeline and is not to be applied for on larger parcels that should apply for larger mining operations.

Administration & Process: The administration and permit process closely follow typical IUP/CUP processes as has been discussed in previous Planning Commission Meetings with the exception of requiring a Mining Operations Agreement (See section 158.083 (E). This agreement will solidify all the conditions and terms of the IUP into a formal letter that will be signed by applicants to make sure that all the details of the IUP are in place and clearly understood.

Financial Guarantee: The ordinance requires two (2) forms of financial guarantees. Section 158.083 (F) will be discussed. A summary of those details are as follows:

1. A cash escrow to cover city costs and expenses incurred to administer and enforce the IUP at \$2000.00 an acre.
2. A performance bond of 125% of the cost of the approved reclamation costs must be forwarded to the city prior to the letter to proceed.

Application Requirements, Transfer of Permits and Standard Practices: Has not substantively changed since our last review of this section.

Liability Insurance: This section was revised by Mr. Flaherty to follow current Minnesota State Statute requirements.

Reclamation Standards: Has not substantively changed since our last review of this section.

Enforcement, Suspension and Revocation, Violations and Penalties: Were revised by Mr. Flaherty to follow current Minnesota State Statute requirements.

Formatting: The attached document has also been formatted to fit into the current City Code.

Use Chart Changes (Section 3 Chapter 162): The Use Chart and Use Definitions will need to be changed to include Small/Limited Mines.

Wabasha has nine (9) zones within the City. From our Zoning Overlay Map provided to the Planning Commission for our August discussion, the City's current mine use sites shown in **RED** are within the **RC, RR/LA, RR/GT, HC, and Industrial zones**. The future Army Corp / City parcels located along 5th Grant ST West are zoned R-1 but will be rezoned for it's future industrial use as a material transfer site. I would recommend allowing mines within these five (5) zones. (See attached exhibit)

I would not recommend allowing small mines in **R-1, R-2, GC, or TDC zones**. I look forward to our discussion on this ordinance. (See attached exhibit)

Three exhibits have been added to this memo, 1) the original mining area lots over the zoning map, 2) the recommended zoning districts for small mines, and the zoning districts NOT recommended for small mines.

Next Step: If the Planning Commission believes that this ordinance is ready to share with the public, I would recommend asking staff to schedule the hearing for your February meeting.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF WABASHA, MINNESOTA ADOPTING
REGULATIONS FOR SMALL OR LIMITED SAND AND GRAVEL MINING AND
EXTRACTION ACTIVITIES**

Section 1. Wabasha City Code is hereby amended to add a new chapter under Title XV: Land Usage, Sections 158.081 through 158.091, entitled Small or Limited Sand and Gravel Mining and Extraction Activities, which shall read as follows:

158.081 Statement of Purpose; Authority; Applicability

- (A) To protect the health, safety, and general welfare of the community the following standards and regulations are established pertaining to small / limited construction sand and gravel mining/extraction operations within the City. The objective of §§ 158.081 through 158.091 is to allow small and limited construction sand and gravel mining and extraction within the City while minimize soil erosion and land scarring, to monitor the consumption of natural resources and minimize the impact of these activities on the adjacent lands, resources and persons residing in the area, preventing mining and extraction operations from creating a nuisance and health hazards within the community, and for the disposal of dredged sand from the Mississippi River.
- (B) To recognize that the excavation of different mineral resources and aggregates have the potential for different levels of impact on the community based on:
 - (1) Content of the mineral resource being excavated,
 - (2) The excavation process of the resource and its potential impact on water and air quality and on safety and visual impacts,
 - (3) The size of particulates which become airborne,
 - (4) The cleaning, sorting, and processing of the resource,
 - (5) The amount of material excavated over a given period of time along with the method of transporting the material away from the mine site, and
 - (6) The treatment of the land after the resource is removed.
- (C) To recognize that the noise and vibrations created by some mining activities impact neighbors (in particular residential neighbors) in a negative manner, and to regulate this activity to limit those negative impacts.
- (D) To recognize that the location and depth of a mine has the potential to impact underground water sources depended upon by the public for drinking water, and to prevent such negative impacts to water supplies.

- (E) To recognize that the methods and treatment of a mine site after the excavation process ends has a great impact on the ultimate use of the property and the impact of that site on neighboring properties and the community as a whole.
- (F) That Minnesota State Statute 462.357 authorizes cities to adopt nuisance regulations, stating: “A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety.”
- (G) That the applicability of the provisions of Chapter 158 to small / limited mines are as follows:
 - (1) Sections 158.001 through 158.080 are not applicable to mines fitting within the definition in § 158.082 (J) or mines permitted under § 158.084.
 - (2) Mines not fitting within the definition of § 158.082(J) must be permitted under § 158.076. Multiple mines on the same parcel of land or land that was subdivided from or combined with a parcel of land containing a small or limited mine permitted under § 158.084 do not qualify for a mining permit under § 158.084 and must apply for a mining permit under § 158.076.

158.082 Definitions

The following words and terms, whenever they occur in this chapter, are defined as follows:

- (A) **Construction Sand and Gravel.** Mineral Resources which typically are mined by open pit excavation (or by dredging) carried out with power shovels, draglines, front end loaders, and bucket wheel excavators. Typically mined locally from Dolomite geological strata, Standard Classification Code categories include: SCC 3-05-025, SIC 1442, NAICS 21232.1.
- (B) **Extraction.** The process whereby materials are removed from the sub surface of the earth to be sold or used elsewhere.
- (C) **Extractive Operations/Mine.** The surface or subsurface removal only of sand, gravel, rock, or other nonmetallic minerals, and peat from the site for use as a product elsewhere not regulated under Minnesota Statutes, sections 93.44 to 93.51 through an excavation or quarrying process. Excavations for the purpose of impounding water for agricultural purposes are exempted.
- (D) **Mineral Resources.** Rock, gravel, sand and metallic and non-metallic substances of commercial value.
- (E) **Operator.** Any person, including every public or governmental agency, engaged in active or inactive excavation or the processing of sand, gravel, rock, other soils or derived products.

- (F) **Processing.** The sorting, washing, crushing and/or screening of extracted material to construction grade sand, gravel or stone product.
- (G) **Reclamation.** To renew land to a self-sustaining, long-term use that is compatible with pre-mining situations and/or the City's Comprehensive Land Use Plan.
- (H) **SCC Code.** Source Classification Codes are an EPA classification system. Each SCC represents a unique source category-specific process or function that emits an air pollutant. The SCCs are used as a primary identifying data element in EPA's WebFIRE, the National Emissions Inventory (NEI), and other EPA databases. The SCCs are also used by many regional, state, local and tribal agency emissions data systems. Point source emissions use eight-digit codes.
- (I) **Soil Erosion and Sediment Control Plan.** A document that illustrates, how the site will be designed to prevent or minimize soil erosion on a parcel of land and off-site sediment damages.
- (J) **Small / Limited Mine.** Construction Sand and Gravel mines that are limited to an active mineable area of less than 5 acres in size with only one mine per parcel, where no on-site processing occurs except dry screening and no blasting occurs. Mining extraction activities on over 5 acres, activities that do not have an anticipated completion date within three years, or activities prohibited by this ordinance require a permit under § 158.076. A subsequent small / limited mining application received by the city on land that was either subdivided from or combined with a property with a currently or previously existing mine permitted by either § 158.076 or § 158.084 shall be excluded from the definition of small / limited mine under this section and shall only be permitted under § 158.076.

158.083 Administration/Permit Application Process

- (A) New small / limited mines are only allowed to exist where allowed as in interim use in Section 305 of Wabasha City Code. An Interim Use Permit shall be required, consistent with § 162.029(B) of Wabasha City Code, for all mineral extraction defined in this section of City Code and is required prior to commencement of extraction activities. Only one interim use permit for a small /limited mine will be issued per parcel. Properties cannot be subdivided or combined to circumvent the regulations for small mining operations under this ordinance, as described in § 158.082 (J) above.
- (B) New small / limited mine interim use permits shall automatically expire three years after the permit is granted. The small / limited mine permit holder may request an extension for up to one year to be considered by the Planning Commission and granted for good cause shown and upon the same conditions of approval of the permit.
- (C) All submissions shall include the submittal of an application as provided for by the City of Wabasha completed along with all required attachments as identified in this section and any fees established under Section 32 of City Code.
- (D) Permit Review

- (1) Any application for an interim use permit within a designated shoreland zone or floodplain shall require a submittal to the City and the MNDNR area hydrologist for their review and comments prior to the Planning Commission review.
 - (2) Application materials shall be submitted to the City Planning Commission for review. The application materials will be reviewed for compliance with standard practices for mines following all local, State and Federal regulations. The City may utilize professional outside consultants to assist in reviewing submitted materials and the cost of such review shall be borne by the applicant.
 - (3) The Planning Commission shall hold a public hearing and review and consider the impact of the proposed operation and its conformance to this section of City Code. Notice of time and place of such hearing shall be published not less than 10 days nor more than 30 days preceding said hearing in the newspaper of general circulation in the City.
 - (4) A similar notice shall be mailed at least ten days before the day of the hearing to each property situated wholly or partly within 350 feet of the property line of the land under ownership (of the contiguous parcel) of the proposed mine site.
 - (5) The Planning Commission may require additional review with additional submitted materials.
 - (6) City staff or the Planning Commission may request review and comment (to be forwarded to the City Council) from the Board of Water & Soil Resources, DNR, Department of Health, Pollution Control Agency, or similar state or county departments as deemed appropriate.
 - (7) The Planning Commission shall consider the application materials as well as any comments or recommendations from other agencies and shall determine the approval or denial of the interim use permit. The terms of the contract shall at minimum include terms and conditions regarding the approved Interim Use Permit, requirements of this ordinance, and financial guarantees as described in paragraph (F) of this Section.
- (E) A Mining Operations Agreement in a form acceptable to the City will be required, as a condition of approval of an Interim Use Permit, for all small / limited mining and extraction permits and approved by City Council.
- (F) Financial Guarantee
- (1) The owner of the property subject to the application required by this title shall be responsible for all costs incurred by the City in processing the application and enforcing the terms of any agreements relating to the application.
 - (2) The city shall require a cash escrow to cover city costs and expenses incurred to administer and enforce the Interim Use permit. The amount of the Financial Guarantee shall be Two Thousand Dollars (\$2000.00) for every acre proposed to

be mined. In the city's discretion the City may require an escrow agreement to be signed in a form acceptable to the city.

- (3) The city shall require a performance bond, cash escrow or a letter of credit, in a form acceptable to the city, to guarantee compliance with the approved Reclamation Plan, the requirements of this chapter and the terms and conditions of the Interim Use Permit. The City shall have the right to use the financial guarantee to remove stockpiles and complete site rehabilitation and correct other deficiencies or problems caused by the operator, in the event the operator is in default of the permit obligations. The amount of the financial guarantee shall be equal to 125% of the approved reclamation costs. The financial guarantee shall be adjusted annually and shall remain in full force and effect for a minimum period of one and one-half (1-1/2) years beyond the permit expiration date or extension date of the permit.

158.084 Required Information for all permit applications

The following information shall be provided by the person requesting the permit in order for the City to consider the potential effects from the proposal on environmental, economic, and social effects of the proposed project onto the community and shall be completed by a licensed engineer, geologist, surveyor, landscape architect or other professional specialist as appropriate. The information shall be provided in a combination of descriptive narrative and supporting mapping to fully illustrate the intended mining operations. Documentation shall include, but may not be limited to the following:

- (A) Name and address of the property owner and name, address, phone number and e-mail contact of the company or person conducting the extraction/mining on the property.
- (B) The legal property description and acreage of the entire property under ownership and the area and volume of resource to be mined.
- (C) A deed or other proof of ownership of the property along with a lease or other agreement with the property owner if applicant and property owner are not the same.
- (D) A description of existing land uses on the subject property and all properties within one-half (1/2) mile.
- (E) A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property and all properties within one-half (1/2) mile.
- (F) A description of the soil, vegetation, mineral content and topography of the subject property. A minimum of three (3) soil boring logs including groundwater elevations that are representative of the site and a description of the subsurface materials on the subject property. Location of the soil borings showing depth of boring and elevation of the groundwater at each location.
- (G) A general description of surface waters, existing drainage patterns and location of any wetlands within one-half (1/2) mile of the subject property.

- (H) A general description of any wells or private sewer systems of record on the subject property and adjacent properties.
- (I) A general description of groundwater management for the mining operations and potential interference with adjacent wells. Existing public or private drinking water wells within ½-mile of the subject property along with soil borings shall be illustrated on a map indicating location, depth of boring and groundwater elevation. A plan for dewatering shall be submitted (if needed) and, if deemed necessary by the City Engineer, a well interference response plan which must be approved prior to, and will be made a condition of approval of the permit.
- (J) A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.
- (K) Existing topography and conditions of the subject property, illustrated with contours not exceeding two-foot intervals. Show existing site features including all existing public and private utilities identified through the one-call service, wells, soil boring locations, drainage features, wetlands, structures, or other site improvements.
- (L) Proposed topography of the subject property after mineral extraction has been completed, illustrated by contours not exceeding two-foot intervals.
- (M) A phasing plan which illustrates the sequencing of mineral extraction, the locations of processing equipment, mineral stockpiles, staging areas, accessory uses and access/haul routes. The phasing plan shall describe and map components that will full understanding of the intended mining operation.
 - (1) Project phases/sequencing showing location and extents of the proposed excavated material stockpiles and showing the height of storage deposits. No stockpiles shall be allowed over any utilities.
 - (2) Number of employees on-site, location of vehicle parking including surface treatment, number of spaces.
 - (3) Total timeline necessary to complete the mining operations and hours of operation weekly.
 - (4) Final depth and width of mine, what mining processes will be used, if any,
 - (5) Existing and proposed conditions and structures on the site and a keyed map of all locations, existing or proposed fuel stations or chemical storage tanks and how will refueling take place on-site, identification of water usage for the site and sanitary needs for employees.
 - (6) Describe and map any lighting on-site,
 - (7) Describe and map the truck route and frequency of removal of mined materials and include the types and number of trucks used daily. If the mine operation meets the definition of major traffic generator (as defined in the Zoning and Shoreland Ordinance, Chapter 162), all standards and requirements for this IUP

must be met. That process may occur concurrently to the review of the mine permit application.

- (N) Copies of MPCA permit documents including applications, site specific Pollution Prevention Plan and any annual reporting documents.
- (O) A description of the site hydrology and drainage characteristics during extraction for each phase. Identify any locations where drainage of any disturbed areas will not be controlled on the subject property and plans to control erosion, sedimentation and water quality of the runoff.
- (P) A description of the potential impacts to adjacent properties resulting from mineral extraction and off-site transportation, including but not limited to noise, dust, surface water runoff, groundwater contamination, traffic and aesthetics.
- (Q) A description of the plan to mitigate potential impacts resulting from mineral extraction.
- (R) A description of site screening, landscaping and security fencing.
- (S) A description of the method in which complaints about any aspect of the facility operation or off-site transportation are to be received and the method which complaints are to be resolved.
- (T) Provide hours of operation for the small / limited mine. The hours of operation shall be limited to seven o'clock (7:00) A.M. to seven o'clock (7:00) P.M. Monday through Saturday unless special permission is granted by the city council within the interim use permit. The extra hours of operation may be conditioned on more restrictive performance standards to address the adverse impacts caused by the extra hours.
- (U) Environmental Resource Review:
 - (1) A discretionary Environmental Assessment Worksheet (EAW) may be required per the standards and procedures set forth in state law after the mining permit is submitted. Review of the mining permit may occur concurrently, but the project may not proceed, no final approvals shall be made by the City, and a permit shall not be issued until the environmental review process is complete
 - (2) A report and supporting documentation that identifies and locates all archaeological, historic and cultural resources (including any cemeteries or known burials) located. This report shall be prepared by a qualified professional as defined by MS 138.31, subd. 10, or who is listed on the Minnesota State Historic Preservation Office Archaeological Contractors list. Based on the findings of the report, a Phase I Archeological Study may be required. The Phase I Archeological Study shall be prepared in accordance with protocols of the State Historic Preservation Office document entitled "SHPO Manual for Archaeological Projects in Minnesota", July, 2005, or as amended.
 - (3) All necessary Wetland permits.

- (V) Any other information requested by the Planning Commission or City Council.
- (W) Reclamation Plan utilizing a combination of descriptive narrative and supporting mapping to fully illustrate the conditions of the site at the completion of the mining operations. The plan should address the following:
 - (1) Final grade of proposed site showing elevations and contour lines at least two (2) foot intervals or less.
 - (2) Description of the future use of the site.
 - (3) Location and nature of any structures to be erected in relation to the end use plan.
 - (4) What materials will be used to reclaim the site and method of placement of that material.
 - (5) Location and list of non-invasive species of vegetation to be replanted.
 - (6) Cost estimate for reclamation of the site. This estimate shall include closure and post closure maintenance activities required if operations cease.

158.085 Transfer of Permits

The City will transfer existing mining permits to new operators upon request under the following circumstances:

- (A) The new operator provides in writing that they will follow all plans and conditions of the previously approved permit.
- (B) The new operator provides financial sureties to replace those of the past operator. The existing financial assurance shall remain in effect until the new operator's financial assurance is approved.

158.086 Standard Practices for mines

- (A) Safety of Site: the applicant will be responsible to secure their site. The City retains the right to require additional fencing and screening if necessary for safety measures.
- (B) Screening: A chainlink with slats, solid wood fence, or earthen berm of at least 6 feet will be required along any portion of the mine that is within 500 feet of a primary residential structure.
- (C) Driveway/Access for Site:
 - (1) Driveway/access to the mine site and/or ancillary uses shall not be located within twenty-five (25) feet of adjacent property boundaries.
 - (2) Driveway/access shall also receive applicable roadway agency approval with copies of such approvals provided to the City.

- (D) Setback: Mining operations (defined as top of slope) shall not be conducted closer than fifty (50) feet from residentially zoned property or within one hundred (100) linear feet of any public right-of-way unless the local road authority consents to a lesser setback. Stockpiles may be located within this area, but shall be at least fifty (50) linear feet from the right-of-way.
- (E) Lighting: All lighting at the mine site shall be required to meet city lighting standards.
- (F) Noise: Maximum noise levels at the facility will be consistent with the standards established by the Minnesota Pollution Control Agency and the City of Wabasha.
- (G) Air Quality / Water Quality: All activities on the subject property will be conducted in a manner consistent with the Minnesota Pollution Control Agency's operating permits.
- (H) Unauthorized Storage: No vehicles or equipment or materials not associated with the small mine may be kept or stored on the property.
- (I) Weed Control: The operator(s) shall be required to control noxious weeds and mow or harvest other vegetation to maintain a reasonable appearance of the site.
- (J) Interior roads, driveways and parking areas shall be arranged on site to have the least amount of impact on neighboring properties in particular those with residences. Conditions for screening, lighting and hours of operation may be imposed based on the proposed locations of such facilities and any other on site that may produce noise, light, or dust.
- (K) Inspections: With the issuance of a mining permit, the City reserves the right to inspect the mine site for compliance with this and other sections of City code and any conditions issued as part of the permit. At City staff discretion County, State, or Federal authorities may be contacted to assist the City in determining compliance to any local, state, or federal regulations.
- (L) Dust Control: Roadway and site dust control shall be required and may be accomplished via methods approved by the City which may include but are not limited to berming, landscaping, watering, dust extraction equipment, wheel washing, paving etc. Operators shall be responsible for providing continuous dust control during facility operation and during hauling activity on gravel roads used to access the facility.
- (M) Site clearing: The following requirements apply:
 - (1) All topsoil, subsoil and overburden in areas of mining shall be systematically and individually stripped and stockpiled for future use in reclamation.
 - (2) Burning of stumps or any other material at the mine site is prohibited. Woody material shall be ground or chipped and used in reclamation activities if possible.
 - (3) Removal of vegetative cover and the amount of exposed earth must be kept to a minimum and be consistent with good construction practices.

- (N) Road Maintenance Agreement: All new or expanded mining operators will be required to enter into a road maintenance agreement with the governing road authority('s) if agreed to by the specific authority. The Road Maintenance Agreement will provide for a roundtrip hauling route for the shipping of nonmetallic minerals from the excavation or mining site to a targeted delivery location, including the estimated number of tons to be hauled per truck and estimated number of tons hauled per month.

158.087 Liability Insurance

- (A) The applicant for a permit under this section shall furnish insurance policies or certificates of insurance acceptable to the city, and issued by an insurance company authorized to do business in the state for the coverage and limits as set forth below:
- (1) Comprehensive general liability policy on an occurrence basis and having minimum combined single limits as stated in this section below, or in the event the limits below do not meet the statutory limits in Minn. Stat. Sec. 466.04, the statutory limits shall apply. The policy shall be for the full period of the permit, and such policy shall include, but not be limited to, explosion, collapse, and underground hazards, contractual, and independent contractors' coverage, and proof of insurance to the city shall state such coverage. The city shall be named as an additional insured for any work performed on city property or premises.

General aggregate	\$1,500,000.00
Products—Comp/ops aggregate	1,000,000.00
Personal and advertising injury	1,000,000.00
Each occurrence	1,500,000.00

- (2) Business auto policy covering owned (if any), nonowned, and hired autos with minimum combined single liability limits of \$1,000,000.00 each accident.
- (3) Workers' compensation and employers' liability as required by the state.
- (B) Should any policies be canceled or not renewed for any cause before the expiration date thereof, the issuing company shall mail 30 days' written notice to the city clerk, except such notice shall be ten days for nonpayment of premium.
- (C) If a policy is terminated for any reason, the permit shall be automatically suspended upon the day the policy terminates, unless a new policy or certificate of insurance complying with this section is obtained and filed with the city clerk prior to the termination of the policy in force.
- (D) The insurance policies shall be written with an insurance company having a minimum Best's Key Rating Guide of A-VII, or as approved by the city's insurance agent.

158.088 Reclamation Standards

All sites shall be reclaimed after operations cease. The following standards shall apply along with any additional or more stringent standards adopted under subsequent state law:

- (A) Reclamation for each mine shall be completed within one (1) calendar year after operation ceases.
- (B) Applicant shall notify the city that when operations have ceased, and date final reclamation will commence.
- (C) Topsoil Redistribution for Reclamation: All uncontaminated soil from the site shall be retained on-site for reclamation purposes. Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter in a manner which minimizes compacting and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical.
- (D) End Land Use of reclaimed land shall be appropriate to interim and final reclamation plan for the site and to the City's adopted land use policies and maps. Development of final uses may occur on the site as reclamation phasing occurs but shall be identified and addressed in reclamation plan phasing.
- (E) The reclamation plan shall address final drainage and storm water plans, final topography indicating appropriate spaces for buildings, roads or other necessary infrastructure per intended proposed use and anticipated soil fertility for any proposed farming operations.
- (F) Final Grading & Slopes: Final grades may not be steeper than a 4:1 horizontal to vertical slope, unless recommended by a site-specific engineering analysis performed by a registered professional engineer.
- (G) Vegetation requirements: The plan for re-vegetation should include a mix of grass basal cover, native vegetation cover, and rock cover, similar in type, diversity, and percentage mix and location to pre-mining situation. Use of fast-growing vegetation to stabilize slopes is appropriate.
- (H) Water requirements: The reclamation plan shall identify final surface and groundwater conditions. Reclamation shall be conducted in a manner which will not cause or result in adverse effects on surface waters or groundwater.

158.089 Enforcement

- (A) Upon reasonable notice, the operator shall grant city staff and representatives access to the facility during normal operation hours to inspect the mine and enforce the provisions of this Ordinance, Interim Use Permit and any agreements related to the application. Any such inspection must be in the company of an employee of the operator following all site safety regulations.
- (B) The operator shall be responsible for the repair and maintenance of public and private property in the City which is acknowledged by the operator to be or proven to be damaged by it, its agents or employees in conducting business or any other activity associated with the mine.

158.090 Permit Suspension and Revocation

- (A) **Conditions for Suspension or Revocation.** Any permit issued under this section may be suspended or revoked at the discretion of the city based on the following occurrences:
- (1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by the applicant on the application form;
 - (2) Fraud, misrepresentation or false statements made during the course of the permit application process, Interim Use Permit application process, or in performance of the small / limited mining activity;
 - (3) Conducting mining operations beyond the scope of or in contravention of the definition contained in § 158.082(J) of this Chapter;
 - (4) Violation of any government regulation, including but not limited to regulations of the Minnesota Pollution Control Agency or violation of the terms of any permits issued to the permit holder or Operator by any governmental agency;
 - (5) Engaging in non-compliant or prohibited activity as provided under this chapter;
or
 - (6) Violation of any other provision of this chapter.
- (B) **Notice.** Prior to revoking or suspending any permit issued under this chapter, the city shall provide the permit holder with written notice of the alleged violations and inform the permit holder of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the permit application or, if no residential address is listed, to the business address provided on the permit application. If a suspension, the notice shall indicate the conditions upon which the suspension may be lifted.
- (C) **Public Hearing.** Upon receiving the notice provided in division (B) above, the permit holder shall have the right to request a public hearing before the City Council. If no request for a hearing is received by the City Clerk within ten days following the service of the notice, the permit shall be deemed suspended or revoked as stated in the notice. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the City Council shall provide written notice the appellant of its decision.
- (D) **Emergency.** If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of the permit holder under this chapter, the City Council may immediately suspend the person's permit and provide notice of the right to hold a subsequent public hearing as prescribed in division (B) above. Imminent harm includes, but is not limited to, erosion or environmental hazards caused by mining operations and determined by the City or state agencies to be

determinantal to the environment or the health, safety and welfare of the citizens of Wabasha.

- (E) **Appeals.** Any person whose permit is suspended or revoked under this section shall have the right to appeal that decision in court.

158.091 Violations and Penalties

Any person, firm or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, be guilty of a misdemeanor, subject to a fine of not more than \$1,000 or imprisonment for not more than ninety (90) days, or both. Each day a violation exists or continues shall constitute a separate offense. The City reserves the right to seek injunctive relief in addition to the criminal penalties set forth herein.

Section 2. The table of contents in Title XV: Land Usage, is hereby amended to add a new title labeled Small or Limited Sand and Gravel Mining and Extraction Activities, and to add each numerical subsection with its written title, as stated above, from § 158.081 “Title and Purpose” through § 158.091, “Violations and Penalties.

Section 3. This ordinance shall take effect upon its publication.

Passed by the City Council of the City of Wabasha this _____ day of _____, 2023.

Mayor

Attested By:

City Clerk



Mining Ordinance

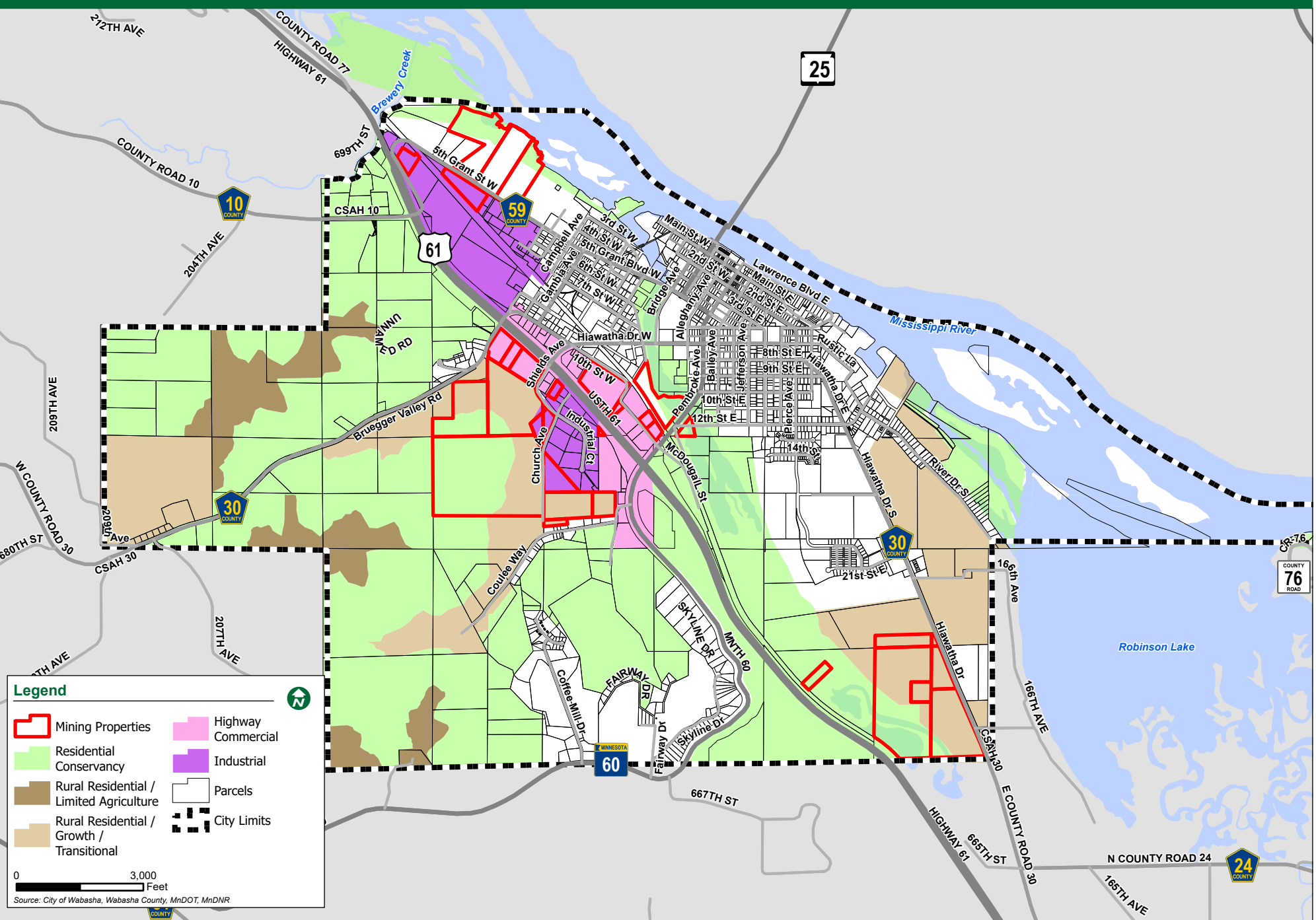
City of Wabasha, MN

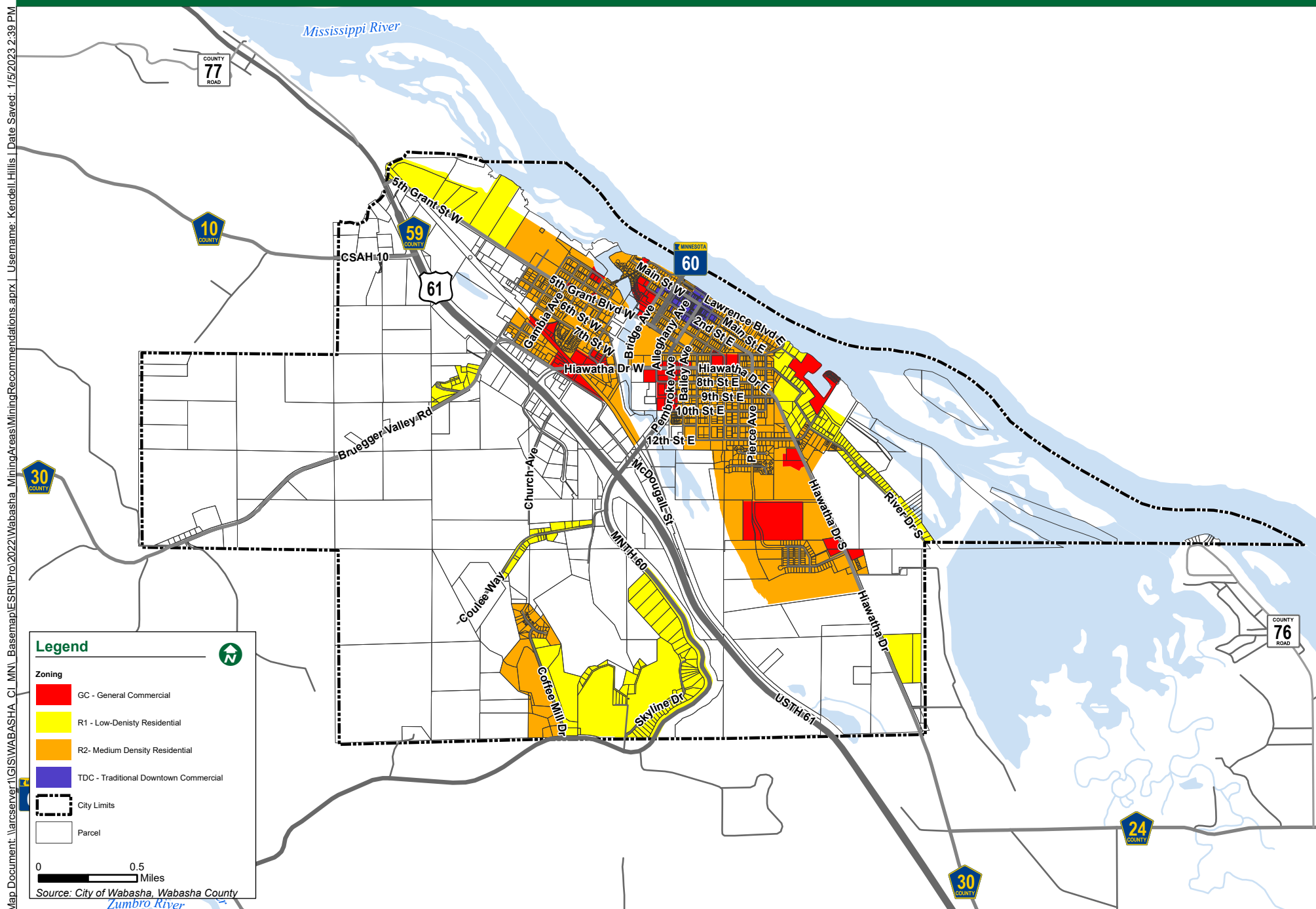
Zoning Overlay

July 2022



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Mining Recommendations

City of Wabasha, MN

Areas Recommended for Mining

January 2023



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