

AGENDA

Planning Commission Regular Meeting

Monday, December 18, 2023

6:30 PM

City Council Chambers, City Hall

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE**
- 2. ADDITIONS TO AGENDA**
- 3. AUDIENCE INPUT**
- 4. CONSENT AGENDA**
 - a. Minutes of the November 28, 2023 Regular Meeting
 - b. Resignation of Commissioner Powell
- 5. OLD BUSINESS**
- 6. PUBLIC HEARINGS**
 - a. Renewal of the Vesterra, LLC, and Stonex, LLC, Small Scale Mineral Extraction Permit for 2024.
 - b. Renewal of the Shafer Contracting Co., Inc. Small Scale Mineral Extraction Permit for 2024
 - c. Renewal of the Dakota Aggregates Large Scale Mineral Extraction Permit for 2024
 - d. Renewal of the Carl Bolander and Sons, LLC, Small Scale Mineral Extraction Permit for 2024
 - e. Renewal of the Max Steininger, Inc. Small Scale Mineral Extraction Permit for 2024
 - f. Zoning Ordinance Text Amendment Request to Section 11-5-2: Supplementary Regulations to allow for horseshoe/looped shaped driveways within the RR-Rural Residential Zoning District.
- 7. NEW BUSINESS**
- 8. DISCUSSION**
- 9. ADJOURNMENT**

**ROSEMOUNT PLANNING COMMISSION
REGULAR MEETING PROCEEDINGS
NOVEMBER 28, 2023**

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Pursuant to due call and notice thereof, a regular meeting of the Rosemount Planning Commission was held on Tuesday, November 28, 2023, at 6:30 PM in Rosemount Council Chambers, 2875 145th Street West.

Chair Kenninger called the meeting to order with Commissioners Whitman, Rivera, Reed, Hebert, and Thiagarajan.

Staff present included the following: City Administrator Martin, Public Works Director Egger, Community Development Director Kienberger, City Attorney Sathe, Senior Planner Nemcek, Planner Hogan, and Community Development Technician Grant.

ADDITIONS TO AGENDA

None.

AUDIENCE INPUT

Michael Pekarik - 13572 Delwood Way Rosemount, MN

Questioned who the planning commission and city staff work for and what the planning commission's purpose is.

Chair Kenninger clarified that the Planning Commission is appointed by City Council to serve Rosemount residents and the community---they are not elected, and it is a volunteer position with a small stipend of thirty-five dollars (\$35) per meeting. Kenninger stated that there is no direct interaction with the Metropolitan Council. Commissioners receive information from city staff, workshops, open houses, and recommendations are made to the City Council based on that information. City Administrator Martin verified that the planning commission is an advisory board to the City Council, in which the Metropolitan Council does not require or demand anything from the commission or city council.

Kayla Hauser - 14569 Dahomey Ave W Rosemount, MN

Hauser wished to discuss safety in the city of Rosemount, as it pertains to technology for future generations. She asked if any procedures or policies will be put in place regarding technological safety issues.

Chair Kenninger stated that the Planning Commission primarily oversees decisions regarding land use, while policies are of concern to the City Council.

Amy Bergum - 7189 Clayton Ave Inver Grove Heights, MN

Bergum read out loud a "New World Order" agenda to the commission and audience.

CONSENT AGENDA

Motion by Kenninger **Second by** Reed

Motion to approve the Consent Agenda

Ayes: 6.

Nays: None. Motion Carried.

- a. Minutes of the October 24, 2023 Regular Meeting
- b. Request by US Home, LLC, for Approval of the Talamore 4th Addition Final Plat

OLD BUSINESS

PUBLIC HEARINGS

- a. Request by CA Gear for approval of Rezoning, a Major Amendment to the Custom Apparel Planned Unit Development Agreement, and a Conditional Use Permit to construct a 7,400 square foot addition onto the existing sportswear manufacturing and athletic training facility.

Planner Hogan reviewed the proposal by CA Gear for a 7,400 square-foot addition to the existing athletic manufacturing facility. The addition would include a tap house, golf simulators, and outdoor seating.

Commissioner Comments:

Chair Kenninger asked if the change of business would still be subject to the PUD given the rezoning. Community Development Director Kienberger replied yes. Commissioner Reed confirmed with Planner Hogan that noise levels would be in conformance with standards and that there is a tree line by the railroad tracks. Reed asked if there was parking on the street open to the public. Planner Hogan stated that there is parking on Canada Circle. Commissioner Reed and Commissioner Thiagarajan asked about the unisex and men's restrooms, with Thiagarajan stating that the building officials may not approve only a unisex and men's restroom in the addition.

Commissioner Whitman asked how many seats there would be on the rooftop patio. Planner Hogan deferred to the applicant. Whitman asked if there is a limit to the amount of outdoor seating with the rezoning. Planner Hogan stated that there are limits on parking regarding the rezoning versus seating. Whitman asked if barriers/fences on the rooftop would be reviewed, Planner Hogan confirmed yes. He asked if any traffic analysis had been done on the intersection of Highway 3 and Canada Circle. Hogan stated that there is no study to her knowledge and mentioned that Canada Circle is being extended east. Community Development Director Kienberger noted that a traffic analysis is not required in this process and that highway 3 is a Minnesota state highway, which has not raised concerns for the state.

The public hearing was opened for comments.

Public Comments:

Nathan Bry - 13402 Avila Ave Rosemount, MN

Bry is the applicant for CA Gear. He clarified that the unisex bathroom is open to all and that the

amenities are the same for both restrooms, similar to other companies and organizations' newer initiatives. Commissioner Rivera asked if the tap house addition would have the same hours as the athletic facility. The applicant clarified that the hours would be similar, to act as a place for parents and the community to gather and relax during sports, etc.

Chad Byersdorfer - 14345 Cimarron Ave W Rosemount, MN

Byersdorfer asked if there were going to be any plans for food service along with the tap house. Bry answered that there are already concessions in the athletic facility and there is a potential for Neapolitan pizza down the line and/or food trucks. Commissioner Whitman asked about other potential future plans. Bry stated that there is a back room, in hopes of opening it for a card-trading area.

The public hearing was closed for comments.

Motion by Kenninger Second by Reed

Motion to close the Public Hearing

Ayes: 6.

Nays: None. Motion Carried.

Motion by Kenninger Second by Whitman

Motion to

1. **Motion** to recommend the City Council adopt an ordinance rezoning the property from BP PUD – Business Park Planned Unit Development to BP/C4 PUD – Business Park/General Commercial Planned Unit Development.

Ayes: 6.

Nays: None. Motion Carried.

Motion by Kenninger Second by Hebert

2. **Motion** to recommend the City Council approve a Major Amendment to the Custom Apparel Planned Unit Development Agreement, subject to:

a. Conformance with all requirements of the City Engineer as detailed in the Engineer's Memo dated November 20, 2023, and associated Stormwater Review Memo dated November 20, 2023.

b. Approval of a sign permit application for any new signage on the site.

Ayes: 6.

Nays: None. Motion Carried.

Motion by Kenninger Second by Whitman

3. **Motion** to recommend the City Council approve a Conditional Use Permit for Custom Apparel allowing operation of an outdoor seating or dining area for eleven or more seats, subject to the following conditions:

a. Approval of a building permit.

b. Secure a liquor license for the taproom and for the outdoor dining areas and must follow all City standards for a taproom as regulated by the license.

c. All driveways and parking areas shall be capable of supporting access by emergency vehicles and equipment.

d. No public address system, music, or TV located on the patio shall be audible from

noncommercial or nonindustrial use or district.

Ayes: 6.

Nays: None. Motion Carried.

- b. Request by Jimnist, LLC., for Preliminary and Final Plat approval and PUD Final Site and Building Plan approval.

Senior Planner Nemcek presented the proposal by Jimnist LLC to build a data and technology campus on UMore property.

Commissioner Comments:

Chair Kenninger asked if the change to block 2 lot 1 into an outlet needed to be called out separately or not. Senior Planner Nemcek requested commissioners to add the outlot change to the first recommended action. Kenninger asked what the anticipated length of construction would be. Nemcek answered the anticipated construction length is three to five years per discussions between city staff and the applicant. Kenninger reiterated that the city is prepared to accommodate the expected water usage of the site. She also stated that the noise level is expected to be two to fifteen decibels below the maximum threshold for noise levels in a residential area. Commissioner Reed asked if most of the traffic would be going through the temporary signal light on Blaine Avenue via the temporary construction exit on the site. Nemcek stated that Dakota County is planning to put a traffic light there should the need necessitate such an installation down the line.

Commissioner Whitman asked if the project would have a public hearing before the City Council. Nemcek clarified that this item will not have a public hearing at the City Council as state law only requires one public hearing. Whitman asked if the AUAR is allowed by state law, to which Nemcek confirmed it is and is updated every five years. The 2023 update is currently in the process of being completed. Community Development Director Kienberger clarified that the city contracts with outside services to make sure the environmental review is in accordance with state law and city code. Whitman asked if all requirements are met, does the Planning Commission have to recommend approval. Nemcek deferred to the City Attorney, in which he stated that it is up to the Planning Commission to determine whether the proposal meets the established criteria. He clarified that the commissioners need to treat applicants all similarly and fairly, regardless of end user. City Administrator Logan clarified that there are other governmental organizations that handle discretionary concerns such as safety.

Commissioner Rivera asked if there is an agreement between the city and the company to have this facility established for a minimum time period in Rosemount. Community Development Director Kienberger answered no and that this is a private transaction, thus there is no contractual arrangement in regard to the length of time, end user, etc.

The public hearing was opened for comments.

Public Comments:

Trisha Sieh - 767 Eustice St. Paul, MN - Kimley Horn & Associates

Sieh is staff for Kimley Horn & Associates and is present on behalf of the applicant. She clarified that the noise limit is determined by MN state statute by use, and that the noise level is below the lowest maximum threshold for residential properties, which is at 50 decibels---the anticipated noise level will be two to fifteen decibels below that threshold . Chair Kenninger asked for input on environmental

studies and contamination, to which Sieh deferred to the UMore representative, Krueger.

Leslie Krueger - 319 15th Ave SE Minneapolis - UMore Park Representative

Krueger is the UMore representative. She stated that there was no groundwater contamination found within the site, and that the soil contamination levels met residential soil standards via extensive studies by the University of Minnesota. There is contamination of soil south of the property, but none was found within this project's site.

Jake Andre - Xcel Energy Representative

Andre stated that Xcel's internal planning team spent months to ensure the solution for the proposed project is not detrimental to the surrounding community or region. He also noted that there are many checkpoints within regional, state, and federal agencies to oversee transmission connections. Andre stated electricity usage is not a concern for the proposed project, the cost is fully paid by the project team, and the upgrades will most likely increase the energy resilience for the surrounding community.

Karin Miller - 17985 Jacquard Path Lakeville, MN

Miller asked where the water and electricity supplying the campus would come from and if Rosemount residents would have their supply rationed or limited. Miller expressed concern about EMF radiation impacts on Rosemount residents, transparency, and involved parties pertaining to the project. Miller asked what data will be collected, how it will be used, and how privacy will be protected.

Chad Byersdorfer - 14345 Cimarron Ave W Rosemount, MN

Byersdorfer is a project manager at Flint Hills Resources, and asked why Project Bigfoot is allotted several variances regarding architectural requirements. He asked about long-term plans ten to twenty years out pertaining to energy usage. Byersdorfer commented that this project appears to be more of an industrial use versus business park use.

Allen Bartelt - 4042 151st St W Rosemount, MN

Bartelt recalled the contaminated soil growing up in Rosemount, and stated that the soil needs further studying and testing.

Sharon Brown - 4425 Summer Ct Eagan, MN

Brown expressed concern for further testing of the soil.

Marla Lindner - 15615 Eddy Creek Way Apple Valley, MN

Lindner expressed concern about soil contamination of heavy metals and EMF radiation impacts on human health. She had concerns regarding data and information privacy.

Michael Pekarik - 13572 Dellwood Way Rosemount, MN

Pekarik asked about other hypothetical options versus the project being proposed, and whether it would be approved. He expressed disapproval of the project and concerns about data privacy.

A five-minute recess was held at 8:35 pm. The meeting resumed at 8:40 pm.

Lorraine Ufken - 3454 Crumpet Path Rosemount, MN

Ufken asked for an example of another place in Dakota County that is structured and fenced like the proposed project. She stated there should be an independent study of the land because of pollution

issues and concerns. Ufken expressed disapproval of the project.

Kathy Pritchard - 15703 Crystal Path Rosemount, MN

Pritchard presented the findings of the ex-parte communications reports filed for the state of Minnesota. She didn't understand why the variances were needed or why there was a nondisclosure agreement for the project.

Julie Barner - 9836 Alaureate Ct Inver Grove Heights, MN

Barner asked who the data center would serve and expressed concern about 15-minute cities and neighborhoods, providing an analogy to Oxford, England.

Susan Ferrozzo - 1646 240th St W Farmington, MN

Ferrozzo asked if city staff and commissioners knew what 50 decibels sounds like. She also expressed concerns about community representation.

Kayla Hauser - 14569 Dahomey Ave W Rosemount, MN

On the record, Hauser stated "On October 12th, the Star Tribune reported that they would like to not only add to our community's development, but the PUC on Thursday unanimously accepted power agreements between Xcel Energy and Meta. The contract included a discounted rate and contributions from Meta to fund Xcel's diversity and equity inclusion program." She asked if Rosemount residents would get discounted rates from Xcel since a big corporation is getting a discounted rate. Hauser asked how this project would help the youth and the next generation. She expressed concern for soil pollution and asked what those steps are for reparation and mitigation in the case of natural disasters.

Erik Martin - 15702 Crystal Path Rosemount, MN

Martin stated that the project should not be approved just because it went through consultants who reviewed related documents, such as the AUAR. He expressed concern about air pollutant emissions, tax increases, and involved parties.

Todd Blackwood - 14146 Ailesbury Ave Rosemount, MN

Blackwood stated how Rosemount has a small-town feel, and that the project would take away from that. He personally addressed Commissioner Whitman about how this project would benefit the community and his family.

Raul Estrada - 8302 143rd St W Apple Valley, MN

Estrada stated that the UMore Park land has been in turmoil with the Dakota tribes in relation to legal ownership of the land. He said that the public hearing seems to be more of a courtesy, with everything decided already, with a lack of transparency. Estrada expressed concerns about the affordable housing that will accompany following the development of the project.

Kim Zottneck - 801 Golden Meadow Rd Eagan, MN

Zottneck asked why data centers are being built in the county, how the EMF radiation would impact human health, and stated that this project seems to be going forward regardless of what the public say.

Jennifer Timmerman - 13848 Belmont Trl Rosemount, MN

Timmerman stated she attended the open house and appreciated the city's effort in communicating with residents of Rosemount. She approved of the project and thought it would be a good extension by

the DCTC campus along highway 42.

Maria Petrinko - 2219 24th Ave S Minneapolis, MN

Petrinko stated that if the decision was already made before the people decide, they would receive a presentment from the grand jury for violating the trust of the people.

Jane Jensen - 16135 Gauntlet Ct W Lakeville, MN

Jensen asked where the city of Rosemount falls regarding the need for funding and if that is a deciding factor for the development of this site. She asked what say or right the city has in this transaction, what steps and legal options citizens could take in this process to have further discussion, and if there are bonuses for the University of Minnesota.

The public hearing was closed for comments.

Motion by Kenninger Second by Reed

Motion to close the public hearing

Ayes: 6.

Nays: None. Motion Carried.

Commissioner Comments:

Chair Kenninger asked for clarification on water supply, water usage, and the water tower. Senior Planner Nemcek deferred to Public Works Director Egger. Egger explained that the water system layout is within a chapter of the comprehensive plan, which is updated every ten years. This property was forecasted for the intense water usage required by the project, and a water tower was planned for that intersection already. The development would result in the platting necessary to dedicate the portion of land for a water tower. Egger clarified that the water usage was intended for business park land use and there would not be a well on that lot.

Chair Kenninger asked Senior Planner Nemcek to speak about the variances allowed for this project. Nemcek stated that the variances were allowed with further conditions set by city staff, and that they work with various property owners to conform to the city code on a case-by-case basis. Chair Kenninger asked what governing bodies oversee the validity of testing for things such as soil pollution. Nemcek answered that the remediation study of UMore Park was supervised under the Minnesota Pollution Control Agency (MNPCA). The property is to be developed on a small portion of UMore Park which has shown no pollution.

Chair Kenninger asked about the EMF radiation impacts as it correlates to the site. Xcel Energy representative Andre stated there was a third party consultant that executed the environmental assessment of UMore Park; the assessment and information about EMF radiation can be found attached to their permit approval earlier this year. Andre shared that the Public Utilities Commission (PUC) is the governing body appointed by the governor to protect the physical safety of residents, finding insufficient evidence of negative side effects on humans from the level of exposure per the project. The safety standards are adhered to and enforced on a federal level.

Chair Kenninger asked Senior Planner Nemcek and Community Development Director Kienberger how the planning process worked for this project compared to other projects and the timing of the project. Nemcek replied that the planning process for the proposed project is similar to other projects approved

and built in the past, such as the Home Depot distribution facility. Kienberger noted the articles published in the city newsletter that inform and provide information explaining the planning process, and why certain projects are confidential. Senior Planner Nemcek stated how the city follows Minnesota state statutes with regard to the timeline of approving a project, and that the project is consistent with other project timelines. City Administrator Martin verified that steps have been taken by city staff that go above and beyond engaging with the public than what is required and typical for other projects.

Chair Kenninger asked what the next steps are in the planning process for this project for public knowledge. Senior Planner Nemcek said the project will go to City Council at its next meeting, in which the action is the official approval to move forward with closing the ownership deal of the property and further permit applications. Commissioner Reed asked if there were back-up power plans. Kimley Horn Representative Sieh answered there are a few backup generators, in which no air permit by the state will most likely occur due to the insignificant number of generators. Sieh stated the other mechanical and cooling equipment is used within the buildings, as a dry cooling system, resulting in a lower water usage than expected.

Chair Kenninger asked for clarification between the project being intended as business park use and not industrial use. Senior Planner Nemcek stated that low buildings with physically internal operations and office space designate the project as business park use, and not for industrial use. Chair Kenninger asked what rights the city has pertaining to this proposed project. City Attorney Sathe stated it is the Planning Commission's role to compare this proposal to the standards that have been established by the City Council for this type of project as it pertains to land use standards.

Commissioner Whitman stated that it is not feasible for every response to be put in writing to the first speaker who requested it earlier in the audience input portion. Whitman asked if the City Council approves this project, is it going to be supported by written findings or include written findings? Senior Planner Nemcek clarified that written findings are typically used for a denial of an application and deferred to the City Attorney. City Attorney Sathe clarified that a finding would state that the project meets the established criteria and standards for approval, or whether it isn't for denial.

Chair Kenninger asked for clarification on affordable housing within the city. Senior Planner Nemcek answered that there are a few income-restricted housing in Rosemount, which is not Section 8 housing, but the majority of multi-tenant projects are market-rate housing.

Commissioner Whitman asked if the city has authority to impose a condition for renewable energy on this project. Senior Planner Nemcek answered that the city code does not have a requirement for that. Kimley Horn representative Sieh answered that the company has strong sustainable goals and the project will be offset by renewable energy in other areas. Commissioner Thiagarajan asked if the project is seeking any certification, such as LEED. Sieh answered that those are guidelines for the company for building, but they will not seek the current certification.

Commissioner Rivera asked what the protocol would be if the Planning Commission decided to put a pause on approving the project application. Senior Planner Nemcek answered that if more research into the project or studies needed to be done, then a motion to do so before final approval would be acted upon. Community Development Director Kienberger deferred to the City Attorney. City Attorney Sathe reiterated that the type of information gathered if there was a pause on approval, would have to be related to the authority making decisions the Planning Commission has pertaining to land use. Sathe

stated that there should be a particular item that is questionable to a commission member.

Commissioner Whitman pointed out that the latest AUAR will remain valid from its adoption date, which has passed. Whitman questioned the validity and reliability of the AUAR since the 2023 one is not yet adopted. Senior Planner Nemcek stated the 2023 AUAR is in process. Since the last update, the development has been consistent with the scenarios of the 2018 AUAR, and in the city staff's opinion, the 2018 AUAR is still valid. Nemcek noted that the AUAR already anticipated business park use in the northeast region of UMore Park, thus this project is consistent with the AUAR. Commissioner Reed asked if a condition could be put on as part of the approval of the project, requiring that the AUAR legal process is met before final approval. Nemcek said it could be added for AUAR review before approval, and if a condition was added, it would be put into the plat approval. Community Development Director Kienberger suggested the option to add verbiage of verification of the applicability of the current AUAR to this project, which is regularly done by other Planning Commissions and City Councils. Kienberger stated staff's recommendation to have conformance with the AUAR by the time City Council reviews the application. Chair Kenninger asked if the verification of the AUAR document could be done before the next City Council meeting. Kienberger said that cannot be answered right now, but it would be something City Council would have to consider in their approval of the project. Commissioner Reed recommended to Chair Kenninger and Community Development Director Kienberger to add a condition to the approval of the AUAR validation.

Motion by Kenninger Second by Reed

Motion to recommend the City Council approve the ROSEMOUNT TECHNOLOGY ADDITION preliminary and final plats subject to:

1. Approval of a subdivision agreement.
2. Payment of a fee in-lieu of park land dedication in the amount of \$2,252,500.
3. Payment of all required development fees contained in the subdivision agreement.
4. The plat shall be updated to dedicate a drainage and utility easement over Wetland 471 and its associated buffer.
5. Conservation easements shall be dedicated over the two onsite wetlands and their buffer areas.
6. The plat shall be updated to rename Lot 1 Block 2 in the northwest corner of the plat as an outlet.
7. The applicability of the existing AUAR shall be verified before any action is taken by the Council.

Ayes: 6.

Nays: None. Motion Carried.

Motion by Kenninger Second by Reed

Motion to recommend the City Council approve the Final Site and Building Plan for the Project Bigfoot Planned Unit Development, subject to:

1. Approval of the ROSEMOUNT TECHNOLOGY ADDITION preliminary and final plats.
2. Submittal of a landscaping surety of \$204,930, to be released following one year of survival.
3. Payment of \$920,000 in-lieu of replacement trees.

4. Temporary parking and contractor lay down areas shall be restored and landscaped following construction.
5. The temporary construction access from County Road 42 shall be removed, and the right of way restored, following construction.
6. The landscape plan shall be updated to include a foundation planting schedule that meets the minimum requirements of the city code.
7. A sign permit application shall be submitted prior to the installation of any onsite signage.
8. Conformance with the requirements of the City Engineer contained within the memo dated November 22, 2023.
9. Conformance with the requirements of the Fire Marshal contained within the memo dated November 21, 2023.

Ayes: 6.

Nays: None. Motion Carried.

NEW BUSINESS

None.

DISCUSSION

Chair Kenninger stated the next meetings on Monday, December 18th, and in 2024: Tuesday, January 23rd, and Monday, February 26th.

ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 10:16 p.m.

Respectfully submitted,

Alysha Grant
Community Development Technician

Planning Commission Regular Meeting: December 18, 2023

AGENDA ITEM: Resignation of Commissioner Powell	AGENDA SECTION: CONSENT AGENDA
PREPARED BY: Alysha Grant, Community Development Technician	AGENDA NO. 4.b.
ATTACHMENTS: Resignation Email	APPROVED BY: AK
RECOMMENDED ACTION: Motion to accept the resignation of Commissioner Powell.	

BACKGROUND

Former Commissioner Powell sent his resignation from the Planning Commission (PC) on November 28th, 2023 via email. We thank him for his service to the Planning Commission and the City of Rosemount.

RECOMMENDATION

Staff Recommends the Planning Commission accept the resignation of former Commissioner Powell.

Alysha Grant

From: Alysha Grant
Sent: Monday, November 27, 2023 7:17 PM
To: Adam Kienberger
Cc:
Subject: Planning Commission Meetings

Good evening Adam,

My thanks to the City Council for the opportunity to again serve on the Planning Commission. I am keenly aware of the impact that member absences have on the effectiveness of advisory commissions. Unfortunately, my ability to balance a career/work schedule with the Commission meeting schedule is no longer tenable.

I hereby resign from the Rosemount Planning Commission effective immediately.

Thank you for your understanding.

John Powell

Planning Commission Regular Meeting: December 18, 2023

Tentative City Council Meeting: January 16, 2024

AGENDA ITEM: Renewal of the Vesterra, LLC, and Stonex, LLC, Small Scale Mineral Extraction Permit for 2024.	AGENDA SECTION: PUBLIC HEARINGS
PREPARED BY: Anthony Nemcek , Senior Planner	AGENDA NO. 6.a.
ATTACHMENTS: Site Map , Mineral Extraction Permit , Applicant's Narrative, Present Conditions and Plans, Site Aerials, Photos	APPROVED BY: AK
RECOMMENDED ACTION: Motion to recommend City Council approve renewal of the Vesterra, LLC, and Stonex, LLC, Small Scale Mineral Extraction Permit for 2024, subject to the terms and conditions in the attached 2024 Conditions for Mineral Extraction.	

BACKGROUND

Applicant:	Jonathan Wilmshurst of Vesterra, LLC and Stonex, LLC
Property Owner:	Flint Hills Resources
Operator(s):	Solberg Aggregates, Bolander and Sons, Frattalone Companies
Location	South of Bonaire Path, ¼ mile west of Blaine Ave.
Area in Acres	Vesterra – Northern 75 Acres along Bonaire Path Stonex – Southern 80 Acres directly south of Vesterra.
Comp Plan Designation	LI, Light Industrial
Current Zoning:	AG, Agriculture
Materials Removed in 2023:	Less than 25,000 cubic yards as of October

The Planning Commission is being asked to consider an application from Jonathan Wilmshurst of Vesterra LLC/Stonex LLC to renew the Vesterra and Stonex mineral extraction permit for 2024. The subject properties are located south of Bonaire Path, ¼ mile west of Blaine Avenue (County Road 71). The properties are owned by Flint Hills Resources, which leases them back to the applicant for mineral extraction. While Flint Hills Resources and Vesterra, LLC/Stonex, LLC are parties to the application, the responsibility for securities and compliance with the conditions remains with Vesterra and Stonex as the property lessee. Upon review of the mineral extraction standards, police records and the information submitted by the applicant, staff recommends renewal of the permit for 2024.

INFORMATION

Three operators are currently working in the overall mining area. Solberg Aggregates and Bolander and Sons are mining the northwestern portion of the mining area, and Frattalone Companies are operating in the southeast corner of the site. The 2024 mine plan shows each operator mining within their designated areas with each active mining area falling within the allowed mining area of 19 acres. The 2024 permit will be the fourth time all three operators were listed on the application materials,

with the first year being in 2021. When Frattalone was added as an operator in the mine area, the applicant revised the haul route to allow a circular traffic pattern with trucks entering from Bonaire Path to the north and exiting along the farm road to Blaine Avenue to the east.

The applicant received their last permit renewal in January 2023. According to the applicant, mining activity decreased significantly from the 2022 volume of 120,000-140,000 yards removed. A few thousand yards were removed from the Solberg mining area, and only 20,000 yards from the area Bolander mines and none from the Frattalone area in the southeastern portion of the site. No fill was brought into the site, which is consistent with prior years. Mining will continue to the west in the northern portion of the site and will continue south in the southeastern portion of the site as depicted in the 2024 mine plan. Reclamation has proceeded on the east end of the Vesterra pit floor. Plans by Bolander to start a large amount of floor reclamation in the spring of 2023 have been delayed as that area was used as a staging area for the FHR solar farm. Bolander is now intending to do the work next spring. Currently, more than eight acres have been reclaimed and approximately 15 acres of floor are open in total.

ISSUE ANALYSIS

Standards for Small Scale Mineral Extraction are detailed in Section 11-10-4 of the City Code. A summary review of the subject property is provided below with detailed conditions of operation listed in the attached Draft 2024 Conditions for Mineral Extraction Permit. The operation of this use meets or exceeds the applicable performance standards for small scale mineral extraction subject to the conditions listed in the attached permit. Staff toured the site and checked with the police to ascertain whether there were any complaints relating to the mining operation. The site visit illustrated that the mine appears to be operating in compliance with the permit; there were no public complaints cataloged with the police for 2023.

The subject property is zoned AG - Agriculture. Small scale mineral extraction is listed as an interim use within this district. The table below details the zoning, current land use, and future land use information for the surrounding properties. The sites to the west, south, and east are located within the current Metropolitan Urban Service Area (MUSA). It should be noted that some of the agricultural uses include associated residential uses and the applicant has a farming tenant operating on a portion of the subject property outside the active mining area.

Surrounding Land Use and Zoning Information			
Direction	Current Land Use	Guided Land Use	Zoning
North	Agriculture	Agriculture	Agriculture

South	Agriculture	Business Park Community Commercial (Part of the west half)	Agriculture
East	Agriculture	Light Industrial	Agriculture
West	Agriculture	Low Density Residential	Agriculture

Starting in 2020, traffic flow was switched so that all incoming traffic is routed through the northern entrance along Bonaire Path, while outgoing traffic follows the existing farmstead access road west to Blaine Avenue (County Road 71). This reconfiguration of traffic comes from the commencement of mining in the southern portion of the site immediately west of the existing farmstead (the Frattalone Area), where previously all access to the mine occurred at a gated entrance at the northeast corner of the Vesterra property along Bonaire Path. This flow change reduces truck traffic on Bonaire Path and provides more direct access to County Road 42.

The applicant is leasing the property, and the current lease runs through 2025. If the applicant and property owner determine that the lease will not be extended beyond that date, an updated reclamation plan should be submitted taking into account that mining activity will be truncated. The east end of the leased property, where there is no active mining taking place, has been released from the lease with Flint Hills Resources for the installation of solar panels in that area.

RECOMMENDATION

Staff recommends renewal of the Vesterra LLC and Stonex LLC Mineral Extraction Permit for 2024 based upon review of the information submitted by the applicant, the mineral extraction standards in Section 11-10-4 of the City Code, City Police records and the attached draft permit.



Mineral Extraction Permit
2024 Conditions for Mineral Extraction Permit
VESTERRA, LLC and STONEX, LLC

- A. By their signatures below, Vesterra, LLC and Stonex, LLC (hereinafter collectively referred to as the "Property Lessee") and Flint Hills Resources (herein after "the Property Owner") consent to these conditions, binding themselves and their successors, heirs or assigns to the conditions of this permit. Vesterra, LLC and Stonex, LLC are jointly and severally liable and responsible for compliance with all conditions of this permit and all requirements of law relating to the licensed activities. Mineral Extraction is an Interim Use in the Agriculture District of which the permit area is a part according to Ordinance B, the City of Rosemount Zoning Ordinance Regulations. Property Owner consents to entry onto the Subject Property by the City, the City's employees, agents, and contractors, as needed to inspect the work of the permit, enforce the conditions of the permit and undertake any work needed to comply with permit conditions including mine closing and reclamation.
- B. This permit is granted for the area designated as Solberg Phase 1, Bolander Phases 1 and 2, and Frattalone Phase 1 on Exhibit 1 Present Conditions and 2024 Mine Plan.
- C. The completion date of the overall mineral extraction process including site reclamation shall be no later than December 31, 2025 for the northern 75 acres, the Vesterra site. The completion date of the overall mineral extraction process including site restoration shall be no later than December 31, 2026 for the southern 80 acres, the Stonex site. The term of this permit shall extend from January 1, 2024 until December 31, 2024 unless revoked prior to that for failure to comply with the permit requirements. A mining permit fee of \$370.00 shall be paid to the City of Rosemount.
- D. All required permits from the State of Minnesota, County of Dakota and City of Rosemount (hereinafter "City") or any of their agencies shall be obtained and submitted to the City prior to the issuance of the permit. Failure by the Property Lessee to comply with the terms and conditions of any of the permits required under this paragraph shall be grounds for the City to terminate said mining permit.
- E. The final grading for the permit area shall be completed in accordance with the grading plan (Conceptual End Use Plan dated 1/13/05) labeled Exhibit 3, which is attached hereto, or as approved by the City Engineer, and any other conditions that may be imposed by the City from time to time.
- F. All gravel trucks and other mining related traffic shall enter the mining area from Bonaire Path (County Road 38) and exit via the private drive to Blaine Avenue. It shall be the Property Lessee's responsibility to obtain any access permits or easements necessary for ingress and egress. The location of the accesses and/or easements for ingress and egress shall be subject to approval by the City, as well as

the Dakota County Highway Department or the Minnesota Department of Transportation if applicable or if any changes occur relative to the mining process. The current locations of the access driveways are indicated on the Present Conditions and 2024 Mining Plan. Warning signs including “Trucks Hauling” shall be installed at the Property Owner’s expense as needed in accordance with Dakota County requirements. Any street improvements to Bonaire Path, County Road 71 or CSAH 42 necessary to accommodate the generated traffic shall be the sole responsibility of the Property Lessee.

- G. A plan for dust control shall be submitted to and subject to approval by the City. The Property Lessee shall clean dirt and debris from extraction or hauling operations related to the Mineral Extraction Permit from streets. After the Property Lessee has received 24-hour verbal notice, the City may complete or contract to complete the clean-up at the Property Lessee’s expense. In the event of a traffic hazard as determined by the City Administrator (or their designee) or Rosemount Police Department, the City may proceed immediately to complete or contract cleanup at Property Lessee’s expense without prior notification.
- H. The surface water drainage of the mining area shall not be altered so as to interfere, contaminate, or otherwise impact the natural drainage of adjacent property.
- I. No topsoil shall be removed from the site and the Property Lessee shall take necessary measures to prevent erosion of the stockpiled topsoil. The location of the stockpiled topsoil is located on Present Conditions and 2024 Mine Plan.
- J. Any costs incurred now or in the future in changing the location of existing public or private utilities including but not limited to pipelines, transmission structures and sewer infrastructure located within the permit area shall be the sole obligation and expense of the Property Lessee.
- K. All costs of processing the permit, including but not limited to planning fees, engineering fees and legal fees, shall be paid by the Property Lessee prior to the issuance of the permit. The Property Lessee shall reimburse the City for the cost of periodic inspections by the City Administrator or any other City employee for the purpose of insuring that conditions of the permit are being satisfied. The Property Lessee agrees to reimburse the City for any other costs incurred as a result of the granting or enforcing of the permit.
- L. The daily hours of operation for the mining area shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday subject to being changed by the City Council.
- M. The Property Lessee shall deposit with the Planning Department a surety bond or cash deposit in the amount of Seven Thousand, Five Hundred Dollars per acre (\$7,500.00/acre) for any active phase in favor of the City for the cost of restoration, regrading and/or revegetating land disturbed by mining activities and to ensure performance of all requirements of this agreement and City ordinances by Property Lessee. The required surety bonds must be:

- (1) With good and sufficient surety by a surety company authorized to do business in the State of Minnesota.
- (2) Satisfactory to the City Attorney in form and substance.
- (3) Conditioned that the Property Lessee will faithfully comply with all the terms, conditions and requirements of the permit; all rules, regulations and requirements pursuant to the permit and as required by the City and all reasonable requirements of the City Administrator (or his designee) or any other City officials.
- (4) Conditioned that the Property Lessee will secure the City and its officers harmless against any and all claims, or for which the City, the Council or any City officer may be made liable by reason of any accident or injury to persons or property through the fault of the Property Lessee.
- (5) The surety bond or cash deposit shall remain in effect from January 1, 2024 until July 31, 2025.

Upon thirty (30) days' notice to the Property Lessee and surety company, the City may reduce or increase the amount of the bond or cash deposit during the term of this permit in order to insure that the City is adequately protected.

- N. The Property Lessee shall furnish a certificate of comprehensive general liability insurance issued by insurers duly licensed within the State of Minnesota in an amount of at least Five Hundred Thousand and no/100 (\$500,000.00) Dollars for injury or death of any one person in any one occurrence, and at least One Million Five Hundred Thousand and no/100 (\$1,500,000.00) Dollars for injury or death of more than one person arising out of one occurrence and property damage liability in an amount of at least Two Hundred Fifty Thousand and no/100 (\$250,000.00) Dollars arising out of any one occurrence. The policy of insurance shall name the City as an additional insured and shall remain in effect from January 1, 2024 until July 31, 2025.
- O. No processing or mixing of materials shall occur on the site, except as approved by the Dakota County Environmental Management Department as incidental to a sand and gravel mining operation. Any such activities will be enclosed with snow or cyclone fencing or as approved by City staff. Construction of any ponding areas, wash plants or other processing or equipment brought to the site shall require additional site and grading plan information subject to review and approval of the City Engineer.
- P. The Property Lessee and the Property Owner shall hold the City harmless from all claims or causes of action that may result from the granting of the permit. The Property Lessee shall indemnify the City for all costs, damages or expenses, including but not limited to attorney's fees that the City may pay or incur in consequence of such claims.

- Q. The Property Lessee and the Property Owner shall comply with such other requirements of the City Council as it shall from time to time deem proper and necessary for the protection of the citizens and general welfare of the community.
- R. Complete mining and reclamation is required in all phases before any additional mining is authorized. Modifications or expansion of the mining areas must be approved in writing to the City. Property Lessee shall submit to the City annually a written report indicating the amount of material extracted from the site for the prior 12-month period.
- S. The Property Lessee shall incorporate best management practices for controlling erosion and storm water runoff as specified by the Minnesota Pollution Control Agency and the United States Environmental Protection Agency.
- T. The City of Rosemount shall have the ability to collect independent soil samples
- U. Reclamation shall include the replacement of the entire stockpile of topsoil on the mined area, reseeding and mulching necessary to re-establish vegetative cover for permanent slope stabilization and erosion control. The minimum depth of topsoil shall not be less than two inches after reclamation. Topsoil for reclamation shall conform to specifications on file with the City. No restored slopes may exceed a gradient of 25% or four to 1 (4:1).
- V. The Property Lessee must show how materials stockpiled for recycling will be processed and inform the City of all stockpiled materials.
- W. The Property Lessee may not assign this permit without written approval of the City. The Property Lessee will be responsible for all requirements of this permit and all City ordinances on the licensed premises for the permit period unless the Property Lessee gives sixty (60) days prior written notice to the City of termination and surrenders the permit to the City. The Property Lessee shall identify all Operators prior to their commencement of mineral extraction-related activities in the pit area. The City shall have the authority to cause all mineral extraction activities to cease at any time there is an apparent breach of the terms of this Permit.
- X. The Property Lessee shall maintain a “stock” gate (or equivalent) at the entrance to the property where the mining operation is located. The gate must be secured at 7:00 p.m. and at any time the pit is not in use.
- Y. There shall be no “haul-back” of materials from any other property or job site that would be imported to the property for fill or other purposes other than incidental concrete recycling as referred to in paragraphs O, V and FF; and topsoil imported for the purpose of re-establishing turf as accepted by the City.
- Z. Truck operators within the pit area shall not engage in practices involving slamming tailgates, vibrating boxes, using of “jake” or engine brakes (except in emergency situations) or other such activities that result in excessive noise.

- AA. The Property Lessee shall comply with directions from the City Engineer.
- BB. A landscaping plan shall be prepared subject to approval by City Staff, for the purpose of providing vegetative screening within the setback areas of the various phases of the mining area. Said landscaping shall be installed according to City standards, prior to commencement of operations within an adjacent phase area.
- CC. No retail activity is permitted on the site. Materials imported to the site are limited to materials to be recycled and mixed with aggregate extracted from the site and topsoil for reestablishing ground cover or turf.
- DD. Off-site mining connected with the reconstruction of County Road 38 or construction of Connemara Trail shall require separate project approval by the City Council. The site reclamation plan with proposed grades and future street alignments is subject to approval by the City Engineer.
- EE. The storage of equipment (unrelated to the sand and gravel mining and processing), manure, construction debris, or hazardous materials of any kind shall not be permitted on site. The placement of construction debris, manure, asphalt or hazardous materials in any form within the pit as fill shall be strictly prohibited.
- FF. The fill area re-grading and reclamation shall follow the procedures described in the Stonex LLC and Vesterra LLC Reclamation Protocol Rosemount, Minnesota. Stonex, LLC and Vesterra, LLC shall compact the entire reclamation site to a minimum compaction of 95% of maximum dry density. Reports shall be submitted to the City by August 1st and February 1st describing any fill importation from January 1st through June 30th and July 1st through December 31st respectively. The bi-annual reports submitted shall describe the quantities of material brought in, where the material came from, and the test results, including supporting analytical results of the materials.

IN WITNESS WHEREOF, Vesterra, LLC and Stonex, LLC hereby consents and agrees to the foregoing conditions of said mining permit this _____ day of _____, 20____.

Vesterra, LLC and Stonex, LLC

By: _____
Jonathan J. Wilmshurst, Owner

STATE OF MINNESOTA)
)**ss**
COUNTY OF DAKOTA)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Jonathan J. Wilmshurst, the Owner of Vesterra, LLC and Stonex, LLC

Notary Public

IN WITNESS WHEREOF, Flint Hills Resources, hereby consents and agrees to the foregoing conditions of said mining permit this _____ day of _____, 20____.

Flint Hills Resources

Its

[illegible]

The forgoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, Flint Hills Resources, Its _____, the Property Owner, on behalf of the company.

Notary Public

Vesterra, LLC and Stonex, LLC

Revised Annual Mining Permit Renewal Request for 2024

October 24, 2023

This has been a slow year with only 20K yards removed from the Bolander operation, a few thousand yards removed from the Solberg operation, and no activity at the Frattalone operation.

The attached plan shows how the existing Solberg and Bolander mining operations continue to advance slowly to the west on the northern Vesterra parcel. Frattalone operates on the southern Stonex parcel but there has been no activity so far this year. The main change from last year is that Bolander's mine face advanced in the south-west corner. There has been no additional stripping at either pit.

All storm water is collected in the stormwater pond at the east end of the Vesterra parcel or in the stormwater pond on the Stonex parcel. No storm water leaves either property, but rather evaporates or infiltrates. Mining does not approach the water table which is approximately thirty feet below the floor of the pit. The end-use plan has the final floor of the pit climbing at a 1% grade toward the southwest corner.

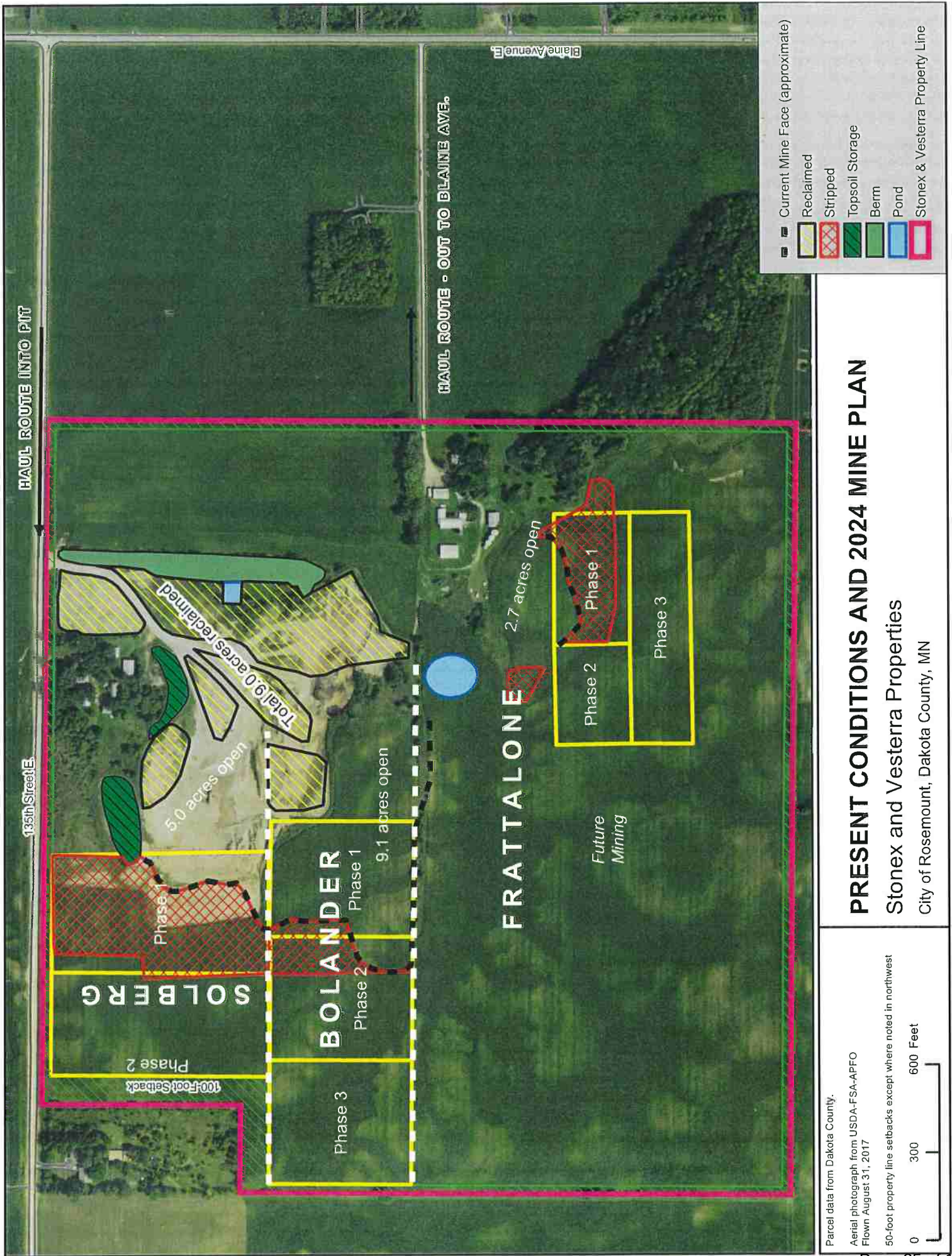
Reclamation has proceeded on the east end of the Vesterra pit floor as the mine plan shows. Bolander had intended to do quite a bit of reclamation work this year, but the area in question was used as a staging area for the adjacent solar farm, so they now Bolander now intends to do this work early next spring. Currently more than eight acres have been reclaimed and approximately 15 acres of floor are open in total. The operators have done a good job of coordinating their activities.

In 2020 traffic flow switched so that all inbound trucks enter on Bonaire Path, and all outbound trucks exit on the farm road east of the old Kraft farmhouse onto Co Rd 71. This traffic flow is shown on the attached plan. This flow minimizes structural loading on Bonaire Path, while maximizing public safety. The operators have done a good job of improving the condition of the exit road.

Dust control measures will be employed as follows: regular reclamation and planting/seeding of berms and pit floor will keep exposed soils to a minimum, and roads will be sprayed with water as necessary. In addition, the much lower elevation of the mine floor with the trees and vegetation that have sprouted in earlier areas of activity have been steadily reducing the exposed pit floor.

No fill materials were imported onto the site this year.

Vesterra/Stonex thanks the Rosemount Planning Commission and City Council for its consideration of this application for renewal.



PRESENT CONDITIONS AND 2024 MINE PLAN

Stonex and Vesteria Properties

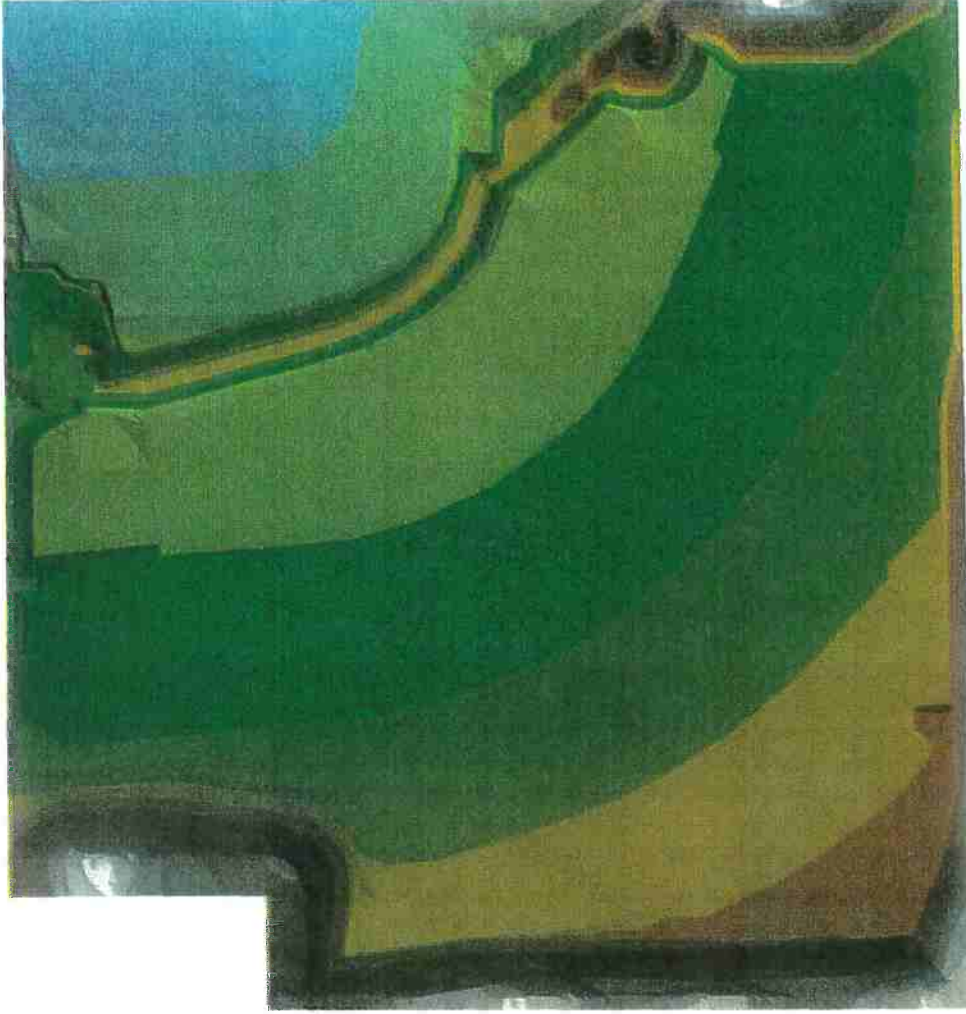
City of Rosemount, Dakota County, MN

Grading Plan Elevation

931 - 936
926 - 931
921 - 926
916 - 921
911 - 916
906 - 911
901 - 906
896 - 901
891 - 896
886 - 891
881 - 886
876 - 881
872 - 876

Total Volume Difference between current topography & grading plan (cu yds)	5,077,704
Approximate Overburden (cu yds)	450,000
Net Sand & Gravel (cu yds)	4,627,704
Net Sand & Gravel (tons)	6,941,556
Volume of Berm (cu yds)	84,000

Assumptions:
 100-foot setback around Darsoz parcel to northwest
 30-foot setback along remainder of west property line
 Zero setback along north and south property lines (mined topography will blend in with adjacent properties)
 Mine to elevations shown on grading plan
 1.5 tons per cubic yard



Parcel data from Dakota County
 50-foot property line setbacks except for northwest



MINE TO GRADING PLAN ELEVATIONS SCENARIO

Stonex and Vesteria Properties

City of Rosemount, Dakota County, MN

Prepared for Vesteria, LLC
 I hereby certify that this plan, document, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Geologist under the laws of the State of Minnesota.
 J.D. Lehr
 Reg. No. 30063
 Date: April 21, 2005

2023



2022













Planning Commission Regular Meeting: December 18, 2023

Tentative City Council Meeting: January 16, 2024

AGENDA ITEM: Renewal of the Shafer Contracting Co., Inc. Small Scale Mineral Extraction Permit for 2024	AGENDA SECTION: PUBLIC HEARINGS
PREPARED BY: Anthony Nemcek , Senior Planner	AGENDA NO. 6.b.
ATTACHMENTS: Site Location, 2024 Shafer Mineral Extraction Conditions , Current and Proposed Operation Plans, 2023 Density Report, Site Aerials, Photos	APPROVED BY: AK
RECOMMENDED ACTION: Motion to recommend the City Council renew the Shafer Contracting Co., Inc. Small Scale Mineral Extraction Permit for 2024, subject to the terms and conditions in the attached Draft 2024 Conditions for Mineral Extraction.	

BACKGROUND

Applicant and property owner:	Shafer Contracting, Co. Inc.
Location:	¼ mile west of Rich Valley Blvd., 1 mile north of Bonaire Path East.
Area in acres:	93 acres total area, approximately 15 acres active in the western 100 feet of Phase 4 and all of Phase 5.
Comp Plan & Zoning:	93 acres total area, approximately 15 acres active in the western 100 feet of Phase 4 and all of Phase 5.
Extraction progress:	Phase 5 out of 7 (approximately 60% complete).
Material Removed/Hauled Back in 2023	11,698 yards removed/15,158 yards hauled back

The Planning Commission is being asked to consider a request from Shafer Contracting Company, Inc. to renew the existing Small Scale Mineral Extraction Permit for its operation located within the 12000 Block of County Road 71 (one mile north of Bonaire Path East along Rich Valley Blvd.) in the northeastern portion of Rosemount. Small Scale Mineral Extraction is permitted in the City as an Interim Use within specified areas, and the permit for such uses expires after one year. The Shafer site has been operating as a mine for several years, and the request for renewal is consistent with similar renewals that have previously been issued for the site. The operator indicated that in effect no activity has occurred at the mine site and therefore the attachments and conditions are consistent with what was approved since 2018. The mine is used solely for projects associated with Shafer Contracting projects.

BACKGROUND

Shafer has been extracting minerals from the site since 1998 and has owned the property since 2000.

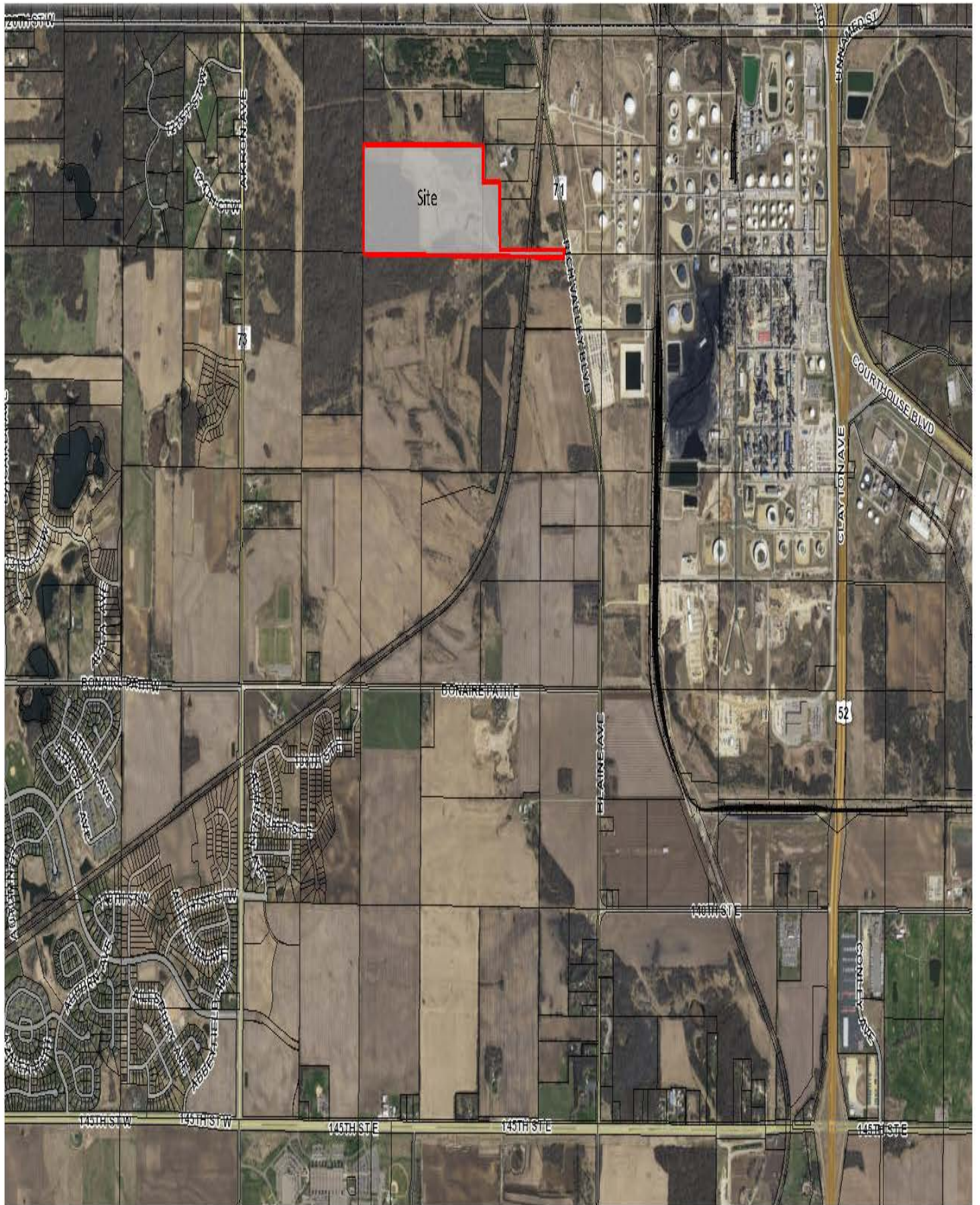
The applicant reports that 11,698 cubic yards of sand or gravel were removed in 2023, and there were 15,158 cubic yards of haul-back or recycled material brought to the property over the past year. It is unclear what the expectations are for 2024, although the applicant wants to have the resource available should the need arise. The amounts extracted and brought in are significantly lower than they were in 2022, which were 53,975 cubic yards and 32,395 cubic yards, respectively.

Shafer would continue removing aggregate from Phase 5 as identified in the Proposed Operations and Reclamation Plan and depositing haul-back material in the middle 500 feet of phases 2, 3, and 4. Haul-back operations have a low elevation of about 850 feet in phases 3 and 4 and progress up to an 875 elevation in phase 2. In 2006, the City Council approved the haul-back operation if it complied with the following standards: from a MnDOT construction project, is clean fill material, does not contain organic matter, and meets a 95% compaction threshold. Shafer previously submitted test results for the haul back material through 2015, but in recent years had asked to delay the compaction testing due to the limited amount of haul-back material brought to the site, since 2015. Shafer conducted compaction testing of haul-back material in August 2023 that met the 95% compaction requirement.

As a part of the annual review of all mineral extraction permits, staff performs an inspection of the site and consults with the Rosemount Police Department regarding any police activity. No ordinance or permit condition violations were apparent during the inspection. Police records found no incidents at the subject property during 2023.

RECOMMENDATION

The site has had relatively little mining activity over the last several years. The issue of mining and haul-back is addressed in the IUP conditions. Staff recommends renewal of the Small Scale Mineral Extraction Permit at the Shafer Contracting Co. Inc., mine for 2024.



Small Scale Mineral Extraction Permit
2024 Conditions for Small Scale Mineral Extraction Permit Renewal
SHAHER CONTRACTING COMPANY, INCORPORATED

- A. Shafer Contracting Co., Inc. (hereinafter "the Property Owner") signs a written consent to these conditions binding itself and its successors, heirs or assigns to the conditions of said permit.
- B. This permit is granted for the area designated as the western 100 feet of Phase 4 and all of Phase 5 (19.5 acres), on Exhibit A (Mining Operation and Phase Plan), which is attached hereto as one of the exhibits. Haul-back activities from Mn/DOT projects are permitted only within the middle 550 feet of Phase 2, Phase 3, and Phase 4 (19.5 acres), on entitled Proposed 2024 Operation.
- C. The term of the permit shall extend from January 1, 2024 until December 31, 2024 unless revoked prior to that for failure to comply with the permit requirements.
- D. All required permits from the State of Minnesota, County of Dakota and City of Rosemount (hereinafter "City") or any of their agencies shall be obtained and submitted to the City prior to the issuance of the permit. Failure by the Property Owner to comply with the terms and conditions of any of the permits required under this paragraph shall be grounds for the City to terminate said mining permit.
- E. The final grading for the permit area shall be completed in accordance with the grading plan Exhibit B (Proposed Reclamation and End Use Plan), which is attached hereto, or as approved by the City Engineer, and any other conditions as may be imposed by the City from time to time.
- F. All gravel trucks and other mining related traffic shall enter and exit the mining area from County Road 71 (Rich Valley Boulevard). It shall be the Property Owner's responsibility to obtain any access permits or easements necessary for ingress and egress. The location of the accesses and/or easements for ingress and egress shall be subject to approval by the City, as well as the County Highway Department or the Minnesota Department of Transportation if applicable or if any changes occur relative to the mining process. The current location of the access driveway is indicated on the Phasing Plan. A stop sign shall be installed at the driveway entrance to County Road 71, in accordance with standards on file with the City or County Highway Department. Warning signs including "Trucks Hauling" shall be installed at the Property Owner's expense as needed in accordance with Dakota County requirements.

- G. A plan for dust control shall be submitted to and subject to approval by the City. The Property Owner shall clean dirt and debris from streets that has resulted from extraction or hauling operations related to the Mineral Extraction Permit. After the Property Owner has received 24-hour verbal notice, the City will complete or contract to complete the clean-up at the Property Owner's expense. In the event of a traffic hazard as determined by the City Administrator (or the Administrator's designee) or Rosemount Police Department, the City may proceed immediately to complete or contract cleanup at Property Owner's expense without prior notification.
- H. The surface water drainage of the mining area shall not be altered so as to interfere, contaminate, or otherwise affect the natural drainage of adjacent property.
- I. No topsoil shall be removed from the site and the Property Owner shall take necessary measures to prevent erosion of the stockpiled topsoil. The location of the stockpiled topsoil shall be indicated on Exhibit C (Current Operations Map).
- J. Any costs incurred now or in the future in changing the location of existing public or private utilities including but not limited to pipelines, transmission structures and sewer infrastructure located within the permit area shall be the sole obligation and expense of the Property Owner.
- K. All costs of processing the permit, including but not limited to planning fees, engineering fees and legal fees, shall be paid by the Property Owner prior to the issuance of the permit. The Property Owner shall reimburse the City for the cost of periodic inspections by the City Administrator or any other City employee for the purpose of insuring that conditions of the permit are being satisfied. The Property Owner agrees to reimburse the City for any other costs incurred as a result of the granting or enforcing of the permit.
- L. The daily hours of operation for the mining area shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday, subject, however, to being changed by the City Council.
- M. The Property Owner shall deposit with the Planning Department a surety bond or cash deposit in the amount of Seven Thousand Five Hundred Dollars per acre (\$7,500.00/acre) for any active phase in favor of the City for the cost of restoration, regrading and/or revegetating land disturbed by mining activities and to ensure performance of all requirements of this agreement and City ordinances by Property Owner. The required surety bonds must be:
 - (1) With good and sufficient surety by a surety company authorized to do business in the State of Minnesota.
 - (2) Satisfactory to the City Attorney in form and substance.

- (3) Conditioned that the Property Owner will faithfully comply with all the terms, conditions and requirements of the permit; all rules, regulations and requirements pursuant to the permit and as required by the City and all reasonable requirements of the City Administrator (or the Administrator's designee) or any other City officials.
- (4) Conditioned that the Property Owner will secure the City and its officers harmless against any and all claims, for which the City, the Council or any City officer may be made liable by reason of any accident or injury to persons or property through the fault of the Property Owner.
- (5) The surety bond or cash escrow shall remain in effect from January 1, 2024 until July 31, 2025.

Upon thirty (30) days notice to the permit holder and surety company, the City may reduce or increase the amount of the bond or cash deposit during the term of this permit in order to insure that the City is adequately protected.

- N. The Property Owner shall furnish a certificate of comprehensive general liability insurance issued by insurers duly licensed within the State of Minnesota in an amount of at least Five Hundred Thousand and no/100 (\$500,000.00) Dollars for injury or death of any one person in any one occurrence, and at least One Million Five Hundred Thousand and no/100 (\$1,500,000.00) Dollars for injury or death of more than one person arising out of any one occurrence and damage liability in an amount of at least Two Hundred Fifty Thousand and no/100 (\$250,000.00) Dollars arising out of any one occurrence. The policy of insurance shall name the City as an additional insured and shall remain in effect from January 1, 2024 until July 31, 2025.
- O. No processing or mixing of materials shall occur on the site, except as approved by the Dakota County Environmental Health Department as incidental to a sand and gravel mining operation at which time such activities will be enclosed with snow, or cyclone fencing or as approved by City staff. Construction of any ponding areas, wash plants or other processing or equipment brought to the site shall require additional City Council approval and notification of adjacent property owners.
- P. The Property Owner shall hold the City harmless from all claims or causes of action that may result from the granting of the permit. The Property Owner shall indemnify the City for all costs, damages or expenses, including but not limited to attorney's fees that the City may pay or incur in consequence of such claims.
- Q. The Property Owner shall comply with such other requirements of the City Council as it shall from time to time deem proper and necessary for the protection of the citizens and general welfare of the community.

- R. Complete mining and reclamation is required in all phases before any additional mining is authorized. Modifications or expansion of the mining areas must be approved in writing to the City. Property Owner shall submit to the City semi-annually a written report indicating the amount of material extracted from the site for the prior six-month period. After said written report is submitted, the City shall perform an inspection of the site to confirm compliance with the conditions within this Mineral Extraction Permit.
- S. The Property Owner shall incorporate best management practices for controlling erosion and storm water runoff as specified by the Minnesota Pollution Control Agency and the United States Environmental Protection Agency.
- T. Reclamation requires the replacement of the entire stockpile of topsoil to the mined area, reseeding and mulching necessary to re-establish vegetative cover for permanent slope stabilization and erosion control, provided also that the minimum depth of topsoil shall not be less than two inches after reclamation. Topsoil for reclamation shall conform to specifications on file with the City. No restored slopes may exceed the gradients shown on exhibit Proposed 2024 Operation.
- U. The Property Owner must show how materials stockpiled for recycling will be processed and inform the City of all stockpiled materials.
- V. All recycling must be completed within the 280 feet of Phases 2, 3, as shown on exhibit Current Operation (2023). No recycling processes shall be allowed to continue into subsequent phases.
- W. The Property Owner may not assign this permit without written approval of the City. The Property Owner will be responsible for all requirements of this permit and all City ordinances on the licensed premises for the permit period unless the Property Owner gives sixty (60) days prior written notice to the City of termination and surrenders permit to the City. The Property Owner shall identify all Operators prior to their commencement of mineral extraction-related activities in the pit area. The City shall have the authority to cause all mineral extraction activities to cease at any time there is an apparent breach of the terms of this Permit.
- X. The Property Owner shall install and maintain a “stock” gate (or equivalent) at the entrance to the property where the mining operation is located. The gate must be secured at 7:00 p.m. and at any time the pit is not in use.
- Y. There shall be no “haul-back” of materials from any other property or job site that would be imported to the property for fill or other purposes other than incidental concrete recycling as referred to in paragraphs O, U and V; and topsoil imported for the purpose of re-establishing turf as accepted by the City; and earthen fill materials from Mn/DOT projects that further meets the requirements of testing in documents by American Engineering Testing, Inc., and which is used to replace sand and gravel mined below approved finish grades.
- Z. No mining activity will occur below the elevation of 840 feet above mean sea level. In no instance shall any mining activity occur within a groundwater aquifer.

- AA. Shafer Contracting Co., Inc. shall submit quarterly to the City documentation of the American Engineering Testing, Inc. (or other City approved geotechnical testing firm) environmental and geotechnical testing with documentation verifying the source and quantity of Mn/DOT generated “haul-back” material if requested. These reports shall be provided within 14 days after the end of the quarter.
- BB. Shafer Contracting Co., Inc. shall submit an incidence report to the City within three days of any testing that fails for contamination or hazardous materials, or will not produce a normal moisture-density relationship for compaction.
- CC. Shafer Contracting Co., Inc. shall compact the entire reclamation site to a minimum compaction of 95% of maximum dry density.
- DD. Truck operators within the pit area shall not engage in practices involving slamming tailgates, vibrating boxes, using of “jake” or engine brakes (except in emergency situations) or other such activities that result in excessive noise.
- EE. Fully reclaimed areas will be permanently seeded within 14 days of final completion. All disturbed non-operating areas shall be seeded at a minimum of once per year, prior to October 1 with MnDOT seed mix 130B. Operating areas including working faces, material stockpiles, haul roads, staging areas, and active reclamation areas are not required to be seeded.
- FF. The City of Rosemount shall have the ability to collect independent soil and water samples.

IN WITNESS WHEREOF, Shafer Contracting Company, Inc. the Property Owner, hereby consents and agrees to the foregoing conditions of said mining permit this _____ day of _____, 20____.

Shafer Contracting Co., Inc.

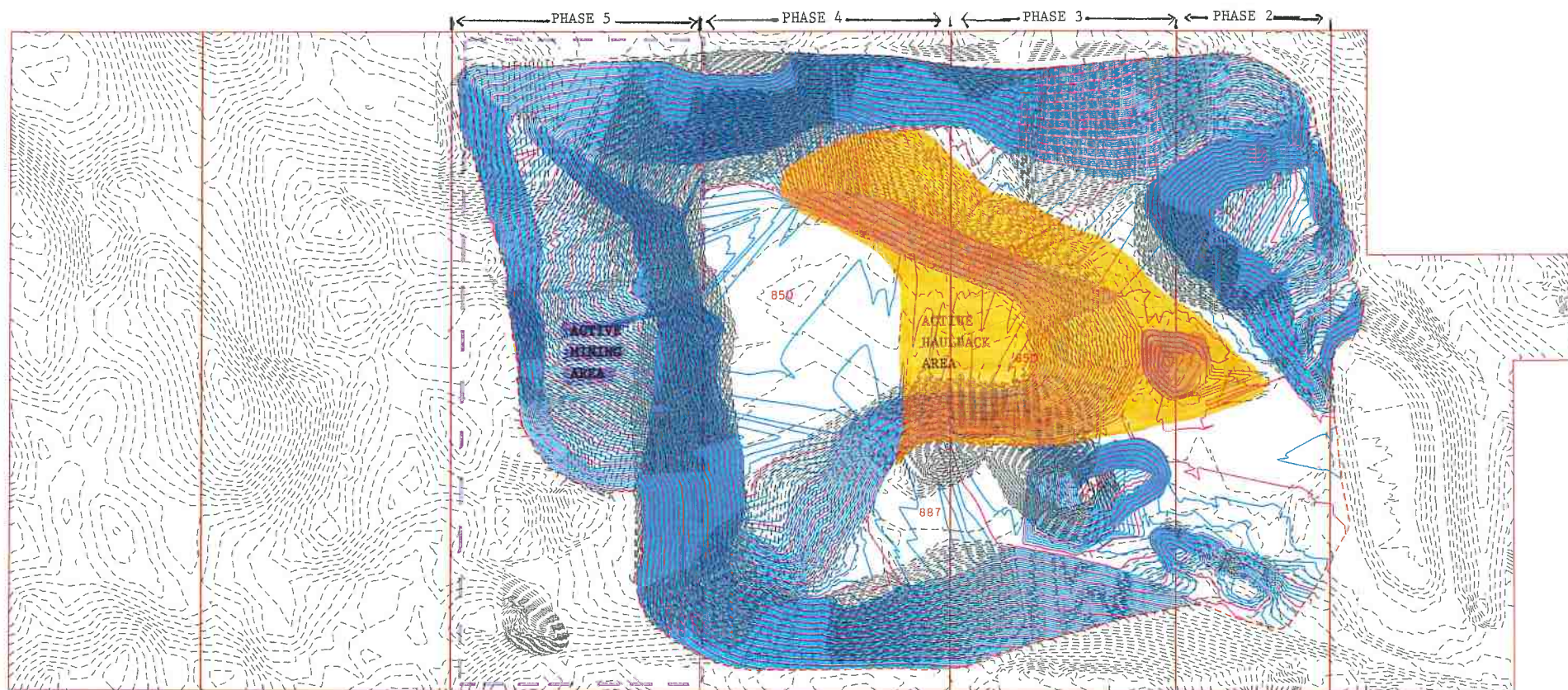
By: Frank Weiss, Its President

[illegible]

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Frank Weiss, President of Shafer Contracting Company, Inc., the Property Owner, on behalf of the Corporation.

Notary Public

JOHNSON PIT
2023

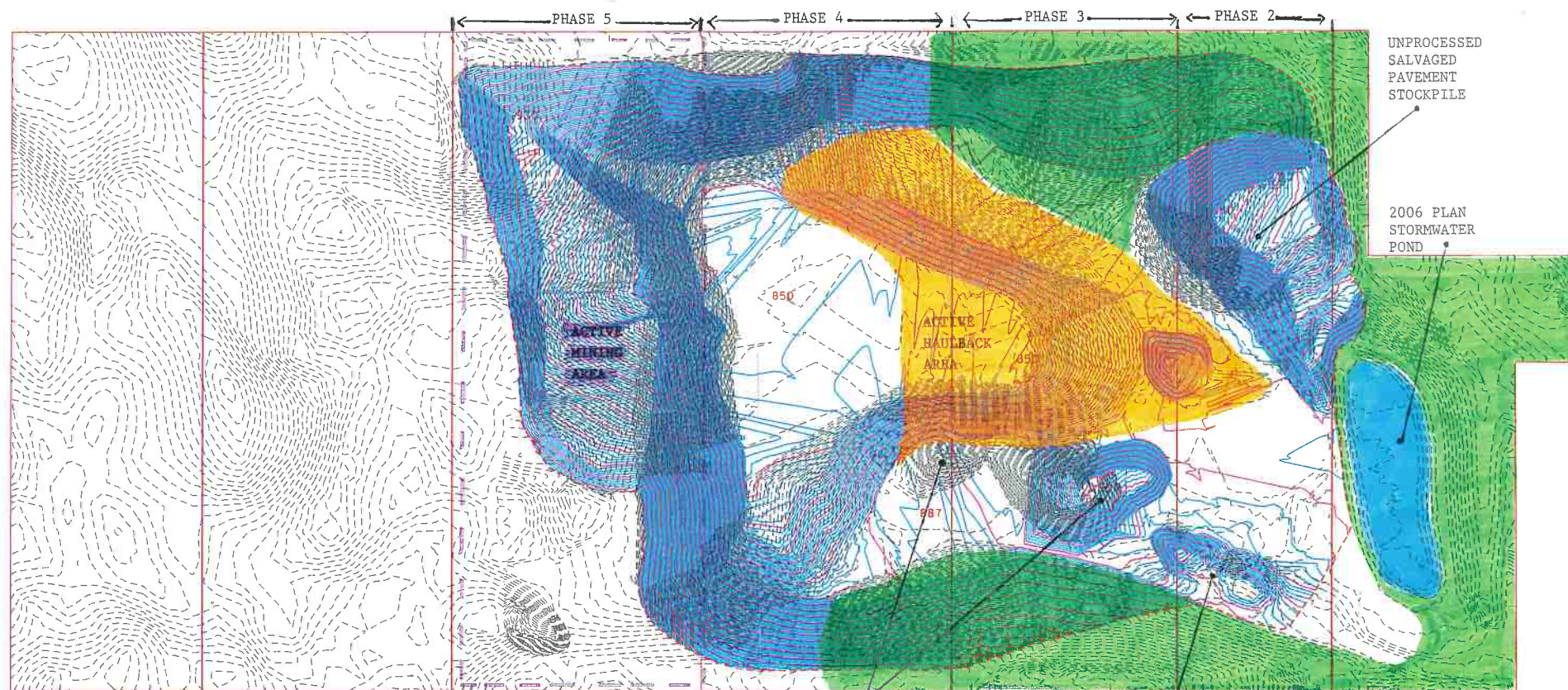


Proposed 2024 Operation



10/25/2023

JOHNSON PIT 2023



Current Operation (2023)

RECYCLED AGGREGATE
BASE STOCKPILE

UNPROCESSED
SALVAGED PAVEMENT
STOCKPILE



10/25/2023



American Engineering Testing, Inc.
St. Paul Construction Services
550 Cleveland Ave N
St. Paul, MN 55114
(651) 659-9001
www.teamAET.com

Report No: ND:AET-125364

Issue No: 1

Field Density Test Report

Client: Shafer Contracting Co., Inc

CC:

Project: Shafer-Johnson Pit

12213 Blaine Avenue East
Rosemount MN

Job No: P-0015895

This document shall not be reproduced, except in full, without written approval from American Engineering Testing, Inc.

Date of Issue:

9/22/2023

Reviewed By:

Justin Eikeland

Testing Details

Tested By: Kyle Pfluger Date Tested: 8/16/2023
Field Methods: ASTM D 6938
Gauge Make/Model: Troxler 3440 (NUCLEAR DENSITY GAUGE) Test Mode: Direct Transmission
Standard Count: Density: Serial Number: 36457
Standard Count: Moisture: Weather: Sunny

Proctor Information

Sample ID	Material	Method	MDD (lb/ft ³)	OWC (%)
AET-079565-S1	Sand w/ Silt and Gravel, fine to medium grained, brown (SP-SM)	ASTM D 1557 (B)	137.4	7.3

Test Results

Test No.	Method	Proctor Sample ID	Probe Depth (in.)	Wet Density (lb/ft ³)	Water Content (%)	OWC Var (%)	Dry Density (lb/ft ³)	Comp (%)	Comp Spec (%)	Results
1	D 6938	AET-079565-S1	12	141.7	7.3	+0.0	132.1	96	≥95	OK
2	D 6938	AET-079565-S1	12	141.0	7.3	+0.0	131.4	96	≥95	OK
3	D 6938	AET-079565-S1	12	140.2	7.2	-0.1	130.8	95	≥95	OK
4	D 6938	AET-079565-S1	12	143.7	7.5	+0.2	133.7	97	≥95	OK
5	D 6938	AET-079565-S1	12	139.8	7.2	-0.1	130.4	95	≥95	OK

Location

General Location: Fill

Test No.	Location	Test Elev/Depth (ft)
1	44.7706138, -93.0676321	
2	44.7706164, -93.0677618	
3	44.7707647, -93.0678745	
4	44.7707973, -93.0681936	
5	44.7707164, -93.0681833	

Comments

Our compaction testing was done on a will-call basis. This level of involvement does not allow a complete evaluation of the compaction levels & soil types for the entire fill system. The tests only provide compaction and soil type data for the specific locations & elevations tested. Our services for this project have been conducted to those standards considered normal for services of this type at this time and location. Other than this, no warranty, either expressed or implied, is intended.

Legend

OWC = Optimum Water Content
MDD = Maximum Dry Density
OK = All Results Meet Specification



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Report No: ND:AET-126509

Issue No: 1

Field Density Test Report

Client: Shafer Contracting Co., Inc

CC:

Project: Shafer-Johnson Pit

12213 Blaine Avenue East
Rosemount MN

Job No: P-0015895

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Date of Issue:

9/22/2023

Reviewed By:

Justin Eikeland

Testing Details

Tested By: Kyle Pfluger Date Tested: 8/18/2023
Field Methods: ASTM D 6938
Gauge Make/Model: Troxler 3440 (NUCLEAR DENSITY GAUGE) Test Mode: Direct Transmission
Standard Count: Density: Serial Number: 36457
Standard Count: Moisture: Weather: Sunny

Proctor Information

Sample ID	Material	Method	MDD (lb/ft³)	OWC (%)
AET-079565-S1	Sand w/ Silt and Gravel, fine to medium grained, brown (SP-SM)	ASTM D 1557 (B)	137.4	7.3

Test Results

Test No.	Method	Proctor Sample ID	Probe Depth (in.)	Wet Density (lb/ft³)	Water Content (%)	OWC Var (%)	Dry Density (lb/ft³)	Comp (%)	Comp Spec (%)	Results
1	D 6938	AET-079565-S1	12	144.9	8.0	+0.7	134.2	98	≥95	OK
2	D 6938	AET-079565-S1	12	140.7	8.1	+0.8	130.2	95	≥95	OK
3	D 6938	AET-079565-S1	12	142.0	8.3	+1.0	131.1	95	≥95	OK
4	D 6938	AET-079565-S1	12	147.5	7.5	+0.2	137.2	100	≥95	OK
5	D 6938	AET-079565-S1	12	145.7	7.8	+0.5	135.2	98	≥95	OK
6	D 6938	AET-079565-S1	12	146.8	7.1	-0.2	137.1	100	≥95	OK

Location

General Location: Pit Fill

Test No.	Location	Test Elev/Depth (ft)
1	44.7705572, -93.0675523	
2	44.7706752, -93.0676971	
3	44.7706612, -93.0679100	
4	44.7707750, -93.0681360	
5	44.7707378, -93.0682104	
6	44.7708019, -93.0685658	

Comments

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Field Density Test Report

Report No: ND:AET-127061

Issue No: 1

Client: Shafer Contracting Co., Inc

CC:

Project: Shafer-Johnson Pit

12213 Blaine Avenue East
Rosemount MN

Job No: P-0015895

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Date of Issue:

9/22/2023

Reviewed By:

Justin Eikeland

Testing Details

Tested By:	Matt Denkinger	Date Tested:	8/23/2023
Field Methods:	ASTM D 6938		
Gauge Make/Model:	CPN MC1 Elite Series	Test Mode:	Direct Transmission
Standard Count: Density:	4165	Serial Number:	31576
Standard Count: Moisture:	975	Weather:	Sunny

Proctor Information

Sample ID	Material	Method	MDD (lb/ft³)	OWC (%)
AET-115460-S18	Silty Sand, a little gravel, fine to medium grained, dk brown (SM)	ASTM D 1557 (B)	133.6	7.9

Test Results

Test No.	Method	Proctor Sample ID	Probe Depth (in.)	Wet Density (lb/ft³)	Water Content (%)	OWC Var (%)	Dry Density (lb/ft³)	Comp (%)	Comp Spec (%)	Results
1	D 6938	AET-115460-S18	12	136.8	8.3	+0.4	126.3	95	≥95	OK
2	D 6938	AET-115460-S18	12	138.9	8.3	+0.4	128.3	96	≥95	OK
3	D 6938	AET-115460-S18	12	136.8	7.5	-0.4	127.3	95	≥95	OK
4	D 6938	AET-115460-S18	12	142.4	8.4	+0.5	131.4	98	≥95	OK
5	D 6938	AET-115460-S18	12	141.3	7.8	-0.1	131.1	98	≥95	OK
6	D 6938	AET-115460-S18	12	138.0	8.1	+0.2	127.7	96	≥95	OK

Location

General Location: Pit Fill

Test No.	Location	Test Elev/Depth (ft)
1	44.7704, 93.0675	Elevation
2	44.7704, 93.0677	Elevation
3	44.77044, 93.06768	Elevation
4	44.77053, 93.06794	Elevation
5	44.77056, 93.06779	Elevation
6	44.77051, 93.06758	Elevation

Comments

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MDD = Maximum Dry Density
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Field Density Test Report

Report No: ND:AET-127061

Issue No: 1

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CC:

Project: Shafer-Johnson Pit

12213 Blaine Avenue East
 Rosemount MN

Job No: P-0015895

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Date of Issue:

9/22/2023

Reviewed By:

Justin Eikeland

Test Results

Test No.	Method	Proctor Sample ID	Probe Depth (in.)	Wet Density (lb/ft³)	Water Content (%)	OWC Var (%)	Dry Density (lb/ft³)	Comp (%)	Comp Spec (%)	Results
7	D 6938	AET-115460-S18	12	139.2	7.3	-0.6	129.7	97	≥95	OK

Location

General Location: Pit Fill

Test No.	Location	Test Elev/Depth (ft)	Elevation
7	44.77044, 93.06736		

Comments

Our compaction testing was done on a will-call basis. This level of involvement does not allow a complete evaluation of the compaction levels & soil types for the entire fill system. The tests only provide compaction and soil type data for the specific locations & elevations tested. Our services for this project have been conducted to those standards considered normal for services of this type at this time and location. Other than this, no warranty, either expressed or implied, is intended.

Legend

OWC = Optimum Water Content
 MDD = Maximum Dry Density
 OK = All Results Meet Specification

2023



2022











Planning Commission Regular Meeting: December 18, 2023

Tenative City Council Meeting: January 16, 2024

AGENDA ITEM:	Renewal of the Dakota Aggregates Large Scale Mineral Extraction Permit for 2024	AGENDA SECTION:	PUBLIC HEARINGS
PREPARED BY:	Anthony Nemcek , Senior Planner	AGENDA NO.	6.c.
ATTACHMENTS:	Site Location, Draft Large Scale Mineral Extraction Permit , Narrative, Interim Use Permit History Chart, Summary of Noise Complaints, North Mine Plan, North Mining Aerials, South Mine Plan, South Mine Aerials, Site photos	APPROVED BY:	AK
RECOMMENDED ACTION: Motion to recommend the City Council renew the Dakota Aggregates Large Scale Mineral Extraction Permit for 2024, subject to the terms and conditions in the attached 2024 Draft Conditions for Mineral Extraction Permit			

BACKGROUND

Dakota Aggregates has applied for the annual renewal of their large-scale mineral extraction permit (LSMEP) on the UMore property owned by the University of Minnesota. An annual operating permit is required for all gravel operations within the City, and the Dakota Aggregates permit was last renewed in January 2023. None of the ancillary uses, including the aggregate processing facilities, concrete product casting yard and concrete and asphalt production are due for renewal until 2024. Due to the interconnected nature of the mineral extraction and processing activities taking place on the site, any concerns with the other activities may be reviewed as part of the LSME permit discussion. For 2024, Dakota Aggregates will decrease the overall active mining area in the north by 10.28 acres, due to the fact that land continues to be reclaimed and turned over to the University of Minnesota for agricultural use. There will be a slight reduction in the overall active mining area in the southern mining area due to expansion of open water associated with the wet mining activity. The applicant will continue actively mining in phase 3 of the north mining area in an effort to speed up completion of mining in areas that may impact future development.

Applicant:	Dakota Aggregates, LLC, 2025 Center Pointe Boulevard Suite 300, Mendota Heights, MN
Property Owner:	University of Minnesota (UMore Development, LLC), 1300 South 2 nd Street Suite 208, Minneapolis, MN
Location:	Northwest corner of County Road 46 and Station Trail; and ¼ mile south of County Road 42 (active mining areas)
Mining Area In Acres:	134.34 acres total area; 60.35 acres about ¼ mile south of County Road 42 (Dry Mining) and 73.99 acres at the northwest corner of

	County Road 46 and Station Trail (Dry/Wet Mining).
Comp Plan and Zoning	Future Land Use: LDR Low Density Residential, MDR Medium Density Residential, and CC Community Commercial in North Mining Area and Agricultural Research in South Mining Area/Zoning: Agricultural for all Subject Property
Extraction progress:	11 Phases (4 partial) of 16
Nature of request:	Annual Renewal

Legal Authority

The large-scale mineral extraction renewal approval is a quasi-judicial action, meaning that if the application meets the City Code, the large-scale mineral extraction permit conditions and interim use permit regulations, then the large-scale mineral extraction renewal must be approved. Staff supports approval of the large-scale mineral extraction renewal and finds that it is substantially in conformance with the approved large-scale mineral extraction permit and the interim use permit regulations with recommended conditions. The detailed analysis of this finding is provided below.

In accordance with the Zoning Ordinance, the purpose of the annual operating permit “is to provide an opportunity for the city council to review the operation of the mine, gather public comment on the operation, modify any permit conditions as necessary to address adverse impacts that arise from the operation, and revise the phases and/or subphases of the mine. The large-scale mineral extraction interim use permit provides a zoning basis for the mine provided the city issues an annual operating permit”.

Background

The City of Rosemount approved a Large-Scale Mineral Extraction Permit for Dakota Aggregates in late 2012. This action established the overall zoning permit for the mining and extraction activities that were planned for the property. Since the initial site approval, the applicant (or other parties working with the applicant) has brought forward requests for the various interim uses allowed under the ordinance and mining permit. The applicant has also received approval for the annual renewal of the mineral extraction use in subsequent years. In order to clarify the approvals that have been granted for the site, staff has prepared the attached Interim Use Permit summary chart that highlights the annual reviews completed for the operation.

The current request is specific to the annual renewal of the large-scale mineral extraction permit. The other auxiliary uses identified in the above chart have been approved or renewed by the City and are operating within their approved timeframes and in compliance with approval conditions. Please note that the Interim Use Permit (IUP) for the aggregate processing facility was extended in 2020 and is now valid through 2024. There are five years remaining for complete excavation and restoration in the northern mining area, which must be complete by 2028. The applicant has stated in the past that the mining in the north area is proceeding ahead of schedule, with approximately 87 acres reclaimed and turned back to the University of Minnesota for agricultural use. This area has increased by 16 acres since the last renewal. Aerials showing the change from last year are attached to this report. The northern haul road was decommissioned in 2021, and aggregate is no longer being sold and hauled out of the northern mining area. The loading and hauling of materials from this area has been the source of noise complaints due to the sound generated by trucks’ back-up alarms and the slamming of tail gates. While mineral extraction is still occurring in the north mining area, it’s being conveyed to the

south for processing.

The applicant is not requesting any changes to the terms of the permit, including the hours of operation approved with previous permits. Mineral extraction operations are permitted for up to 24 hours each day. Loading and hauling had been permitted in the north mining area between the hours of 6:00 AM -10:00 PM Monday through Friday and Saturday 7:00 AM – 7:00 PM, but as stated, no longer occurs. The following is a brief summary of the operating hours that have been approved with previous permits. The current request is consistent with the hours of operation in place since 2014.

Year	Activity	Hours	Notes
2014-2023	Wet/Dry Mining including conveyor system (both north and south mines)	24 hours/7 days a week	
2014-2021*	Loading and Hauling (north mining area)	M-F 6-10 Sat. 7-7	24 hour operation allowed for no more than 3 public projects (MnDOT) per year.
2015-2024	Aggregate Processing (located in south ancillary use area)	24 hours/7 days a week	
2015-2024	Loading and Hauling (southern processing area and south mine)	24 hours/7 days a week	Limited to TH46

* Loading and hauling in the north mining area ceased in 2021.

The Applicant had requested a dialogue with staff over potentially reducing the frequency of the renewals due to the fact that significant resources must be allocated to develop the submittal materials required for a Large Scale Mineral Extraction Permit renewal. Generally, staff is supportive of the idea of moving to a truncated annual renewal with a full submittal required on a biannual or triannual basis. Staff will be incorporating this change in renewal frequency in the zoning code update that is currently in process, and further context regarding the change will be presented to the Commission and Council prior to review and adoption. At this time, no such change is being formally requested.

The proposed permit is similar to the permit approved in the past two years. The applicant received approval in 2021 to expand into Phase 3 of the northern mining area, which allows the applicant to focus on completing the extraction in the northeast corner of that mining area, which is closest to the Amber Fields development. Once completed, this will provide some separation between areas of active mining and potential new development. That applicant will continue to draw down the sand stockpile in sub-phase 1A which currently contains 55,000 tons of sand, a reduction of 9,000 tons from the last renewal.

In the southern mining area, the applicant is not proposing to expand into any new phases in 2024 and will instead continue to mine in the previously approved areas and mining below the groundwater elevation within those areas. Starting in 2020, Dakota Aggregates brought in a dredging barge and related equipment (conveyors) to continue mining from the surface of the open water until the lowest permitted elevation is achieved. This process is described as follows in the applicant's annual narrative report:

In 2020, Dakota Aggregates constructed a new floating twin 16 CY clamshell dredge to continue underwater mining. Clamshell dredges have been and are currently used all over the United States and world. This fully electric dredge allows Dakota Aggregates to safely and efficiently mine this regionally important aggregate reserve.

From the surface of the water, the dredging barge and ancillary equipment (conveyors) will look the same even as the surface area of the water increases with the progression of dry mining activities.

With the newly excavated areas, the applicant will still be under the maximum allowed area of disturbance in any individual project phase. At the end of 2023, the applicant is reporting that over nearly 28 acres have been reclaimed as open water in the southern mining area, an increase of 1.75 acres from last year.

Staff has reviewed the operating permit conditions for 2023 and is recommending minor amendments in order to update this document for 2024 based on the applicant's recent submission. Please note that the 24-hour allowance for the aggregate processing activity was approved by the City as part of a five-year interim use permit that is set to expire/be renewed in 2024, and it is regulated under the terms of a separate permit with the City, as are the cement casting yard and concrete and asphalt production areas.

Mining Operation – Update

As part of its annual report to the City, the applicant provides an updated phasing map reflecting work completed during the previous calendar year(s) and the areas expected to be mined in the coming year. The report also includes up-to-date information concerning the amount of materials that have been processed or stockpiled within the mining site. For 2023, Dakota Aggregates reported the following (all quantities in tons):

- Aggregate materials sold from the north dry mining area: 0 (no change)
- Aggregate stockpiles on site in the north dry mining area: 55,000 (a reduction of 9,000)
- Aggregate material sold: 1,763,234 (increased from 1,700,118 in 2022)
- Total amount of stockpiles in aggregate processing facility: 684,299 (down from 727,237 in 2022)
- Recycled aggregate material sold: 322,128 (up from 119,556 in 2022)
- Recycled aggregate stockpile: 41,047 (down from 70,126 tons in 2022)

The numbers reported by the applicant show a modest increase in the amount of overall aggregate material sold from the previous year. The mineral extraction operation also saw an overall reduction in the total amount of material stockpiled. The change in the amount of material sold from the north

mining area is not correlated to the amount of mining taking place as materials are conveyed to the southern processing area, and it is from there that the material is sold.

The annual report narrative includes a section concerning the planned progression of mining into future phases of the northern mining area. The applicant acknowledges that development will continue on land within the UMore park area, and the planned progression in the north mining area has been designed to take this into account. Additionally, reclamation activities have been focused on the northernmost mining areas to move the areas of active mining further from the existing residential homes at an accelerated rate. The phasing plan has been approved in previous years and has also been reviewed by the University of Minnesota for consistency with their development plans on the site. Ultimately, the goal of Dakota Aggregates is to complete its excavation activities in the far northern portion as quickly as possible to minimize any impacts on any development occurring in the southwestern corner of the Amber Fields overall development area.

In 2019, the applicant commenced mining below the groundwater elevation in the southern mining area, and a portion of this area is now described as “reclaimed” because it is open water. The open water area has continued to expand as the applicant completes dry mining and then proceeds to mine below the water elevation. Consistent with Condition LL of the annual mining permit, the applicant completed soil borings in early 2019 to confirm that there will be a minimum of 15 feet between the lowest mining elevation and bedrock. Additional borings were completed to establish the depth to bedrock on the eastern portion of the proposed lake as well as further west where mining will expand in the future. This satisfies the condition for the current mining area.

COMMUNITY IMPACTS

Consistent with the previous annual reviews, staff requested logs from the police department for any calls received within the City where noise from Dakota Aggregates was the reason for a police call. In addition, staff reviewed its own records, including phone logs and emails, and asked for any calls that other departments may have received concerning noise. Since the beginning of 2016, the City has been stressing that residents with noise complaints regarding the Dakota Aggregates operations should call 911 so there is documentation concerning the specific nature of the complaint, the location of the complaint, and time when it was observed. The police department has also been directed to notify the applicant when any loud noises are reported so that problems can be addressed in a timely manner.

In 2023, staff received no complaints via email or telephone during the permit period, and the police department received 4 complaints, 2 from the same address just south of 145th Street West between Biscayne Avenue and the intersection of 145th and County Road 42. Notes from the report indicate the responding officer on at least one occasion sat in the area to observe noise and found that traffic on County Road 42 was louder than any observable sound coming from the mining operation. A summary of the calls is attached to this report.

When a situation arises at the mine (like excessive noise levels), it is important for the City to be able to investigate, document, and work with the applicant to address such issues. The most responsive way for the City to handle any complaints is through the police department, which can dispatch an officer very quickly to investigate and evaluate the situation. All of these complaints are tracked through the permitting process, and the City will have a chance to evaluate the type and frequency of issues each year as part of the annual permit review. This process has led to many improvements that have

ultimately reduced negative impacts, and it has been useful to help prevent smaller problems from becoming a larger City-wide nuisance. Staff continues to encourage residents to call and report all matters of concern so it can continue to document all complaints so that the Planning Commission and City Council may be fully aware of any and all resident concerns in the future.

General Review Comments and Recommendations

Although the mining of the site has progressed in a manner very consistent with previous reviews, there are a few issues that should be addressed or acknowledged now that mineral extraction activity has taken place for more than 10 of the overall 40 years specified in the interim use permit.

- **Mineral extraction phasing.** When the project was first approved, the applicant provided an overall mining phasing plan divided into distinct phases and sub-phases. These phases were numbered based on the applicant's expected mining progression in both the north and south mining areas. For a number of reasons, including the desire to mine areas closer to residential properties sooner than later, the actual excavation work has progressed into latter phases while leaving some earlier phases untouched. As part of the previous reviews, staff requested an updated phasing plan to better reflect the current status of the project and the applicant's future plans. The applicant has provided an updated narrative concerning the next project phases and staff has added this information to the phasing plan as a separate exhibit. The updated phasing was reviewed by the University of Minnesota and found to be compatible with their future development plans.
- **Northern haul road.** With the elimination of this road (and the lack of complaints coming from residents in the neighborhood immediately north of County Road 42), staff finds that many of the concerns related to noise have been resolved. With the removal of the northern haul road, all material is leaving the site via the station trail access on County Road 46.
- **Wet mining.** The applicant is now mining below the groundwater elevation in the southern mining area and, starting in 2020, has begun operating a mining dredge on the surface of the water and is actively removing sand and gravel deposits from underneath the open water area. The terms and conditions for wet mining are included in the 2024 operating permit, and no modifications are needed to the mining activities plan for next year because it would continue to take place in the phase 1 and 2 areas already authorized under the permit. The applicant will continue expanding and pushing the water surface farther west and north as it reaches the permitted mining depth in this area.
- **Storm water ponding.** With completion of the City's updated Surface Water Management Plan in 2019, additional conversations will be needed between the City, Dakota Aggregates, and University of Minnesota concerning the specific location and timing for construction of storm water basins in this area prior to further development of UMore in this area.
- **Aggregate Processing.** The aggregate processing interim use permit was extended for another five years through 2024 in the early part of 2020. Staff has not identified any specific concerns or issues with the aggregate processing facility above and beyond the overall mining review in this report.

Final Observations

In reviewing the current operating permit as part of its review, Staff would like to note the following

general observations:

- The City did not identify any events in 2023 that resulted in the depositing of dirt or debris on any public streets due to the extraction or hauling operations.
- The applicant did not request to remove any topsoil from the site in 2023.
- As part of its continued reclamation work, the applicant will need to demonstrate that it is in compliance with conditions X and Z of the operating permit concerning minimum reclaimed topsoil depth and minimum compaction levels for all fill.
- There was no “haul-back” material brought to the site other than recycled products allowed within the processing area.

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council approval of the renewal of the Dakota Aggregates Large Scale Mineral Extraction Permit for 2024. This recommendation is based on the information submitted by the applicant, findings made in this report and the conditions detailed in the attached Large Scale Mineral Extraction Annual Operating Permit Agreement.



**2023 Large Scale Mineral Extraction Annual Operating Permit
Agreement for North Dry Mining Sub-phases 2C, 2D, 3A, 3B, 4A, 4B,
5B, 6B, 7B and 8A; and Wet/Dry Mining Sub-phases 1AA, 1BB, 2AA,
2BB, 3AA, 3BB and 10A
DAKOTA AGGREGATES, LLC**

- A. Dakota Aggregates, LLC (hereinafter "the Operator") signs a written consent to these conditions binding itself and its successors, heirs or assigns to the conditions of said permit.
- B. The term of the permit shall extend from January 1, 2024 until December 31, 2024 unless revoked prior to that for failure to comply with the permit requirements.
- C. Mining in Wet/Dry Mining Sub-phases 1AA, 1BB, 2AA, 2BB, 3AA, 3BB and 10A may occur 24 hours a day, 7 days a week.
- D. Mining, screening, and reclamation in North Dry Mining Sub-phases 2C, 2D, 3A, 3B, 4A, 4B, 5B, 6B, 7B, and 8A may occur 24 hours a day, 7 days a week.
- E. No crushing or washing equipment shall be located or used in the North Dry Mining Sub-phases 2C, 2D, 3A, 3B, 4A, 4B, 5B, 6B, 7B, and 8A or in any reclaimed areas.
- F. The North Dry Mining Sub-phases 2C, 2D, 3A, 3B, 4A, 4B, 5B, 6B, 7B, and 8A shall not be mined below the 882 foot elevation.
- G. Protection equipment that is installed on hauling trucks, such as covers for the truck beds, shall be used while traveling on public roads. Non-use will be considered a violation of the permit condition.
- H. Trucks shall not use any locally designated road as part of their haul route except for the shortest route between the delivery site and the nearest County, State or U.S. highway.
- I. Trucks may not be loaded heavier than the public haul roads posted weight restrictions.
- J. Engineered designs for any reclamation steeper than a 3 to 1 slope must be submitted and approved by the City Engineer before the reclamation can occur.
- K. A gate and thirty (30) feet of fencing on each side of the gate shall be installed at the Station Trail access. The gate shall be closed and locked when the mining or ancillary uses are not in operation. A Knox box or similar device shall be installed to provide emergency personal access to the key for the lock.
- L. Conformance with the City Engineer's Memorandum dated September 20, 2012.

- M. The University of Minnesota (or designated entity) shall obtain approval and/or concurrence from the MPCA regarding completion of appropriate investigations and/or actions taken in response to identified releases of hazardous substances, pollutants or contaminants as defined under Minn. Statute 115B, and as deemed reasonable and necessary by the MPCA.
- N. Dakota Aggregates shall clean dirt and debris from streets that has resulted from extraction or hauling operations related to the Mineral Extraction Permit. After Dakota Aggregates has received 24-hour verbal notice, the City will complete or contract to complete the clean-up at Dakota Aggregates' expense. In the event of a traffic hazard as determined by the City Administrator (or the Administrator's designee) or Rosemount Police Department, the City may proceed immediately to complete or contract cleanup at Dakota Aggregates' expense without prior notification.
- O. No topsoil shall be removed from the site unless Dakota Aggregates can demonstrate that there is topsoil in excess of the amount needed to reclaim the End Use Grading Plan with at least six (6) inches of topsoil. Dakota Aggregates shall take necessary measures to prevent erosion of the stockpiled topsoil.
- P. Any costs incurred now or in the future in changing the location of existing public or private utilities including but not limited to pipelines, transmission structures and sewer infrastructure located within the permit area shall be the sole obligation and expense of Dakota Aggregates.
- Q. All costs of processing the permit, including but not limited to planning fees, engineering fees, and legal fees, shall be paid by Dakota Aggregates prior to the issuance of the permit. Dakota Aggregates shall reimburse the City for the cost of periodic inspections by the City Administrator or any other City employee for the purpose of insuring that conditions of the permit are being satisfied. Dakota Aggregates agrees to reimburse the City for any other costs incurred as a result of the granting or enforcing of the permit.
- R. Dakota Aggregates shall deposit with the Planning Department a surety bond or cash deposit in the amount of Eight Hundred Fifty One Thousand one Hundred Dollars (\$851,100) in favor of the City for the cost of restoration, regrading and/or revegetating land disturbed by mining activities and to ensure performance of all requirements of this resolution and City ordinances by Dakota Aggregates. The required surety bonds must be:
 - 1. With good and sufficient surety by a surety company authorized to do business in the State of Minnesota.
 - 2. Satisfactory to the City Attorney in form and substance.
 - 3. Conditioned that Dakota Aggregates will faithfully comply with all the terms, conditions and requirements of the permit; all rules, regulations and requirements pursuant to the permit and as required by the City and all reasonable requirements of the City Administrator (or the Administrator's designee) or any other City officials.

4. Conditioned that Dakota Aggregates will secure the City and its officers harmless against any and all claims, for which the City, the Council or any City officer may be made liable by reason of any accident or injury to persons or property through the fault of Dakota Aggregates.
5. The surety bond or cash escrow shall remain in effect from January 1, 2024 until July 31, 2025.

Once the interim reclamation grades and vegetation have been established and approved by the City, the bond may be reduced by Five Hundred Sixty Seven Thousand Four Hundred Dollars (\$567,400 = 113.48 acres times \$5,000 per acre). Once the end use grading grades and vegetation have been established and approved by the City, the bond may be reduced by Two Hundred Eighty Three Thousand Seven Hundred Dollars (\$283,700 = 113.48 acres times \$2,500 per acre). Upon thirty (30) days' notice to the permit holder and surety company, the City may reduce or increase the amount of the bond or cash deposit during the term of this permit in order to insure that the City is adequately protected.

- S. A landscape security of \$42,625 (155 trees times \$250 per tree times 110%) shall be provided. After the trees have been established, \$38,362 (90%) of the landscaping security can be released. The final \$4,263 (10%) shall be maintained through the existence of the berm for Dry/Wet Sub-Phase 1A and 2A to ensure that as trees die, that those trees are replaced. The landscaping security shall be in the form of a letter of credit in favor of the City or cash escrow.
- T. Dakota Aggregates shall furnish a certificate of comprehensive general liability insurance issued by insurers duly licensed within the State of Minnesota in an amount of at least Five Hundred Thousand and no/100 (\$500,000.00) Dollars for injury or death of any one person in any one occurrence, and at least One Million Five Hundred Thousand and no/100 (\$1,500,000.00) Dollars for injury or death of more than one person arising out of any one occurrence and damage liability in an amount of at least Two Hundred Fifty Thousand and no/100 (\$250,000.00) Dollars arising out of any one occurrence. The policy of insurance shall name the City as an additional insured and shall remain in effect from January 1, 2024 until July 31, 2025.
- U. Dakota Aggregates shall hold the City harmless from all claims or causes of action that may result from the granting of the permit. Dakota Aggregates shall indemnify the City for all costs, damages, or expenses, including but not limited to attorney's fees that the City may pay or incur in consequence of such claims.
- V. Dakota Aggregates shall submit to the City semi-annually a written report indicating the amount of material extracted from the site for the prior six-month period. After said written report is submitted, the City shall perform an inspection of the site to confirm compliance with the conditions within the Annual Operating Permit.
- W. Reclamation requires the replacement of the stockpile of topsoil to the mined area, reseeding, and mulching necessary to re-establish vegetative cover for permanent

slope stabilization and erosion control, provided also that the minimum depth of topsoil shall not be less than six (6) inches after reclamation. No restored slopes may exceed the gradients shown on Interim Reclamation Plan.

- X. No mining activity will occur within fifteen (15) vertical feet of bedrock.
- Y. Dakota Aggregates shall compact the entire reclamation site to a minimum compaction of 95% of maximum dry density.
- Z. If not utilized by the University of Minnesota for agricultural purposes, fully reclaimed areas will be permanently seeded within 14 days of final completion. All disturbed non-operating areas not utilized by the University of Minnesota for agricultural purposes shall be seeded at a minimum of once per year, prior to October 1 with MnDOT seed mix 130B. Operating areas including work faces, material stockpiles, haul roads, staging areas, and active reclamation areas are not required to be seeded.
- AA. Dakota Aggregates shall submit quarterly to the City documentation of the Barr Engineering, Inc. (or other City approved geotechnical testing firm) environmental and geotechnical testing with documentation verifying the source and quantity of the “haul-back” material. These reports shall be provided within fourteen (14) days after the end of the quarter.
- BB. Dakota Aggregates shall submit an incidence report to the City within three days of any testing that fails for contamination or hazardous materials, or will not produce a normal moisture-density relationship for compaction.
- CC. Truck operators within the pit area shall not engage in practices involving slamming tailgates, vibrating boxes, using of “jake” or engine brakes (except in emergency situations), or other such activities that result in excessive noise.
- DD. Dakota Aggregates shall incorporate best management practices for controlling dust, erosion, noise, and storm water runoff as specified by the Minnesota Pollution Control Agency and the United States Environmental Protection Agency and proposed in the submitted LSME application to the City.
- EE. Compliance with Dakota County Ordinances No. 110 and 111, as well as all other applicable Federal, Minnesota, Dakota County, and Rosemount regulations. Soil materials in the Property will be managed in accordance with the Minnesota Pollution Control Agency’s *Best Management Practices (BMPS) for the Off-Site Reuse of Unregulated Fill*.
- FF. Dakota Aggregates may not assign this permit without written approval of the City. Dakota Aggregates will be responsible for all requirements of this permit and all City ordinances on the licensed premises for the permit period unless Dakota Aggregates gives sixty (60) days prior written notice to the City of termination and surrenders permit to the City. Dakota Aggregates shall identify all Operators prior to

their commencement of mineral extraction-related activities in the pit area. The City shall have the authority to cause all mineral extraction activities to cease at any time there is an apparent breach of the terms of this Permit.

GG. Dakota Aggregates shall comply with such other requirements of the City Council as it shall from time to time deem proper and necessary for the protection of the citizens and general welfare of the community.

HH. Dakota Aggregates shall maintain the berm located on the north side of the haul road to a height of at least 30 feet.

II. American Engineering Testing, Inc. (AET) shall submit the 2023 Annual Monitoring Report, including all groundwater testing, and submit the report to the City by January 31, 2024. WSP (formerly known as Leggette, Brashears, & Graham, Inc. - LBG) shall review the revised report on behalf of the City and has the authority to adjust the frequency of the groundwater sampling based on testing results.

JJ. Dakota Aggregates shall implement the sound mitigation measures as documented in its 2016 Large Scale Mineral Extraction Permit application and referenced in the March 1, 2016 City Council report concerning said application.

KK. The city of Rosemount shall have the ability to collect independent soil and water samples.

LL. Mining within any phase that would expose the groundwater will not be permitted before additional borings are conducted in the deepest areas of the proposed lake to confirm that a minimum of fifteen (15) feet of separation between the mining and the bedrock. Mining can occur within 2 feet of the groundwater prior to testing occurring.

MM. Dakota Aggregates shall provide an updated phasing schedule with its annual renewal application for both the north and south mining areas and will incorporate any comments from the City into the schedule.

IN WITNESS WHEREOF, Dakota Aggregates, LLC, the Operator, hereby consents and agrees to the foregoing conditions of said Annual Operating Permit this _____ day of _____, 20____.

Dakota Aggregates, LLC

By: _____
Tim Becken, Its Chief Manager

STATE OF MINNESOTA)

COUNTY OF _____) ss
)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Tim Becken, Chief Manager of Dakota Aggregates, LLC, the Operator, on behalf of the Corporation.

Notary Public

**UMore Park Large Scale Non Metallic Mineral Extraction
2024 Annual Operating Permit Application
Dry Mining Phases (North) 1A/2BCD/3AB/4AB/5B/6B/7B/8A
&
Active Wet/Dry Phases (South) 1AA-3BB (Wet) & 10A (Dry)
UMore Park
City of Rosemount
November 17th, 2023**

1. Land Owner:

Regents of the University of Minnesota
c/o Real Estate Office
451 Donhowe Building
319 - 15th Avenue SE
Minneapolis, MN 55455

2. Applicant/Operator:

Dakota Aggregates, LLC
2025 Centre Pointe Boulevard, Suite 300
Mendota Heights, MN 55120
(651) 688-9292

3. Legal Description of the Land upon which Excavation is active:

That part South Half of Section 28, Township 115, Range 19, Dakota County, Minnesota, lying westerly of the following described line;

Commencing at the northeast corner of the Southeast Quarter of said Section 28; thence South 89 degrees 48 minutes 43 seconds West, assumed bearing along the north line of said Southeast Quarter, a distance of 1058.90 feet to the point of beginning of the line to be described; thence South 18 degrees 23 minutes 48 seconds West a distance 1211.64 feet; thence South 07 degrees 11 minutes 26 seconds East a distance of 1472.46 feet; thence South 75 degrees 07 minutes 52 seconds East a distance of 126.03 feet to the south line of said Southeast Quarter and there terminating.

EXCEPT the plat of UNIVERSITY ADDITION, said Dakota County.

AND

Section 33, Township 115, Range 19, Dakota County, Minnesota; EXCEPT the East 133.00 feet of the North 549.43 feet of the Southeast Quarter of said Section 33; EXCEPT the East 133.00 feet of the South 930.25 feet of the Northeast Quarter of said Section 33; also, EXCEPT that part of said Northeast Quarter described as follows:

Beginning at the northeast corner of said Northeast Quarter; thence South 00 degrees 11 minutes 58 seconds West, assumed bearing along the East line of said Northwest Quarter, a distance of 800.63 feet; thence North 81 degrees 23 minutes 25 seconds West a distance of 40.76 feet; thence North 38 degrees 17 minutes 54 seconds West a distance of 819.06 feet; thence North 75 degrees 07 minutes 52 seconds West a distance of 580.25 feet to the north line of said Northwest Quarter; thence North 89 degrees 51 seconds 14 seconds East, along said north line, a distance of 1111.53 feet to the point of beginning.

AND

That part of the Northwest Quarter of Section 34, Township 115, Range 19, Dakota County, Minnesota, described as follows:

Commencing at the northwest corner of said Northwest Quarter; thence South 00 degrees 11 minutes 58 seconds West, assumed bearing along the west line of said Northwest Quarter, a distance of 800.63 feet to the point of beginning of the land to be described; thence continuing South 00 degrees 11 minutes 58 seconds West, along said west line, a distance of 912.75 feet; thence North 89 degrees 51 minutes 14 seconds East a distance of 647.18 feet; thence North 00 degrees 11 minutes 58 seconds East a distance of 813.16 feet; thence North 81 degrees 23 minutes 25 seconds West a distance of 654.21 feet to the point of beginning.

AND

That part of the Southwest Quarter of Section 34, Township 115, Range 19, Dakota County, Minnesota, lying southerly of the following described line:

Commencing at the northwest corner of said Southwest Quarter; thence South 00 degrees 11 minutes 58 seconds West, assumed bearing along the west line of said Southwest Quarter, a distance of 549.45 feet to the point of beginning of the line to be described; thence South 89 degrees 28 minutes 53 seconds East a distance of 2646.92 feet to the east line of said Southwest Quarter and there terminating

And lying westerly, northwesterly, and northerly of the following described line:

Commencing at the southwest corner of said Southwest Quarter; thence South 89 degrees 42 minutes 10 seconds East, along the south line of said Southwest Quarter, a distance of 2192.17 feet to the point of beginning of the line to be described; thence North 04 degrees 21 seconds 18 seconds East a distance of 142.12 feet; thence North 01 degrees 12 minutes 32 seconds West a distance of 368.88 feet; thence North 01 degrees 58 minutes 09 seconds West a distance of 266.72 feet; thence northeasterly 194.60 feet, along tangential curve, concave to the southeast, having a central angle of 96 degrees 57 minutes 13 seconds and a radius of 115.00 feet; thence South 85 degrees 00 minutes 56 seconds East, tangent to last described curve, a distance of 157.25 feet; thence easterly 99.70 feet, along a tangential curve, concave to the north, having a central angle of 09 degrees 25 minutes 45 seconds and a radius of 605.84 feet; thence northeasterly 100.73 feet, along a reverse curve, concave to the northwest, having a central angle of 56 degrees 01 minutes 50 seconds and a radius of 103.00 feet to the west line of said Southwest Quarter and said line there terminating.

Dry Mining Phases (North) 1A/2BCD/3AB/4AB/5B/6B/7B/8A Annual Review Update

Activities related to North Dry Mining will continue to include relocation of surface soils, mixing and screening, stockpiling, loading, hauling, and conveying of aggregate material to the Ancillary Use Facility (AUF).

The reclamation area consists of 12.97 acres as depicted on Map 1.00 of the Dry Mining Phases entitled Actual Mining Area. All rock from the North Dry Mining operation is conveyed south to the processing facility for material production.

The North processing equipment continues to be located approximately 50 feet below grade in the North pit floor and is located behind the the 30 foot +/- berm that was constructed in 2016 and 2017.

For 2024, active mining will occur on 45.24 acres. The following chart displays the breakdown of acres per North Dry Mining phase. Please note that approximately 87 acres in the north has turned back to the University and is being utilized for agricultural purposes. This acreage is depicted on Map 1.00.

Dry Mining (North) Phases

	Active Mining	Reclamation	Sand Stockpile	Screening Berm/ Conveyor Corridor
Dry Mining Sub Phase	Acres	Acres	Acres	Acres
1A	-	-	2.74	4.94
1B	-	-	0.46	2.38
1C	-	-	-	2.23
2A	-	-	-	0.25
2B	-	0.06	-	-
2C	0.66	5.17	0.29	0.63
2D	6.61	-	0.91	0.60
3A	13.56	-	-	2.12
3B	7.16	-	-	1.78
4A	8.68	0.53	-	2.98
4B	2.71	1.77	-	2.48
5A	-	-	-	-
5B	3.61	0.58	-	-
6A	-	-	-	0.44
6B	2.96	-	-	-
7A	-	-	-	2.40
7B	2.67	-	-	0.86
8A	3.23	4.86	-	2.14
TOTAL	45.24	12.97	3.94	26.23

Aggregate Material North Dry Mining Area sold from January 1, 2023- October 31, 2023:
- 0 Tons

Aggregate stockpiles estimated onsite as of October 31, 2023, in North Dry Mining Area
- Sand: 55,000 TONS

All rock is conveyed to the aggregate processing facility for mixing and production of various aggregate products.

North Dry Mining Phasing Plan Future

Once Dry Mining in Phase 4A has been completed, mining will progress into the following phases in the subsequent order: 3A, 3B. This will be the plan to complete the mining in the NE corner to provide separation from the development.

Active Wet/Dry Phases (South) 1AA-3BB (Wet) & 10A (Dry) Annual Review Update:

Activities in the Dry/Wet mining phases will continue to include relocation of surface soils, crushing, mixing, screening, stockpiling, aggregate washing, loading, and conveying of material to the AUF. Once the material is conveyed to the AUF, it will be processed into varying grades of aggregate products that will be purchased and hauled offsite utilizing the Station Trail/CSAH#46 access.

In 2020, Dakota Aggregates constructed a new floating twin 16 CY clamshell dredge to continue underwater mining. Clamshell dredges have been and are currently used all over the United States and world. This fully electric dredge allows Dakota Aggregates to safely, and efficiently mine this regionally important aggregate reserve. The dredge was utilized throughout the 2023 season to mine aggregate reserves below the water table and will continue in 2024.

The screening berm landscaped with trees which is adjacent to County Road 46 and to Wet Mining Phases 1AA, 2AA, 3AA, and 4AA has been maintained throughout the season.

For the 2024 mining season the active mining area utilized will be 72.78 acres. Wet mining (dredging) and reclamation activities will continue within the active wet mining phases in 2024. The wet mining reclamation area consists of 27.95 acres with the end use being reclaimed as an open water feature. The following chart displays the breakdown of acres per South Dry /Wet mining phase. Please refer to Map 1.01 of the South Mining Phases entitled Actual Mining Area.

Dry/Wet (South)Mining Phases:

	Active Mining	Reclamation	Remaining Unmined	Berm/Conveyor Corridor
Wet Mining Sub Phase	Acres	Acres	Acres	Acres
1AA	9.94	3.51	-	4.50
1BB	13.81	0.03	-	-
2AA	3.00	12.12	-	1.91
2BB	10.59	4.64	-	2.67
3AA	7.03	5.84	1.08	1.56
3BB	9.33	1.81	4.43	0.69
10A (Dry Mining)	19.08	-	-	3.43
TOTAL	72.78	27.95	5.51	14.76

Total Aggregate material sold from January 1, 2023- October 31, 2023: 1,763,234 TONS

Aggregate Stockpiles in Aggregate Processing Facility as of October 31, 2023

- Screened Sand: 219,092 TONS
- Washed Sand: 349,754 TONS
- Washed Rock: 115,453 TONS

Recycled Aggregate:

RAP Sold January 1, 2023 – October 31, 2023: 322,128 TONS

RAP Stockpile October 31, 2023: 41,047 TONS

Site Improvements Update:

- Over 2,200,000 TONS of sales projected by the completion of 2023 (Aggregate and RAP).
- Dakota County Estimated Market Taxable Value of over \$10,777,800 in 2022
- Dakota County Estimated Market Taxable Value of over \$10,829,700 in 2023
- Dakota County Estimated Market Taxable Value of over \$10,275,000 in 2024
- Over \$287,644 paid in property tax in 2023
- Berm, ditch, and common areas are maintained routinely throughout the year.
- Dakota County Adopt a Road Program for periodic debris removal by Dakota Aggregates on County # 46.

Dakota Aggregates Large Scale Mineral Extraction Permit
Interim Use Permit History: Updated 12/16/2022
(Annual Reviews Highlighted)

Permit	Date Issued	Term (yrs)	Notes/Comment
Large Scale Mineral Extraction	12/18/12	40	Initial IUP for entire site (northern dry mining area to be completed by 2028)
LSMEP Annual Permit	12/18/12	1	Annual Permit for 2013
Aggregate Processing IUP	12/18/12	3	Interim use for aggregate processing and recycled aggregate processing
LSMEP Renewal	12/17/13	1	Annual Permit for 2014
Primary Ready-Mix Concrete Plant IUP	5/20/14	10	Enclosed facility within the approved auxiliary use area
Seasonal Ready-Mix Concrete Plant IUP	5/20/14	10	Within same area as the primary plant
LSMEP Renewal	11/18/2014	1	Annual Permit for 2015. Extended hours approved with permit
Aggregate Processing IUP	11/18/14	5	Interim use for aggregate processing and recycled aggregate processing – extension of original permit. Extended hours approved with permit
Wells Concrete Casting Facility	12/16/15	30	Interim use for a concrete casting facility within the approved auxiliary use area
LSMEP Renewal	3/1/16	1	Annual Permit for 2016, conducted review of sound issues
LSMEP Renewal	1/17/17	1	Annual Permit for 2017
LSMEP Renewal	2/20/18	1	Annual Permit for 2018
LSMEP Renewal	2/5/19	1	Annual Permit for 2019
Aggregate Processing IUP	(2/18/20)	5	Interim use for aggregate processing and recycled aggregate processing.
LSMEP Renewal	(2/18/20)	1	Annual Permit for 2020
LSMEP Renewal	(1/19/21)	1	Annual Permit for 2021
LSMEP Renewal	(2/15/21)	1	Annual Permit for 2022
LSMEP Renewal	(1/17/22)	1	Annual Permit for 2023
LSMEP Renewal*	(1/16/23)*	1	Annual Permit for 2024

* Permit currently under review

5/10/23 @ 12:50AM Caller from Biscayne/150th St

Comment: "loud noise coming from the sand pits; mechanical noises and conveyer belts". Officer comments: "could barely hear any noise from north side of 42. Could hear some on Biscayne south of 42 right next to the gravel pit. Sounds like trucks, no louder than normal traffic on 42. Doesn't seem any louder than any other time and could not hear it over regular traffic on 42 but not a lot of traffic on 42." (35S26)

5/10/23 @ 1:07AM Caller from Biscayne/150th St

Comment: "loud noise coming from gravel pit, south of 42 east of Biscayne". Connected with the prior call. (35S26)

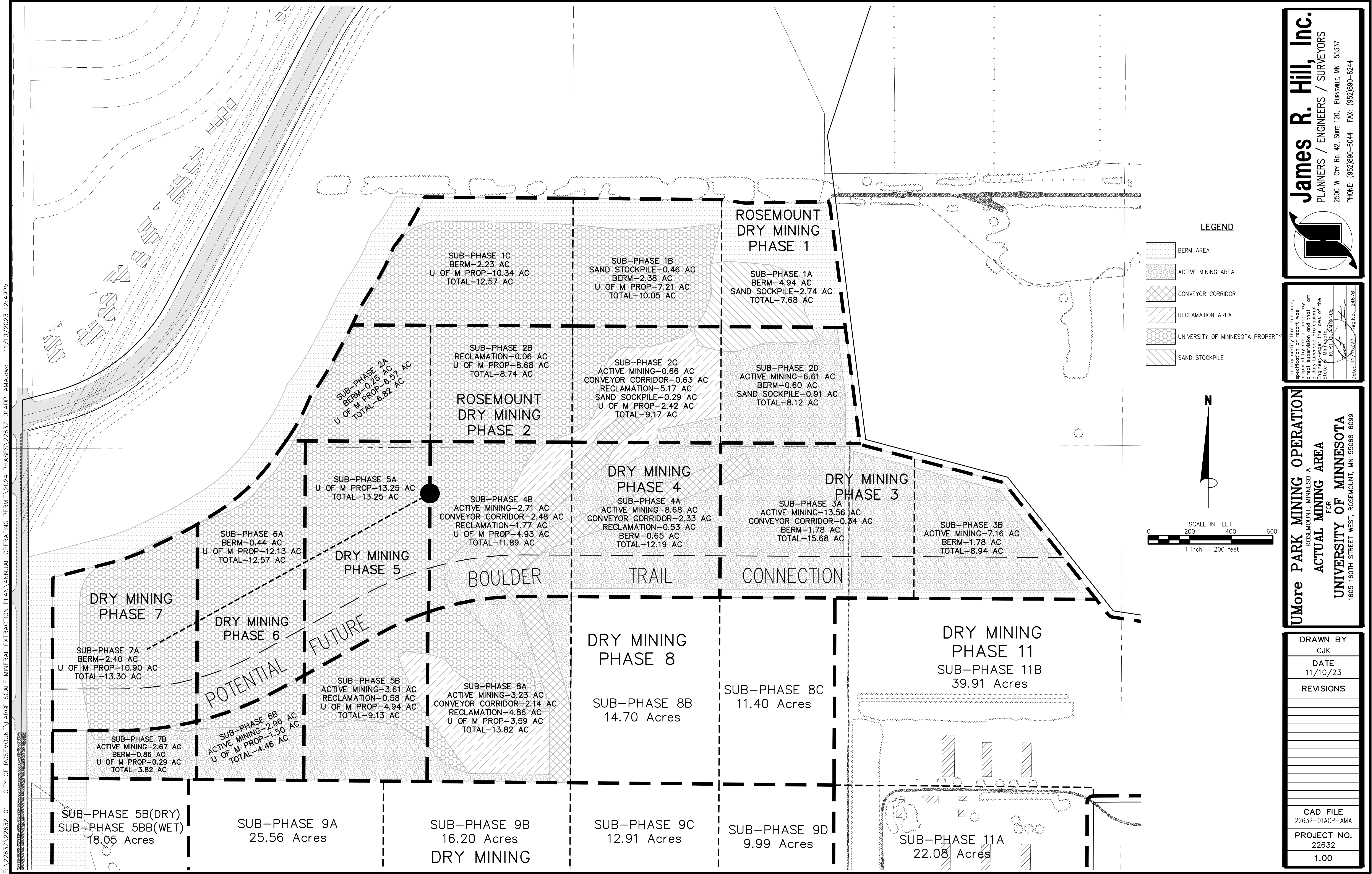
5/25/23 @ 10:27PM Caller from 14615 Biscayne Way

Comment: "noise complaint from sand pit SE of RP's address; machinery noise-rumbling". No officer comment. (3565)

06/02/23 @ 12:30AM Caller from 14615 Biscayne Way

Comment: "Noise complaint; reporting machinery noise". No officer comments. (3557)

F:\22632\22632-01 - CITY OF ROSEMOUNT\LARGE SCALE MINERAL EXTRACTION PLAN\ANNUAL OPERATING PERMIT\2024 PHASES\22632-01AOP-AMA.dwg -- 11/10/2023 12:49PM



James R. Hill, Inc.
PLANNERS / ENGINEERS / SURVEYORS
2500 W. Cty. Rd. 42, Suite 120, Burnsville, MN 55337
PHONE: (952)890-6044 FAX: (952)890-6244

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Date: 11/10/23 Reg. No. 24576

Umore PARK MINING OPERATION
ROSEMOUNT, MINNESOTA
ACTUAL MINING AREA
FOR
UNIVERSITY OF MINNESOTA
1605 160TH STREET WEST, ROSEMOUNT, MN 55068-6099

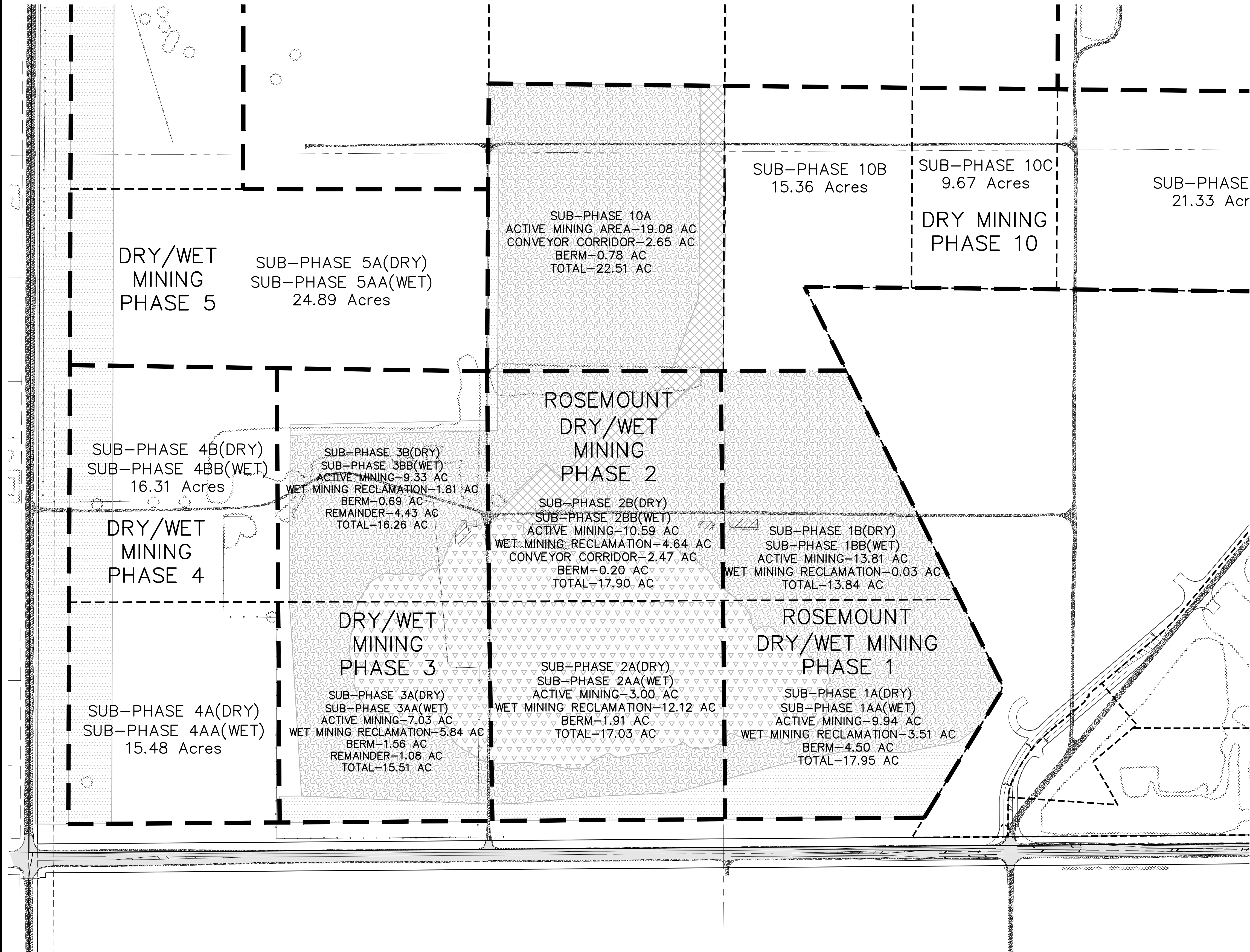
DRAWN BY	CJK
DATE	11/10/23
REVISIONS	
CAD FILE	22632-01AOP-AMA
PROJECT NO.	22632
1.00	

2023



2022





DRY/WET
MINING
PHASE 5

SUB-PHASE 5A(DRY)
SUB-PHASE 5AA(WET)
24.89 Acres

SUB-PHASE 4B(DRY)
SUB-PHASE 4BB(WET)
16.31 Acres

DRY/WET
MINING
PHASE 4

SUB-PHASE 4A(DRY)
SUB-PHASE 4AA(WET)
15.48 Acres

SUB-PHASE 3B(DRY)
SUB-PHASE 3BB(WET)
ACTIVE MINING-9.33 AC
MINING RECLAMATION-1.81 AC
BERM-0.69 AC
REMAINDER-4.43 AC
TOTAL-16.26 AC

DRY/WET
MINING
PHASE 3

SUB-PHASE 3A(DRY)
SUB-PHASE 3AA(WET)
ACTIVE MINING-7.03 AC
WET MINING RECLAMATION-5.84 AC
BERM-1.56 AC
REMAINDER-1.08 AC
TOTAL-15.51 AC

SUB-PHASE 10A
ACTIVE MINING AREA-19.08 AC
CONVEYOR CORRIDOR-2.65 AC
BERM-0.78 AC
TOTAL-22.51 AC

ROSEMOUNT
DRY/WET
MINING
PHASE 2

SUB-PHASE 2B(DRY)
SUB-PHASE 2BB(WET)
ACTIVE MINING-10.59 AC
WET MINING RECLAMATION-4.64 AC
CONVEYOR CORRIDOR-2.47 AC
BERM-0.20 AC
TOTAL-17.90 AC

SUB-PHASE 10B
15.36 Acres

SUB-PHASE 10C
9.67 Acres

DRY MINING PHASE 10

SUB-PHASE
21.33 Acr

SUB-PHASE 1B(DRY)
SUB-PHASE 1BB(WET)
ACTIVE MINING-13.81 AC
WET MINING RECLAMATION-0.03 AC
TOTAL-13.84 AC

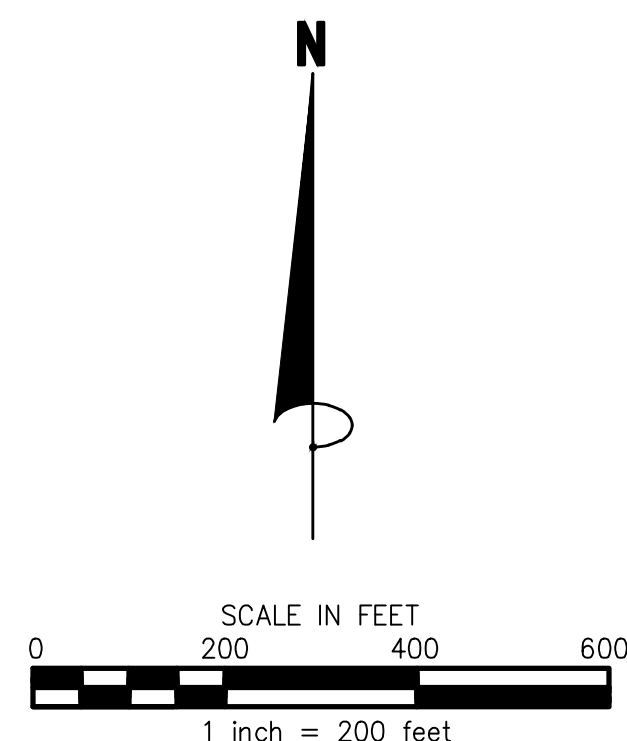
ROSEMOUNT DRY/WET MINING PHASE 1

SUB-PHASE 1A(DRY)
SUB-PHASE 1AA(WET)
ACTIVE MINING-9.94 AC
WET MINING RECLAMATION-3.51 AC
BERM-4.50 AC
TOTAL-17.95 AC

SUB-PHASE 2A(DRY)
SUB-PHASE 2AA(WET)
ACTIVE MINING-3.00 AC
WET MINING RECLAMATION-12.12 AC
BERM-1.91 AC
TOTAL-17.03 AC

LEGEND

	BERM AREA
	ACTIVE MINING AREA
	WET MINING RECLAMATION AREA
	CONVEYOR CORRIDOR



James R. Hill, Inc.
PLANNERS / ENGINEERS / SURVEYORS
2500 W. CTY. RD. 42, SUITE 120, BURNSVILLE, MN 55337
PHONE: (952)890-6044 FAX: (952)890-6744

hereby certify that this plan,
specification or report was
prepared by me or under my
direct supervision and that I am
a duly Licensed Professional
Engineer under the laws of the
State of Minnesota.

KURT QUANTANCE

Kurt Quantance

Date: 11/18/23 Pen No. 24676

UUMore PARK MINING OPERATION
ROSEMOUNT, MINNESOTA
ACTUAL MINING AREA
FOR
UNIVERSITY OF MINNESOTA
1605 16TH STREET WEST, ROSEMOUNT, MN 55068-6099

DRAWN BY
CJK

DATE
11/10/23

REVISIONS

CAD FILE
22632-01A0P-AMA

PROJECT NO.
22632

1.01

2023



2022









SUPREME
MANUFACTURING INC.
www.suprememfg.net

Becker 3 TON
CAPACITY







Planning Commission Regular Meeting: December 18, 2023

Tentative City Council Meeting: January 16th, 2024

AGENDA ITEM: Renewal of the Carl Bolander and Sons, LLC, Small Scale Mineral Extraction Permit for 2024	AGENDA SECTION: PUBLIC HEARINGS
PREPARED BY: Alysha Grant, Community Development Technician	AGENDA NO. 6.d.
ATTACHMENTS: Location Map, Draft 2024 Mining Permit, Applicant's Narrative, Phasing Plan, Reclamation Plan, Property Information, Compaction Testing, Site Photographs, Site Aerials	APPROVED BY: JH, AK
RECOMMENDED ACTION: Motion to recommend City Council approve renewal of the Carl Bolander & Sons, LLC, Small Scale Mineral Extraction Permit for 2024, subject to the terms and conditions in the attached 2024 Conditions for Mineral Extraction.	

BACKGROUND

SUMMARY

Applicant:	Carl Bolander and Sons, LLC
Property Owner(s):	Otto Ped Revocable Trust (c/o Karin Larsen), Grace Kuznia, and Kimberly Ped
Location:	4992 145th St East
Area in acres:	80 acres
Mining area:	Approximately 15 acres
Comp. Guide Plan Designation:	BP - Business Park, MDR - Medium Density Residential, and LDR - Low Density Residential
Current Zoning:	AG - Agriculture

The Planning Commission is being asked to consider an application from Carl Bolander and Sons, LLC requesting renewal of its annual small-scale mineral extraction permit for the properties located at 4992 145th Street East. The subject properties are owned by Karin Larsen, Kimberly Ped, and Grace Kuznia and are located approximately 1 ½ miles east of US Highway 52 and south of County Road 42. This request represents the eighth year that the applicant will be operating the mining site since taking over the mining operations from the previous owner. In previous years, the City expressed concern that the reclamation work in earlier phases had not yet been completed; however, as of the summer of 2018 all reclamation required by the previous mine operator has been finished. Bolander and Sons has been implementing the revised reclamation plan that was amended and approved in 2016.

BACKGROUND

The applicant received their first annual permit as operators of the mine in 2017. Over the course of

their first year approximately 180,000 cubic yards were exported from the site, which was off-set by a similar amount being hauled back to the site from projects for use in restoration of the pit. By the middle of 2018, all the Phase 1 mining area had been brought up to the final elevations in accordance with the adopted reclamation plan. Since then, the applicant mined within Phases 2 and 3 while bringing in fill for site restoration for phases 1 and 2. In 2019, the applicant reported removing 204,730 cubic yards of material from the site while hauling in 214,698 cubic yards for restoration. In 2020, 251,110 cubic yards were removed from the site and 151,369 cubic yards were brought to the site. 2021 saw a significant decrease in numbers compared to the previous few years with 100,790 cubic yards of material removed from the site and 23,370 cubic yards brought to the site. In 2022, 65,000 cubic yards of material were removed from the site and 111,756 cubic yards of backfill was brought to the site. In 2023, 13,000 cubic yards of material were removed from the site and 23,450 cubic yards of backfill was brought to the site. Phases 1 and 2 have been fully restored with part of Phase 3 as well. The business had the lowest backlog in over five years in spring of 2023. For 2024, the applicant is forecasting to haul between 75,000 to 150,000 cubic yards of sand next year from the site. Work is expected to continue in Phases 3 and 4, with mining below the final restoration grades occurring in those areas. The applicant notes that they will not exceed the maximum of 50,000 cubic yards of required fill below restoration grades on the site in 2024. The applicant has provided data from the compaction testing that was done on the site in 2022, some soil remains to have compaction testing scheduled for 2023.

ISSUE ANALYSIS

The subject property is zoned AG – Agricultural and meets or exceeds the applicable performance standards for small scale mineral extraction. Small scale mineral extraction is listed as an interim use within the Agriculture district. The table below details the current land use, zoning, and future land use information for the surrounding properties. None of the sites are located within the current Metropolitan Urban Service Area (MUSA), but are located within the 2030 or 2040 MUSA. The 2040 Future Land Use Map anticipates a mixture of residential and business park uses in this area.

Surrounding Land Use and Zoning Information			
Direction	Current Land Use	Guided Land Use	Zoning
North	Agriculture	CC – Community Commercial, BP - Business Park, LI – Light Industrial	Agricultural
South	Agriculture	LDR – Low Density Residential	Agricultural Preserve
East	Agriculture	CC – Community Commercial, MDR – Medium Density Residential, LDR – Low Density Residential	Agricultural
West	Agriculture/Mining	MDR – Medium Density Residential and LDR – Low Density Residential	Agricultural

The Ped/Kuznia mine is accessed by a joint access road with the Danner mine on the western edge of

the Ped property line. The applicant maintains a private access agreement with Danner to coordinate mining levels and allow continued access to the site.

As a part of the annual review of all mineral extraction permits, staff performs an inspection of the site and consults with the Rosemount Police Department regarding any police activity. No ordinance or permit condition violations were apparent during the inspection, and ground cover has been established on all restored areas. Police records found no incidents at the subject property during 2023.

RECOMMENDATION

Staff recommends renewal of the Small Scale Mineral Extraction Permit at the Ped/Kuznia properties for Bolander and Sons for 2024 based upon a review of the information submitted by the applicant, the mineral extraction standards in Section 11-10-4 of the City Code, City Police records and the attached draft permit.



Small Scale Mineral Extraction Permit

20243 Conditions for Small Scale Mineral Extraction Permit Renewal Bolander and Sons (PED-KUZNIA)

- A. Bolander and Sons (hereinafter the “Operator”) shall sign a written consent to these conditions binding itself and its successors and assigns to the conditions of this permit. Karin L. Larson, Kimberly K Ped and Grace Kuznia (hereinafter the “Owner”) shall sign written acknowledgment and consent to these conditions and to issuance of this permit in the form set forth at the end of these conditions.
- B. The property Owner shall comply with all terms of this permit as well as the standards for mineral extraction listed in Section 11-10-04 of the City Code.
- C. This permit is granted for the area designated as Phase 3 and Phase 4 as shown on the Phasing Plan dated 10-26-20232. The active mining and excavation area cannot exceed 19.5 acres open at any one time and only 50,000 cubic yards can be open below the reclamation grades consistent with the approved Plan, at any one time. The establishment of vegetation is required within all completed reclamation areas.
- D. The term of the permit shall extend from January 1, 20243 until December 31, 20243 unless revoked prior to that for failure to comply with the permit requirements. A mining permit fee of \$370.00 shall be paid to the City of Rosemount.
- E. All required permits from the State of Minnesota, County of Dakota and City of Rosemount (hereinafter "City") or any of their agencies shall be obtained and submitted to the City prior to the issuance of the permit. Failure by the Operator to comply with the terms and conditions of any of the permits required under this paragraph shall be grounds for the City to terminate said mining permit.
- F. The final grading for the permit area shall be completed in accordance with the submitted Proposed Reclamation Plan dated 11-01-2016. An 8% grade for the public road corridor which allows access into the site consistent with public road standards is required through site reclamation.
- G. All gravel trucks shall enter and exit the mining area from County State Aid Highway 42 (CSAH 42) from the joint access between the Danner and Ped properties and the designated truck route to (and from) the site shall be CSAH 42, west to State Trunk Highway 52 (STH 52), north on STH 52 to the City boundary. It shall be the Operator’s responsibility to obtain easements for ingress and egress. The location of the accesses and/or easements for ingress and egress shall be subject to approval by the City, as well as the County Highway Department or the Minnesota Department of Transportation if applicable or if any changes occur relative to the mining process.

- H. A gate must be placed at the driveway entrance that shall be secured after hours. The operator shall also install and maintain “No Trespassing” signs consistent with the standards outlined in Minnesota State Statute 609.605.
- I. The Operator shall clean dirt and debris from extraction or hauling operations related to the Mineral Extraction Permit from streets. After the Operator has received 24-hour verbal notice, the City may complete or contract to complete the clean-up at the Operator's expense.
- J. The surface water drainage of the mining area shall not be altered so as to interfere, contaminate, or otherwise affect the natural drainage of adjacent property.
- K. No topsoil shall be removed from the site and the Operator shall take necessary measures to prevent erosion of the stockpiled topsoil. The location of the stockpiled topsoil shall be indicated on Exhibit A, the Mining Plan.
- L. Any costs incurred now or in the future in changing the location of existing public or private utilities including but not limited to pipelines, transmission structures and sewer infrastructure located within the permit area shall be the sole obligation and expense of the Operator.
- M. All costs of processing the permit, including but not limited to planning fees, engineering fees and legal fees, shall be paid by the operator prior to the issuance of the permit. The Operator shall reimburse the City for the cost of periodic inspections by the City Public Works Director or any other City employee for the purpose of insuring that conditions of the permit are being satisfied. The Operator agrees to reimburse the City for any other costs incurred as a result of the granting or enforcing of the permit.
- N. The daily hours of operation for the mining area shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday subject to being changed by the City Council.
- O. The Operator shall deposit with the Engineering Department a surety bond or cash escrow in the amount of Seven Thousand Five Hundred Dollars per acre (\$7,500.00/acre) of active phase in favor of the City for the cost of restoration, regrading and/or revegetating land disturbed by mining activities and to assure compliance with these conditions by the Operator. The required surety bonds must be:
 - 1) With good and sufficient surety by a surety company authorized to do business in the State of Minnesota with the right of the surety company to cancel the same only upon at least thirty (30) days written notice to the permit holder and the City.
 - 2) Satisfactory to the City Attorney in form and substance.
 - 3) Conditioned that the Operator will faithfully comply with all the terms, conditions and requirements of the permit; all rules, regulations and requirements pursuant to the permit and as required by the City and all reasonable requirements of the Public Works Director or any other City officials.
 - 4) Conditioned that the Operator will secure the City and its officers harmless against any and all claims, or for which the City, the Council or any City officer may be made liable by reason of any accident or injury to persons or property through the fault of the Operator.

- 5) The surety bond or cash escrow shall remain in effect from January 1, 202~~43~~ until July 31, 202~~54~~.
- 6) Upon thirty (30) days' notice to the permit holder and surety company, the City may reduce or increase the amount of the bond or cash escrow during the term of this permit in order to insure that the City is adequately protected.
- P. The Operator shall furnish a certificate of comprehensive general liability insurance issued by insurers duly licensed within the State of Minnesota in an amount of at least Five Hundred Thousand and no/100 (\$500,000.00) Dollars for injury or death of any one person in any one occurrence, bodily injury liability in an amount of at least One Million Five Hundred Thousand and no/100 (\$1,500,000.00) Dollars and property damage liability in an amount of at least Two Hundred Fifty Thousand and no/100 (\$250,000.00) Dollars arising out of any one occurrence. The policy of insurance shall name the City as an additional insured and shall remain in effect from January 1, 202~~43~~ until July 31, 202~~54~~.
- Q. Processing and crushing of materials are permitted on the site in accordance with the Sand and Gravel Mining Plan and Backfill Plan dated November 2018. No additional processing or production of materials may occur on the site and construction of any ponding areas or wash plants shall require additional City Council approval and notification of adjacent property owners, except as approved by the Dakota County Environmental Health Department as incidental to a sand and gravel mining operation. Any such activities will be enclosed with cyclone fencing, or as approved by City staff, and the fencing shall be properly maintained.
- R. The Operator and the Owner shall hold the City harmless from all claims or causes of action that may result from the granting of the permit. The Operator and the Owner shall indemnify the City for all costs, damages or expenses, including but not limited to attorney's fees that the City may pay or incur in consequence of such claims.
- S. The Operator comply with such other requirements of the City Council as it shall from time to time deem proper and necessary for the protection of the citizens and general welfare of the community.
- T. Modifications or expansion of the mining areas must be approved in writing by the City.
- U. The Operator shall incorporate best management practices for controlling erosion and storm water runoff as specified by the Minnesota Pollution Control Agency and the United States Environmental Protection Agency.
- V. The Operator shall receive all applicable permits and follow all appropriate regulations of all federal, state, or county agencies.
- W. The Proposed Reclamation Plan shall be coordinated with any abutting Mineral Extraction site to insure matching conditions and final grades along any adjoining property line(s) to the greatest extent possible. Reclamation shall include the replacement of the entire stockpile of topsoil on the mined area, reseeding and mulching necessary to re-establish vegetative cover for permanent slope stabilization and erosion control. The minimum depth of topsoil shall not be

less than two inches after reclamation. Reclamation of the site must be consistent with the Council approved reclamation plan to ensure future development potential of the site.

- X. The storage of equipment (unrelated to the sand and gravel mining and processing), manure, construction debris, or hazardous materials of any kind shall not be permitted on site. The placement of construction debris, manure, asphalt in any form or hazardous materials within the pit as fill shall be strictly prohibited.
- Y. The fill area regrading and reclamation shall follow the procedures described in the Sand and Gravel Backfill Protocol dated 2016 including an annual report submitted to the City describing the quantities of material brought in, where the material came from, and the test result of the material including supporting analytical results.
- Z. Mining to the elevation of 840 feet above mean sea level is allowed provided that the site is reclaimed to the elevation shown on the Proposed Reclamation Plan dated 11-01-2016. Should haul-back be brought to the site, it must comply with the Sand and Gravel Backfill Protocol dated January 2016. In no instance shall mining occur in the groundwater aquifer.
- AA. Blasting or the use of explosives is prohibited in the mining of Bolander and Sons operation.
- BB. The City of Rosemount shall have the ability to collect independent soil and water samples.

Karin L. Larson, Kimberly K. Ped and Grace Kuznia, Minnesota residents and owners of the properties for which this permit is issued, hereby consent and agree to the issuance of a mineral extraction permit for said properties and to the imposition of the foregoing conditions. Owners further agree and consent to entry onto said properties by the City, its officers, agents, contractors and employees and by the surety of the bond issued in accordance with paragraph O, its officers, agents, contractors and employees to take any action deemed necessary by the City to enforce and assure compliance with the conditions of this permit and law. Owners further agree that they will not bring any claims or legal actions against the City, its officers, agents, contractors or employees for damages arising out of issuance of this permit or administration or enforcement by the City of the conditions of this permit or of law. The foregoing agreements of Owners shall run with the land of said properties and shall bind the Owners, their heirs, successors and assigns.

By: _____
Karin L. Larson

By: _____
Kimberly K. Ped

By: _____
Grace Kuznia

STATE OF MINNESOTA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____ by Karin L. Larson, Minnesota resident and property owner.

Notary Public

STATE OF MINNESOTA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____ by Kimberly K. Ped, Minnesota resident and property owner.

Notary Public

STATE OF MINNESOTA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____
by Grace Kuznia, Minnesota resident and property owner.

Notary Public

That _____ of Bolander and Sons, the operator, hereby consents and
agrees to the foregoing conditions of said mining permit.

Bolander and Sons

By: _____

Its: _____

STATE OF MINNESOTA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____
by _____ of Bolander and Sons, the operator.

Notary Public

Sand and Gravel Mining and Backfill Plan

November 2023 Year 7 Report

145th Street Sand Pit – Otto Ped Property

Submitted to:

City of Rosemount

Prepared By:



Carl Bolander and Sons, LLC

251 Starkey Street

St Paul, MN 55107

(651) 224-6299

October 16th, 2023

1. Introduction

Carl Bolander and Sons, LLC (Bolander) has entered into an agreement with Otto Ped Revocable Trust (C/O Karen Larsen), Grace Kuznia, and Kimberly Ped (Land Owners) to operate a sand and gravel mining operation on two parcels of land on 145th street in Rosemount, Minnesota. Sand and gravel resources are being excavated and prepared for off-site uses. These operations include: excavation, stockpiling, screening, crushing, recycling concrete/asphalt, and loading trucks.

Bolander is mining sand and gravel for uses off site. This document has been prepared as a submittal to the City of Rosemount as part of our yearly reporting to operate the site.

The mining operation is done in accordance with the following:

- This mining and backfill plan.
- The SWPPP and NPDES requirements.
- City of Rosemount Code 11-10-4 Small Scale Mineral Extraction
- All other permits issued by the City, County, MPCA, or State.

The site shall be reclaimed in accordance with the following:

- This mining and backfill plan
- The SWPPP
- City of Rosemount Code 11-10-4 Small Scale Mineral Extraction
- Any permits issued by the City, County, or State.

2. Location and Access

The mailing address for the Dakota County Parcel ID 34-09200-50-011 is 4992 145th Street East, Rosemount, MN 55068. The Dakota County Parcel ID 34-02900-50-012 does not have a mailing address.

3. Current Phase Being Mined

We are currently mining below restoration grade in part of phase 3 and above restoration grades in Phase 4.

4. Current Status of Reclamation

Please see the attached updated Topographic survey dated 10-20-2021. We have successfully hauled in 46,500 CY of fill in 2017, 178,750CY in 2018, 214,698 CY in 2019, 151,369 CY in 2020, 23,370 in 2021, 111,756 in 2022, and 23,450CY in 2023 to date. This material is from projects which used in the restoration of the pit. Much of the pit has been restored.

5. Amount of Material removed from the site

For calendar year to date 2020 we have exported 13,000 CY from the site. (See survey for more detail).

6. Summary of all Backfill brought to the Site during 2022 (To Date)

For the calendar year 2023 we have import 23,450 CYLV of clean tested soils. Analytical testing of soils is attached in electronic format.

Date Hauled	Quantity	Units	Job Number	Project Name	Project Location	Soil Type	Analytical	Quantity of Tests	Folder Name (Multiple Files)	Compaction Testing
6/7/2023 - 6/9/2023	4862	CYLV	20-6150	Ford Site Development	2192 Ford Parkway St Paul, MN	Common	Yes	25	20-6150 Ford Site	Pending
4/5/2023 - 10/16/2023	3502	CYLV	21-3400	Hines North Loop Green	Unnamed Road, Minneapolis, MN 55401	Common	Yes	33	21-3400 Hines North Loop Green	Pending
4/4/2023 - 6/13/2023	10606	CYLV	22-5710	The Standard at Dinkytown	528 14th Avenue SE Minneapolis, MN	Common	Yes	7	22-5710 The Standard at Dinkytown	Pending
2/15/2023 - 3/8/2023	1640	CYLV	22-5510	Canvas	2301 California Street Minneapolis MN 55418	Common	Yes	7	22-5510 Canvas Apartments	Pending
10/3/2023 - 10/16/2023	2840	CYLV	23-7150	MN Judicial Building	25 Rev Dr Martin Luther King JR Blvd St Paul, MN	Common	Yes	1	23-7150 MN Judicial Building	Pending
	23,450									

7. Compaction Tests

We have completed the required compaction tests in 2022. Some soil will require compaction testing in 2023 which remains to be scheduled.

Field Test Data

Test No.	Test Location	Lift / Elev.	Mat. No.	Probe Depth (In)	Wet Density (pcf)	Water Content (pcf)	Water Content (%)	Dry Density (pcf)	Percent Compaction (%)
7	See attached diagram	0	2	12	112.7	10.3	10.1	102.4	93
8	See attached diagram	0	2	12	111.0	9.9	9.8	101.1	91
15	See attached diagram	0	3	12	130.3	4.4	3.5	125.9	93
16	See attached diagram	0	3	12	143.2	6.0	4.4	137.2	100+
20	See attached diagram	0	3	12	129.9	5.3	4.5	118.6	88
21	See attached diagram	0	3	12	120.4	6.2	5.4	114.2	85
22	See attached diagram	0	3	12	124.0	5.9	5.0	118.9	88
23	See attached diagram	0	3	12	138.7	7.6	5.8	131.1	97
24	See attached diagram	0	3	12	139.1	4.6	3.4	134.5	100
25	See attached diagram	0	3	12	146.4	8.0	5.8	138.4	100+
26	See attached diagram	0	3	12	135.8	11.1	8.9	124.7	92
27	See attached diagram	0	3	12	129.7	11.1	9.4	118.6	88
28	See attached diagram	0	3	12	139.7	11.1	8.6	128.6	95
29	See attached diagram	0	3	12	138.9	4.0	3.0	134.9	100
30	See attached diagram	0	3	12	138.1	5.6	4.2	132.5	98

Datum: Top of existing grade

S/N: 31864

Make: Troxler

Model: 3440

Std. Cnt. M: 703 Std. Cnt. D: 2009

Last Cal. Date: 01/03/2022

8. Summary of problems

No operating issues to report for 2023. No complaints received from neighbors or the community. As far as business operation for 2023, rising interest rates has slowed the pace of commercial lending and projects. Additionally, multi-tenant housing projects in the City of Minneapolis and St Paul have slowed due to rent control issues. This affected our business significantly and in the spring of 2023 we had our lowest backlog in over 5 years.

9. Forecasting

We anticipate utilizing 75,000 – 150,000 CY of sand next year. There is a higher level of uncertainty than normal with economical uncertainty created by inflation and higher interest rates. We will not exceed our established 50,000 CY maximum required fill below restoration grades.

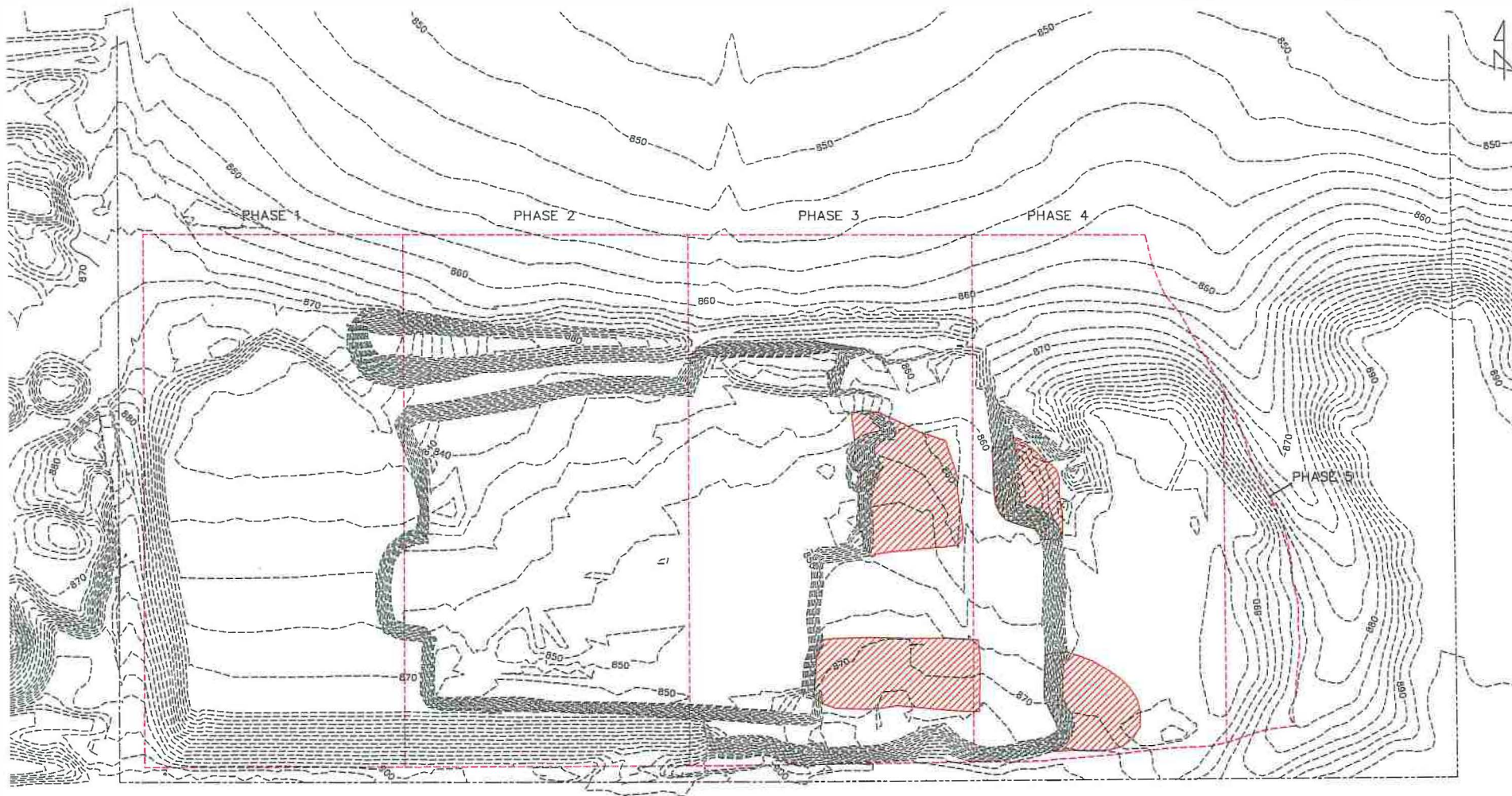
8. Reports

Bolander will provide the City of Rosemount with annual reports that cover operations taking place at the site for the previous year. These reports shall include:

- Current Phase Being Mined. (Phase 3 and 4)
- Current Status of Reclamation. (Phase 1 and 2 fully restored – partial 3)
- Amount of material being removed from the site. (13,000)
- Summary of all backfill brought to the site, including laboratory tests. (attached)
- Compaction tests for the placed backfill. (attached)
- Summary of any problems and remedies that have been implemented to solve problems identified in previous reports. (complete)
- Year ahead forecasting updates. (complete)

9. Other Requested Information

- Depth of topsoil is variable, with average of 4-6" typically
- All trees proposed for removal were removed 5 years ago.
- Depth of water table is lower– we believe 675'-680' if encountered. The water we tend to encounter is perched water at variable elevations depending if silt is present at depth.



EXCAVATION QUANTITY 10-26-22 - 10-26-23
13,000 CUBIC YARDS

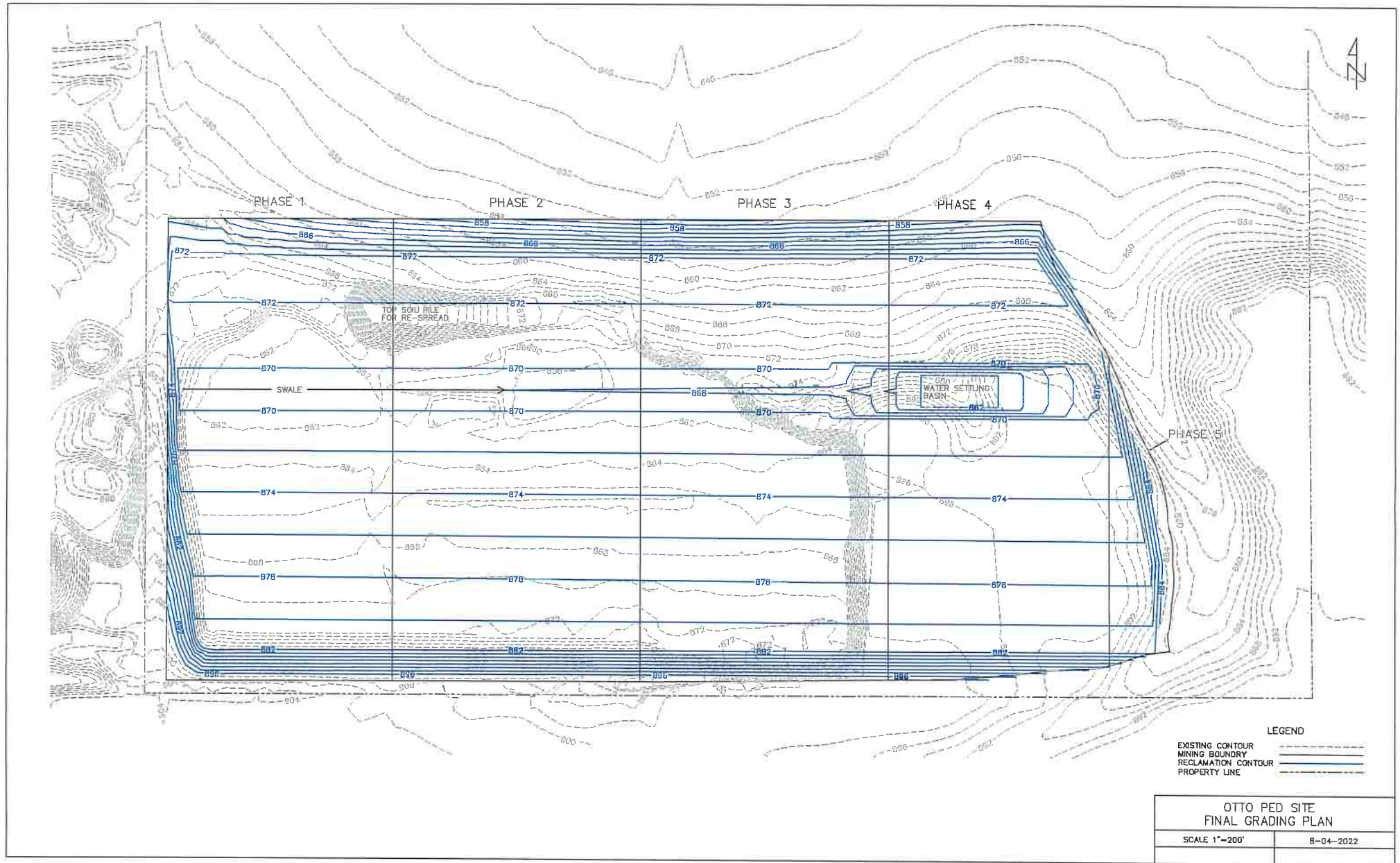
LEGEND

MINING BOUNDARY

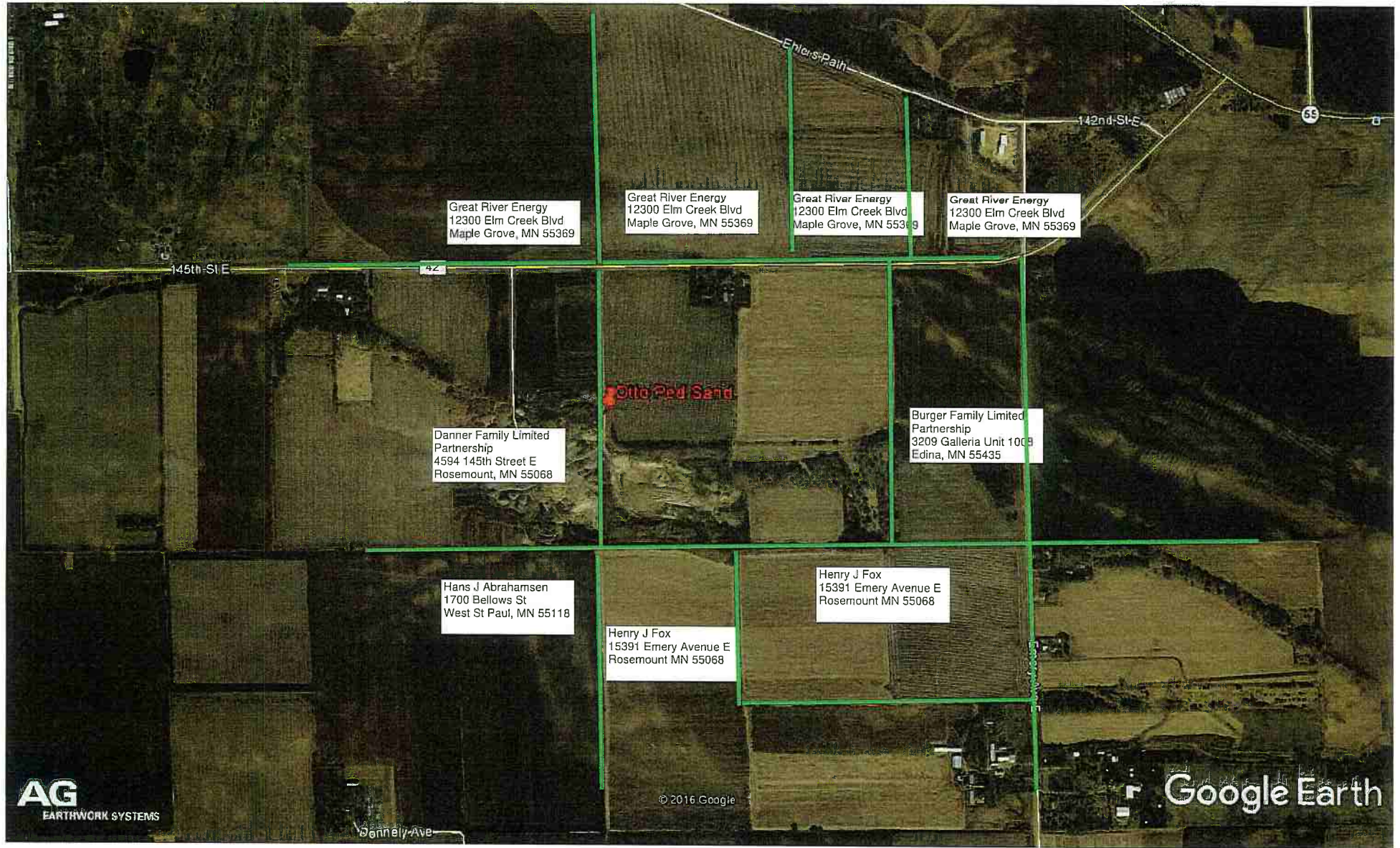
OTTO PED SITE
PROPOSED PHASING PLAN

SCALE 1"=200'

DATE 10-26-23



Attachment D-1



Google Earth



ATTACHMENT A-1

Parcel ID: 34-02900-50-011
 4992 145TH ST E
 ROSEMOUNT MN 55068

- Property Details
- Comparable Properties
- Subdivision Plat
- Tax Statement
- Tax Payment Stub
- Tax Facts
- **2017 Proposed Tax Notice**

Parcel data is current as of: 11/17/2016



Owner OTTO A TSTE PED

Owner Address % KARIN LARSON

16870 EVENTIDE WAY

LAKEVILLE MN 55044

Common Name EAST ROSEMOUNT/PED PIT

Municipality ROSEMOUNT

Primary Use AG-GREEN ACRES

Use 2 INDUSTRIAL-PREFERRED

Use 3 AG-GREEN ACRES

Acres 80.76

R/W Acres 1.58

Square Feet 3,518,039

R/W Sq Ft 69,019

Sale Value \$0
 (Improved)

Plat Name SECTION 29 TWN 115 RANGE 18

Tax Description E 75 ACRES OF SW 1/4 & W 87.5
 ACRES OF SE 1/4 EX PT LYING E
 OF LINE BEG 165.31 FT E OF NW

COR SE1/4 THENCE SW'LY TO PT
ON S LINE 57.31 FT E OF SW COR
SE 1/4 SUBJ TO HWY ESMNT
OVER N 50 FT

Lot and Block 29 115 18

PLS Location NE1/4 SW1/4 SECTION 29-115-18

School District 196

Watershed VERMILLION RIVER
District

Tax Information

2016 Estimated Land Value \$524,900
(Payable 2017)

2016 Estimated Building Value \$193,300
(Payable 2017)

2016 Total Estimated Value \$718,200
(Payable 2017)

2016 Taxable Land Value \$366,879
(Payable 2017)

2016 Taxable Building Value \$183,049
(Payable 2017)

2016 Total Taxable Value \$549,928
(Payable 2017)

2015 Total Estimated Value \$695,600
(Payable 2016)

2015 Total Taxable Value \$535,649
(Payable 2016)

Net Tax (Payable 2016) \$7,110.52

Special Assessments (Payable 2016) \$0

Total Tax & Assmts (Payable 2016) \$7,110.52

Homestead Status FULL
HOMESTEAD

Green Acres Y

Building Information

Parcel ID: 34-02900-50-012

- Property Details
- Comparable Properties
- Subdivision Plat
- Tax Statement
- Tax Payment Stub
- Tax Facts
- **2017 Proposed Tax Notice**

Parcel data is current as of: 11/17/2016

Owner	GRACE H KUZNIA
Owner Address	3380 68TH CT E INVER GROVE HEIGHTS MN 55076
Municipality	ROSEMOUNT
Primary Use	AG-GREEN ACRES
Use 2	AG-GREEN ACRES
Acres	80.76
R/W Acres	1.47
Square Feet	3,518,025
R/W Sq Ft	64,117
Sale Value (Improved)	\$0
Plat Name	SECTION 29 TWN 115 RANGE 18
Tax Description	PT OF W 87.5 ACRES OF SE 1/4 LYING E OF LINE BEG 165.31 FT E OF NW COR SE 1/4 THENCE SW'LY TO PT ON S LINE 57.31 FT E OF SW COR SE 1/4 & THERE TERM SUBJ TO HWY ESMNT OVER N 50 FT
Lot and Block	29 115 18

PLS Location SW1/4 SE1/4 SECTION 29-115-18

School District 196

Watershed VERMILLION RIVER
District

Tax Information

FIELD DENSITY TEST REPORT

Report Number: MP211203.0007
Service Date: 10/26/22
Report Date: 11/01/22
Task: Field Tech


13400 15th Ave N
Plymouth, MN 55441-4532
763-489-3100

Client

Carl Bolander & Sons Inc
Attn: Todd Planting
251 Starkey St
Saint Paul, MN 55107-1821

Project

Material Testing at Otto Ped Property
4992 145th st east
Rosemount, MN 55068

Project Number: MP211203

Material Information

Mat. No.	Proctor Ref. No.	Classification and Description	Laboratory Test Method	Lab Test Data		Project Requirements	
				Opt. Water Content (%)	Max. Lab Density (pcf)	Water Content (%)	Compaction (%)
2	MP211203.0009	Grey/Brown lean clay with shale	ASTM D698	15.1	110.7		
3	MP211203.0010	Grey/Brown with lean clay and shale	ASTM D698	7.8	135.1		
5	MP211203.0008	Grey/dark grey with gravel/shale and lean clay	ASTM D698	10.1	126.2		
6	MP211203.0011	Grey/Brown with lean clay and shale	ASTM D698	20.5	102.4		
7	MP211203.0005	Clayey/Silty sand	ASTM D698	11.8	121.0		

Field Test Data

Test No.	Test Location	Lift / Elev.	Mat. No.	Probe Depth (in)	Wet Density (pcf)	Water Content (pcf)	Water Content (%)	Dry Density (pcf)	Percent Compaction (%)
7	See attached diagram	0	2	12	112.7	10.3	10.1	102.4	93
8	See attached diagram	0	2	12	111.0	9.9	9.8	101.1	91
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30	See attached diagram	0	3	12	138.1	5.6	4.2	132.5	98

Datum: Top of existing grade

S/N: 31864

Make: Troxler

Model: 3440

Std. Cnt. M: 703 **Std. Cnt. D:** 2009

Last Cal. Date: 01/03/2022

Comments:

Services:

Terracon Rep.: Kent Kruse

Reported To: Jay with Bolander

Contractor: Bolander

Report Distribution:

(1) Carl Bolander & Sons Inc, Todd Planting (1) Carl Bolander & Sons Inc, Norm Everson

Reviewed By:

Kevin Larson
Assistant Project Manager

Test Methods: ASTM D6938

The tests were performed in general accordance with applicable ASTM, AASHTO, or DOT test methods. This report is exclusively for the use of the client indicated above and shall not be reproduced except in full without the written consent of our company. Test results transmitted herein are only applicable to the actual samples tested at the location(s) referenced and are not necessarily indicative of the properties of other apparently similar or identical materials.



- Test
- ▲ Retested / Accepted
- ▲ ▲ Deviation

Terracon

13400 15th Ave N
Plymouth, MN 55441-4532
763-489-3100
terracon.com

Material Testing at Otto Ped Property		Exhibit
Field Density Testing		A-1

Report Number: MP211203.0007	Service Date: 10/26/2022	Employee: Kruse, Kent	Scale: Refer to Drawing
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Carl Bolander & Sons, LLC Aerial Images

September 2022



August 2023



Planning Commission Regular Meeting: December 18, 2023

Tentative City Council Meeting: January 16, 2024

AGENDA ITEM: Renewal of the Max Steining, Inc. Small Scale Mineral Extraction Permit for 2024	AGENDA SECTION: PUBLIC HEARINGS
PREPARED BY: Julia Hogan, Planner	AGENDA NO. 6.e.
ATTACHMENTS: Site Location, Draft 2024 Mining Permit, Project Narrative, Location Map, Haul Route, Current Conditions, Mine Plan, Reclamation Plan, Aerial Images	APPROVED BY: AK
RECOMMENDED ACTION: Motion to recommend renewal of the Max Steining, Inc. Small Scale Mineral Extraction Permit for 2024 to City Council, subject to the terms and conditions in the attached Draft 2024 Conditions for Mineral Extraction.	

BACKGROUND

Applicant and property owner:	Max Steining, Inc., 3080 Lexington Avenue South, Eagan, MN
Location:	Approximately one mile east of US Highway 52 along CSAH 42; adjacent to 4322 145th Street East
Area in acres:	78.91 (overall site); 37 acres (mining area); 5 acres (active mining)
Mining Area:	3.9 acres of current active mine plus 1.25 acres of additional area
Comp. Guide Plan Designation:	LDR - Low Density Residential MDR - Medium Density Residential HDR - High Density Residential
Current Zoning:	AG - Agriculture

The Planning Commission is being asked to consider a request from Max Steining, Inc. to renew the existing Small-Scale Mineral Extraction Permit for its operation located along County Highway 42 and east of State Highway 52 in the southeastern portion of Rosemount. Small Scale Mineral Extraction is permitted in the City as an Interim Use Permit (IUP) within specified areas, and the permit for such uses expires after one year. The applicant applied for the initial mining permit IUP in the summer of 2018 and has been granted renewal of the permit extending it through 2023. The current request would extend the mining permit for an additional year through the end of 2024.

BACKGROUND

The applicant, Max Steining, Inc. (affiliated with the property owner County Road 42 Properties), owns a construction and excavation business in Eagan and received approval from the City in 2018 to

start a new mining operation next to the Danner Inc. mine along Highway 42. Over the last five years, the applicant has commenced mining activities in the northernmost portions of their Phase 1 mining area, constructed an access road for the mine, and installed a berm along the access road using topsoil from the active mining area. Because the mineral extraction use is closely tied to the applicant's primary business, there will be limited sales of materials to outside projects from the mine. The applicant has provided a detailed application packet for the mining renewal and has hired Sunde Engineering to help prepare plans for the site and to provide information as required under the City's mineral extraction ordinance.

Since starting mining operations on the property in the summer of 2018, the applicant has indicated that the approximately 185,800 tons of material has been removed from the site, all of which were mined from the northern portion of the Phase 1 mining area. Roughly 5 acres of the 15 acres in Phase 1 have been stripped and mining has progressed across 3.9 acres of that stripped area, and approximately 51,000 tons of material was removed in 2023. The updated topographic survey for the operation shows the current elevation of the mining floor is at 840 feet, which is the maximum depth allowed under the mining permit. In addition to the mining, the applicant finished construction of the berm planned along the entrance road in early 2020. The berm was moved further to the east along the access road to provide a more direct and effective screen between the mining road and nearby residential structures. It was also completed to its planned height of 15 feet with an appropriate cover material to prevent erosion, dust, and soil loss.

For 2024, the applicant anticipates extracting 50,000 tons of material with an additional 1 acre to be stripped within Phase 1 on the site. As noted by the applicant, material is excavated and processed on site. Processing consists of crushing and screening with portable processing equipment set up upon the floor of the mine recessed from the surrounding grade to reduce noise and dust emissions. Material is stockpiled on the floor of the mine. The applicant also intends to perform recycling of concrete and asphalt material on the property, which will be crushed and blended with on-site materials to produce recycled aggregate blends. The recycling operations will likely not occur in 2023 and will commence once there is a sufficiently large enough mine floor area in which to work. The applicant will need to obtain approval by the Dakota County Environmental Management Department prior to the recycling operations. No haul back material was brought to the site in 2023, and no topsoil has been removed from the property (most of the stripped soil has been used to construct the berm).

ISSUE ANALYSIS

Aggregate mining is reviewed through an interim use permit, which is a Quasi-Judicial action. As such, the City has a set of standards and requirements for review. Generally, if the applications meet the ordinance requirements, they must be approved. The standards and requirements for this mineral extraction are detailed in Section 11-10-4 of the Zoning Ordinance and the attached Mineral Extraction permit.

The subject property is zoned AG – Agriculture and meets or exceeds the applicable performance standards for small scale mineral extraction. Small scale mineral extraction is listed as an interim use within the Agriculture district. The table below details the current land use, zoning, and future land use information for the surrounding properties. These properties are all currently zoned Agricultural and are located within the 2030 Metropolitan Urban Service Area (MUSA). The 2040 Future Land Use Map anticipates a mixture of low, medium, and high density residential on the applicant's parcel. Future

reclamation of the site will need to be performed before an impacted area may be developed for housing in accordance with the City's future land use plan.

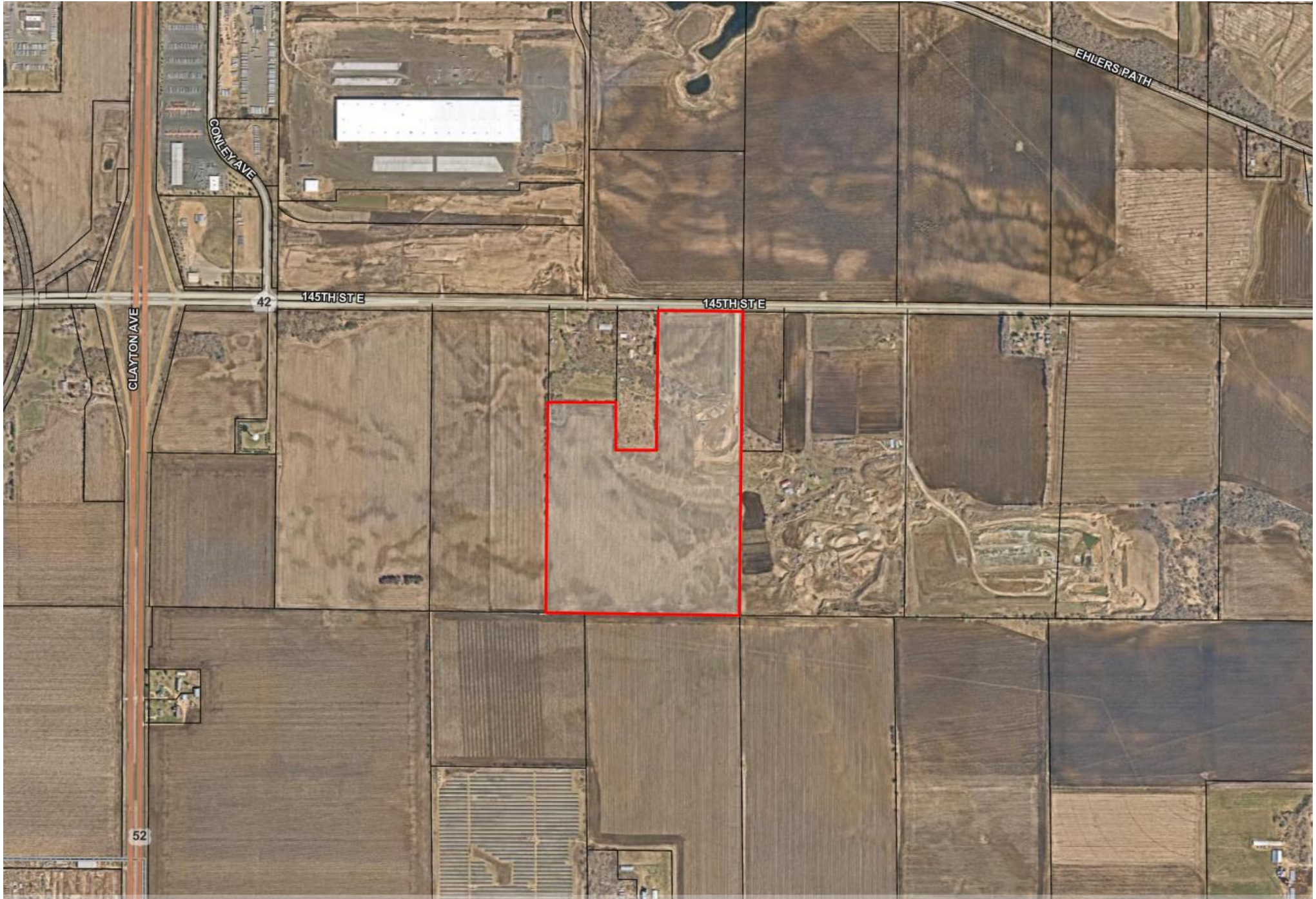
Surrounding Land Use and Zoning Information			
Direction	Current Land Use	Zoning	Guided Land Use
North	Agriculture	Agricultural	BP – Business Park
South	Agriculture	Agricultural	LDR – Low Density Residential
East	Agriculture/Mining	Agricultural	LDR, MDR, and HDR – Low, Medium, and High Density Residential
West	Agriculture	Agricultural	CC- Community Commercial LDR, MDR and HDR – Low, Medium, and High Density Residential

Access to the Steininger mine comes from County Road 42 via a gravel road along the eastern edge of the property. The applicant has secured the necessary access permits from Dakota County for the access road, and will need to continue to abide by the terms and conditions of this permit throughout the life of the mine. The permit application notes that haul routes within the city will continue to be County Road 42 to State Highway 52.

As a part of the annual review of all mineral extraction permits, staff performs an inspection of the site and consults with the Rosemount Police Department regarding any police activity. No ordinance or permit condition violations were apparent during the inspection, and ground cover has been established on all restored areas. Police records found no incidents at the subject property during 2023.

RECOMMENDATION

Staff recommends renewal of the Small Scale Mineral Extraction Permit for Max Steininger, Inc. for 2024 based upon a review of the information submitted by the applicant, the mineral extraction standards in Section 11-10-4 of the City Code, City Police records and the attached draft permit.



Mineral Extraction Permit
2024~~3~~ Conditions for Small Scale Mineral Extraction Permit
MAX STEININGER, INC.

- A Max Steinnger Inc., hereinafter referred to as the “Property Owner”, shall sign a written consent to these conditions binding itself and its successors or assigns to the conditions of said permit.
- B The property Owner shall comply with all terms of this permit as well as the standards for mineral extraction listed in Section 11-10-04 of the City Code.
- C This permit is granted for the area designated as Phase 1 (approximately 15 acres) on Exhibit A, Mineral Extraction Permit Mine Plan, which is attached hereto as an exhibit. Regrading and reclamation shall occur in the area designated Phase 1 on Exhibit A in accordance with the requirement of Section 11-10-4.4 of the City Code. Reclamation is not expected to occur in the 2024~~3~~ calendar year.
- D The term of the permit shall extend from the date approved by the City Council until December 31, 2024~~3~~ unless revoked prior to that for failure to comply with the permit requirements. An Annual Mining Permit fee shall be paid to the City of Rosemount.
- E All required permits from the State of Minnesota, County of Dakota and City of Rosemount (hereinafter "City") or any of their agencies shall be obtained and submitted to the City prior to the issuance of the permit. Failure by the Property Owner to comply with the terms and conditions of any of the permits required under this paragraph shall be grounds for the City to terminate said mining permit.
- F The final grading for the permit area shall be completed in accordance with the Final Reclamation Plan, attached as Exhibit B, or as approved by the City Engineer, and any other conditions that may be imposed by the City from time to time.
- G All gravel trucks and other mining related traffic shall enter and exit the mining area from County State Aid Highway 42. It shall be the Property Owner's responsibility to obtain any access permits or easements necessary for ingress and egress. The location of the accesses and/or easements for ingress and egress shall be subject to approval by the City, as well as the County Highway Department if any changes occur relative to the mining process.
- H A plan for dust control shall be implemented and subject to approval by the City. The Property Owner shall clean dirt and debris from extraction or hauling operations related to the Mineral Extraction Permit from streets. After the Property Owner has received 24-hour verbal notice, the City may complete or contract to complete the clean-up at the Property Owner’s expense. In the event of a traffic hazard as determined by the Public Works Director or Rosemount Police Department, the City may proceed immediately to complete or contract cleanup at Property Owner’s expense without prior notification.
- I The surface water drainage of the mining area shall not be altered so as to interfere, contaminate, or otherwise affect the natural drainage of adjacent property.
- J No topsoil shall be removed from the site and the Property Owner shall take necessary measures to prevent erosion of the stockpiled topsoil. The location of the stockpiled topsoil shall be as indicated on Exhibit A.

- K Any costs incurred now or in the future in changing the location of existing public or private utilities including but not limited to pipelines, transmission structures and sewer infrastructure located within the permit area shall be the sole obligation and expense of the Property Owner.
- L All costs of processing the permit, including but not limited to planning fees, engineering fees and legal fees, shall be paid by the Property Owner prior to the issuance of the permit. The Property Owner shall reimburse the City for the cost of periodic inspections by the City Engineer or any other City employee for the purpose of insuring that conditions of the permit are being satisfied. The Property Owner agrees to reimburse the City for any other costs incurred as a result of the granting or enforcing of the permit.
- M The daily hours of operation for the mining area shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday, subject, however, to being changed by the City Council.
- N The Property Owner shall deposit with the Planning Department a surety bond or cash escrow in the amount of Seven Thousand Five Hundred Dollars per acre (\$7,500.00/acre) of active phase in favor of the City for the cost of restoration, regrading and/or revegetating land disturbed by mining activities and to assure compliance with these conditions by the Property Owner. The required surety bonds must be:
- (1) With good and sufficient surety by a surety company authorized to do business in the State of Minnesota with the right of the surety company to cancel the same only upon at least thirty (30) days written notice to the permit holder and the City.
 - (2) Satisfactory to the City Attorney in form and substance.
 - (3) Conditioned that the Property Owner will faithfully comply with all the terms, conditions and requirements of the permit; all rules, regulations and requirements pursuant to the permit and as required by the City and all reasonable requirements of the City Engineer, or any other City officials.
 - (4) Conditioned that the Property Owner will secure the City and its officers harmless against any and all claims, or for which the City, the Council or any City officer may be made liable by reason of any accident or injury to persons or property through the fault of the Property Owner.
 - (5) The surety bond or cash escrow shall remain in effect from December 31, 202~~32~~ to July 31, 202~~54~~.

Upon thirty (30) days' notice to the permit holder and surety company, the City may reduce or increase the amount of the bond or cash escrow during the term of this permit in order to insure that the City is adequately protected.

- O. The Property Owner shall furnish a certificate of comprehensive general liability insurance issued by insurers duly licensed within the State of Minnesota in an amount of at least Five Hundred Thousand and no/100 (\$500,000.00) Dollars for injury or death of any one person in any one occurrence, bodily injury liability in an amount of at least One Million Five Hundred Thousand and no/100 (\$1,500,000.00) Dollars and property damage liability in an amount of at least Two Hundred Fifty Thousand and no/100 (\$250,000.00) Dollars arising out of any one occurrence. The policy of insurance shall name the City as an additional insured and shall remain in effect from December 31, 202~~32~~ to July 31, 202~~54~~.
- P. The storage of equipment (unrelated to the sand and gravel mining and processing), manure, construction debris, or hazardous materials of any kind shall not be permitted on site. The placement of construction debris, manure, or hazardous materials within the pit as fill shall be strictly prohibited. The placement of asphalt in any form shall also be prohibited unless specifically approved by the City as part of the aggregate and concrete recycling activities.
- Q. No processing or mixing of materials shall occur on the site, except as approved by the Dakota County Environmental Management Department as incidental to a sand and gravel mining operation. Any such activities will be enclosed with snow or cyclone fencing or as approved by City staff. Construction of any

ponding areas, wash plants or other processing or equipment brought to the site shall require additional site and grading plan information subject to review and approval of the City Engineer.

- R. The Property Owner shall hold the City harmless from all claims or causes of action that may result from the granting of the permit. The Property Owner shall indemnify the City for all costs, damages or expenses, including but not limited to attorney's fees that the City may pay or incur in consequence of such claims.
- S. The Property Owner shall comply with such other requirements of the City Council as it shall from time to time deem proper and necessary for the protection of the citizens and general welfare of the community.
- T. Complete mining and reclamation is required in all phases before any additional mining is authorized. Modifications or expansion of the mining areas must be approved in writing to the City. Property Owner shall submit to the City semiannually a written report indicating the amount of material extracted from the site for the prior six-month period.
- U. The Property Owner shall incorporate best management practices for controlling erosion and storm water runoff as specified by the Minnesota Pollution Control Agency and the United States Environmental Protection Agency.
- V. Reclamation shall include the replacement of the entire stockpile of topsoil on the mined area, reseeding and mulching necessary to re-establish vegetative cover for permanent slope stabilization and erosion control. The minimum depth of topsoil shall not be less than two inches after reclamation. No restored slopes may exceed a gradient of 25% or four to 1 (4:1).
- W. The Property Owner must show how materials stockpiled for recycling will be processed and inform the City of all stockpiled materials. No stockpiles shall exceed elevation of the grades adjacent to the mine (the height of the pit wall).
- X. The Property Owner may not assign this permit without written approval of the City. The Property Owner will be responsible for all requirements of this permit and all City ordinances on the licensed premises for the permit period unless the Property Owner gives sixty (60) days prior written notice to the City of termination and surrenders the permit to the City. The Property Owner shall identify all Operators prior to their commencement of mineral extraction-related activities in the pit area. The City shall have the authority to cause all mineral extraction activities to cease at any time there is an apparent breach of the terms of this Permit.
- Y. The Property Owner shall install and maintain a "stock" gate (or equivalent) at the entrance to the property where the mining operation is located. The gate must be secured at 7:00 p.m. and at any time the pit is not in use.
- Z. There shall be no "haul-back" of materials from any other property or job site that would be imported to the property for fill or other purposes other than incidental concrete recycling as referred to in paragraphs Q and W; topsoil imported for the purpose of re-establishing turf as accepted by the City; and earthen fill materials from projects that further meets the requirements of testing in documents by American Engineering Testing, Inc. (or other City approved geotechnical testing firm), and which is used to replace sand and gravel mined below approved finish grades.
- AA. Max Steining, Inc. shall submit semi-annually to the City documentation of the American Engineering Testing, Inc. (or other City approved geotechnical testing firm) environmental and geotechnical testing

with documentation verifying the source and quantity of any "haul-back" material. These reports shall be provided by May 15th and November 15th of each year.

BB. Max Stieninger, Inc. shall submit an incidence report to the City within three days of any testing that fails for contamination or hazardous materials, or will not produce a normal moisture-density relationship for compaction.

CC. Max Steinger, Inc. shall compact the entire reclamation site to a minimum compaction of 95% of maximum dry density.

DD. Mining to the elevation of 840 feet above mean sea level provided that the site is reclaimed to the elevation shown on Exhibit A with haul-back, clean-fill material. In no instance shall mining occur in the groundwater aquifer.

EE. Blasting or the use of explosives is prohibited.

FF. Truck operators within the pit area shall not engage in practices involving slamming tailgates, vibrating boxes, using of "jake" or engine brakes (except in emergency situations) or other such activities that result in excessive noise.

GG. The City of Rosemount shall have the ability to collect independent soil and water samples.

HH. The operator shall install and maintain "No Trespassing" signs consistent with the standards outlined in Minnesota State Statute 609.605.

Max Steinger, Inc., Property Owner, hereby consents and agrees to the foregoing conditions of said mining permit.

IN WITNESS WHEREOF, the Property Owner has hereunto set his hand this ____ day of _____, 20____.

MAX STEINGER, INC.

By: _____

Its: _____

STATE OF MINNESOTA)
) §
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, on behalf of Max Stieninger, Inc., Property Owner.

Notary Public

November 2023

Max Steininger, Inc.

Application

for

**2024 ANNUAL PERMIT REISSUANCE
SMALL SCALE MINERAL EXTRACTION**

City of Rosemount, Minnesota



*Sunde Engineering, PLLC
10830 Nesbitt Avenue South
Bloomington, MN 55437
952 881-3344*

MAX STEININGER, INC.
APPLICATION FOR
2024 ANNUAL PERMIT REISSUANCE
SMALL SCALE MINERAL EXTRACTION
ROSEMOUNT, MINNESOTA

1.0 INTRODUCTION

Max Steinger, Inc. (Steinger) operates a Small Scale Mineral Extraction operation on a parcel of property located in the City of Rosemount (Site). The Site was originally permitted in 2018 and requires annual renewals. This annual renewal application is for 2024 operations.

The Site encompasses 79 acres, of which 38 acres will be mined. The property is located just south of CSAH 42 and approximately three-quarters of a mile East of US Highway 52. The Site is zoned Agricultural (AG) and is located within the Small Scale Mineral Extraction Overlay District. Figure 1: *USGS Quad Map Excerpt* Shows the location of the Site with respect to the surrounding area. Surrounding land use includes mining operations to the west, agricultural uses to the north south and east, and a golf course to the northwest.

2.0 ANNUAL REPORT

As required the applicant shall annually submit to the council written estimates of:

- 2.1 The total area of the mineral extraction operation (expressed in acres) to be actively mined during the forthcoming year;

The active mine area in 2024 will be approximately 5.25 acres and will include approximately 3.9 acres of current active mine area plus 1.25 acres of additional area to be mined in 2023.

- 2.2 The area under the permit (expressed in acres) which will not be actively mined during the forthcoming year.

The remaining area within Phase 1 which will not be mined in 2024 is approximately 9.5 acres.

- 2.3 Security Bond:

Steinger will post a reclamation bond equal to \$7,500 /acre of open mine area in a form acceptable to the City, (cash escrow or letter of credit) in an amount determined by the council. The security shall remain in full force and effect for a minimum period of one year after expiration of the extraction permit to guarantee the required reclamation as well as the other requirements herein provided. The reclamation bond may be adjusted on an annual basis to reflect the amount of active mine area open and unreclaimed and the amount of mine area reclaimed. The total active mine area open and unreclaimed at the end of 2023 is 4.2 acres and is anticipated to be 5.25 acres by the end of 2024.

3.0 2023 MINE PLAN NARRATIVE

Five acres have been previously stripped, and mining has progressed across approximately 3.9 acres within the northern portion of Phase 1. Approximately 51,000 tons of material were removed in 2023.

Material from the original stripping operation was used to complete the berm along the access road which was seeded and mulched to establish vegetation upon completion. Instead of the berm extending along CSAH 42, the topsoil stockpile located adjacent to the active mining operation was reshaped to provide screening of the operation from CSAH 42. Mining is setback from the county road by over 700 feet. The remainder of the Site is farmed with no buildings or structures located on Site. During the 2024 mining season, it is anticipated that one additional acre will be stripped and that approximately 50,000 tons of material will be mined within Phase 1.

The County is monitoring access on County Road 42 and has reserved the right to require a turn lane should the need arise.

In accordance with the permit, the operator has not removed any topsoil from the site. Topsoil is stockpiled on site and will be used to perform site reclamation. No clean haul back reclamation fill material has been brought to the site to date. Clean material from various job sites is expected to be hauled back to the site in the future and used in reclamation backfilling and sloping.

4.0 APPLICATION FORM

4.1 Legal description:

See Attachment 1

4.2 Name, address, phone number of the applicant, landowner, and person in charge of the mining operation:

Greg Steininger
Max Steininger, Inc.
3080 Lexington Avenue South
Eagan, MN 55121
651 454-6620

4.3 Names and addresses of adjacent landowners within one quarter mile of the Site:

There are nine property owners located within one-quarter mile of the Site. A list of their names and addresses obtained from Dakota County GIS tax records is provided in Attachment 2.

4.4 The purpose of the proposed excavation:

The mining operation supplies material predominantly for use in the operator's own construction projects with limited sales to outside parties.

- 4.5 The estimated time required to complete the proposed excavation and rehabilitation:
The estimated life of the excavation and reclamation operation is twenty years. The life of the Site will depend upon the market demand and general development and construction activity in the area. 2019 was the first full year of operation. To date approximately 185,800 tons of material have been removed from the Site.
- 4.6 The names of the highways, streets, or other public roadways within the city upon which the material shall be transported:

Material is hauled from the Site accessing CSAH 42 and then west to US 52 as illustrated on Figure 2, Haul Routes. Some local jobs may result in variations to this general haul route.

5.0 SITE ANALYSIS

Mine operations began with the construction of the Site access road. Five acres have been stripped as of November 2023. Construction of the screening berm along the access road has been completed and the berm has been seeded. Instead of a berm along CSAH 42, the berm wraps along the base of Phase 1 to screen operations from the highway. (There is over 700 feet of setback between highway and mining limits). The berm has been seeded and mulched.

Mining has progressed across approximately 4.2 acres of the northern portion of Phase 1. Approximately 185,800 tons of material have been removed from the site to date. During the 2024 mining season, it is anticipated that an additional one acre will be stripped, and an additional 50,000 tons of material will be mined. Mining will continue to progress through Phase 1. The remainder of the site is farmed with no buildings or structures. Surrounding land uses are predominantly agricultural and rural residential, a golf course to the northwest, and active mining operations to the east. Figure 1, USGS Quad Map Excerpt, illustrates features of the Site and surrounding land. Sheet C1, Existing Conditions, illustrates site features in more detail.

The Site is not located within a floodplain.¹ There are no watercourses or wetlands located on the Site according to the National Wetland Inventory. The northern portion of the Site borders CSAH 42. The topography of the Site slopes to the South and ranges in elevation from 852 feet above mean sea level (msl) near CSAH 42 to 914 feet above msl at the southern property line. Slopes vary from 1% to 25%. There is a 25 foot rise in elevation that runs northwest to southeast through the northern portion of the property. The slope is vegetated with brush and grass. The mining activity will occur into the upper terrace progressing into the central and southern portion of the Site.

There are two residential properties located to the northwest of the proposed mine limits. Mining areas have been planned to have the least impact on the nearest residential land uses. The air photograph inset below illustrates a view of the Site. Aerial photograph is from Minnesota Geospatial Commons dated 9-10-2021.

¹ Federal Emergency Management's Flood Insurance Rate Map for Dakota County, MN 270 37C 0235E retrieved online at <https://msc.fema.gov/portal/search?AddressQuery=Rosemount%20MN#searchresultsanchor>

Inset 1: Minnesota Geospatial Commons Aerial Photograph



The elevation of the water table beneath the Site is illustrated on Sheet C1, Existing Conditions. The water table varies from 795 feet above msl in the northeast corner of the Site to just over 810 feet above msl in the southwest corner of the Site. The direction of groundwater flow is to the northeast. Water table elevation information is from area well records and information contained in the Dakota County Geologic Atlas. All mining activity will occur above the water table.

6.0 Mine Operations Plan:

6.1 Site Preparation:

An access road into the Site has been constructed. A screening berm is complete and has been seeded to establish vegetation.

6.2 Phasing:

The Site is mined in phases. Each phase is 15 acres or less. In accordance with the City of Rosemount Small Scale Mineral Extraction Code, the 2023 Mineral Extraction Permit will be valid for Phase 1 only. An extraction permit for Phase 2 will not be issued until at least 70% of the Phase 1 has been reclaimed in accordance with an approved reclamation plan. Mining will proceed in a north to south direction through Phase 1.

6.3 Mining and Processing:

Material is excavated and processed on site. Processing consists of crushing and screening with portable processing equipment set up upon the floor of the mine recessed from the surrounding grade to reduce noise and dust emissions. Material is stockpiled on the floor of the mine. Recycling of concrete and asphalt will also take place on site. These materials will be crushed and blended with on-site materials to produce recycled aggregate blends. Clean soil fill may be backhauled to the site from the operator's construction jobs and used in site reclamation.

6.4 Setbacks:

A minimum 30-foot setback is maintained between the mining excavation and all property lines, except the eastern property line where there is a common mining border. The setback from CSAH 42 will be over 700 feet. Processing equipment will be setback over a minimum of 1,000 feet from any residential structure.

6.5 Fencing:

The operator has installed safety fencing along the southerly top of the excavation. No other fencing is proposed. The Site entrance is secured with a locking gate.

6.6 Appearance and Screening:

All machinery will be kept operational. Abandoned machinery and any rubbish will be promptly removed from the mining area. Reclamation will be completed within three months of termination of mining activity. This includes the dismantling of all buildings and structures incidental to the mining operations.

7.0 OPERATING STANDARDS

7.1 Noise

The mine operates in compliance with all State noise standards. State standards have been established for daytime hours and nighttime hours. The Site will operate entirely within the daytime hours.

Table 1.1 Minnesota Noise Standards for Residential Land Uses

Daytime		Nighttime	
L50	L10	L50	L10
60 dBA	65 dBA	50 dBA	55 dBA

Measures will be taken at the Site to minimize noise emissions from the Site. These measures include screening berms, recessing mining and processing activities below the surrounding grade so the topography shields and absorbs sound energy reducing sound emissions. Maintenance of operating equipment and use of standard noise control equipment such as mufflers will also reduce sound levels at the Site.

7.2 Hours:

All excavation operations shall be conducted between 7:00 A.M. and 7:00 P.M., Monday through Saturday only.

7.3 Explosives:

No explosives will be used at the Site.

7.4 Fugitive Dust:

All practical means to reduce the amount of dust generated by excavation operations will be utilized. Fugitive dust will be minimized by recessed operations, spray bars on processing equipment, dust suppressants on internal haul roads, and the establishment of permanent vegetation on perimeter berms and reclaimed areas. Fugitive dust will not exceed air pollution standards established by the Minnesota Pollution Control Agency (MPCA). Processing equipment is subject to a MPCA air emissions general permit for non-metallic mineral mining which includes standards for fugitive dust emissions.

7.5 Water Pollution:

The Site operates under an MPCA General Stormwater Permit for Nonmetallic Mineral Mining. (General NPDES Permit) Under the terms of the General NPDES permit, the mining is conducted under a site specific stormwater pollution prevention plan (SWPPP). This plan includes industry best management practices for managing stormwater and preventing contamination of surface and groundwater. The majority of stormwater will be managed internally through infiltration. Fuel storage will be in accordance with MPCA regulations. The SWPPP also contain spill prevention, response and reporting measures. No waste products or processed residue, including untreated wash water shall be deposited in any public waters of the State of Minnesota.

7.6 Topsoil Preservation:

All topsoil shall be retained at the Site until the completion of mining and used for reclamation.

7.7 Excavation Slopes:

All excavation slopes other than the working face shall not exceed 1:1 (horizontal to vertical) unless a steeper slope is approved by the City. No excavation shall take place adjacent to a public roadway or waterway.

7.8 Equipment:

All equipment and machinery will be located within the mine and operated in a manner that minimizes dust, noise, and vibration. Power drives or power producing machines will be setback a minimum of one thousand feet from a residential structure. Fugitive dust will be controlled from internal haul roads and the access road using water or calcium chloride.

7.9 Processing:

Portable crushing and screening equipment will be brought to the site on a periodic basis to process material. A portable washplant may also be periodically operated at the site. A MDNR Water Appropriation permit is required prior to conducting any washing activity at the site. Sedimentation ponds used to clarify and recycle washwater back to the washplant will be constructed on the floor of the mine. Washwater will be recycled and not allowed to discharge off site.

8.0 CERTIFICATION

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.



Kirsten Pauly

Date November 15, 2023

Reg No. 21842

Attachment 1 – Legal Description

The East 100 acres of the Southeast Quarter (SE 1/4) of Section Thirty (30), Township One Hundred Fifteen (115), Range Eighteen (18), Dakota County, Minnesota.

EXCEPTING THEREFROM that part thereof described as follows:

Commencing at the Northeast corner of said Southeast Quarter (SE 1/4), thence West (assumed bearing) along the North line thereof a distance of 719.86 feet to the point of beginning of the land to be described; thence continuing West along said North line of the Southeast Quarter (SE 1/4) a distance of 350.00 feet; thence South a distance of 1244.60 feet; thence East a distance of 350.00 feet; thence North a distance of 1244.60 feet to the point of beginning,

ALSO EXCEPTING THEREFROM:

Commencing at the northeast corner of said Southeast Quarter (SE 1/4); thence west along the north line of said Southeast Quarter (SE 1/4) a distance of 1069.86 feet to the point of beginning of the land to be described; thence south at a right angle to said north line a distance of 840.21 feet; thence west at a right angle 577.71 feet to the west line of said East 100 acres of the Southeast Quarter (SE 1/4); thence north along the west line of said East 100 acres 840.21 feet to the northwest corner of said East 100 acres, and the north line of said Southeast Quarter (SE 1/4); thence east along said north line 579.17 feet to the point of beginning, Dakota County, Minnesota.

Attachment 2 – Property Owners Within One-Quarter Mile

GREAT RIVER ENERGY
12300 ELM CREEK BLVD
MAPLE GROVE, MN 55369

DANNER FAMILY LMTD PTNSHP
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SOUTH ST. PAUL, MN 55075

DONNA M TSTE REESE
161 SUMMERSET LN SE
HUTCHINSON, MN 55350

MONTGOMERY & ELIZABETH KNOLL
4322 145TH ST E
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HANS J ABRAHAMSEN
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INVER GROVE HEIGHTS, MN 55076

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RAYMOND J OSTERTAG
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SCANNELL PROPERTIES #527 LLC
% CONTROLLER
8801 RIVER CROSSING BLVD STE 300
INDIANAPOLIS, IN 46240

Figures and Plan Set

COATES QUADRANGLE
MINNESOTA-DAKOTA CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)
NE/4 FARMINGTON 15' QUADRANGLE

7473 IV SW
(ST. PAUL PARK)

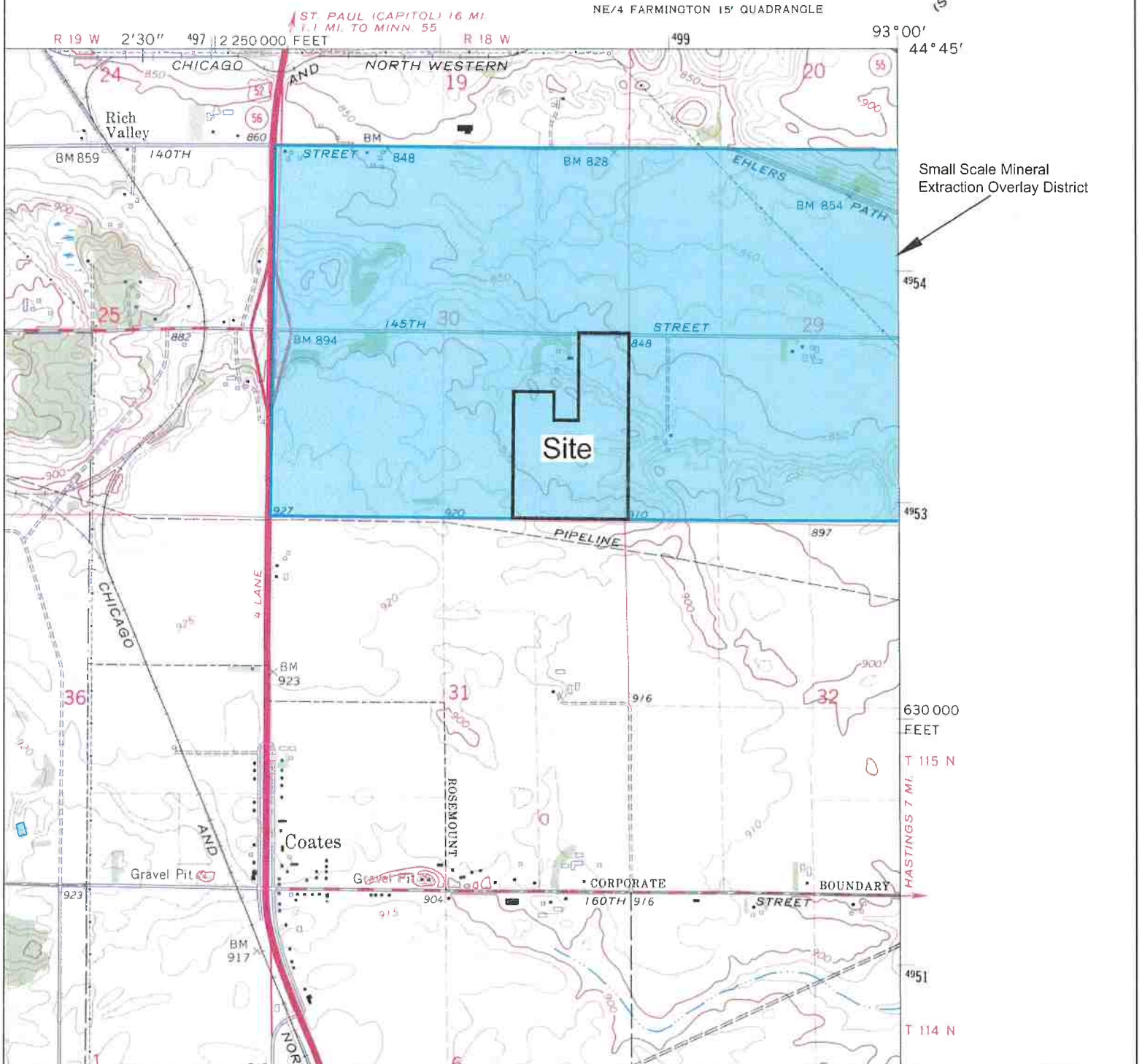


Figure 1
United States Geological Survey
Quad Map Excerpt



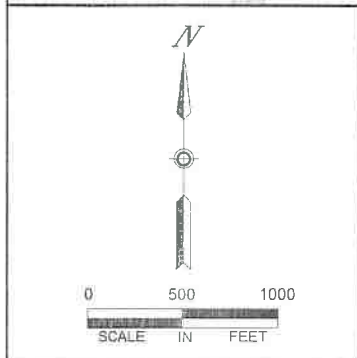
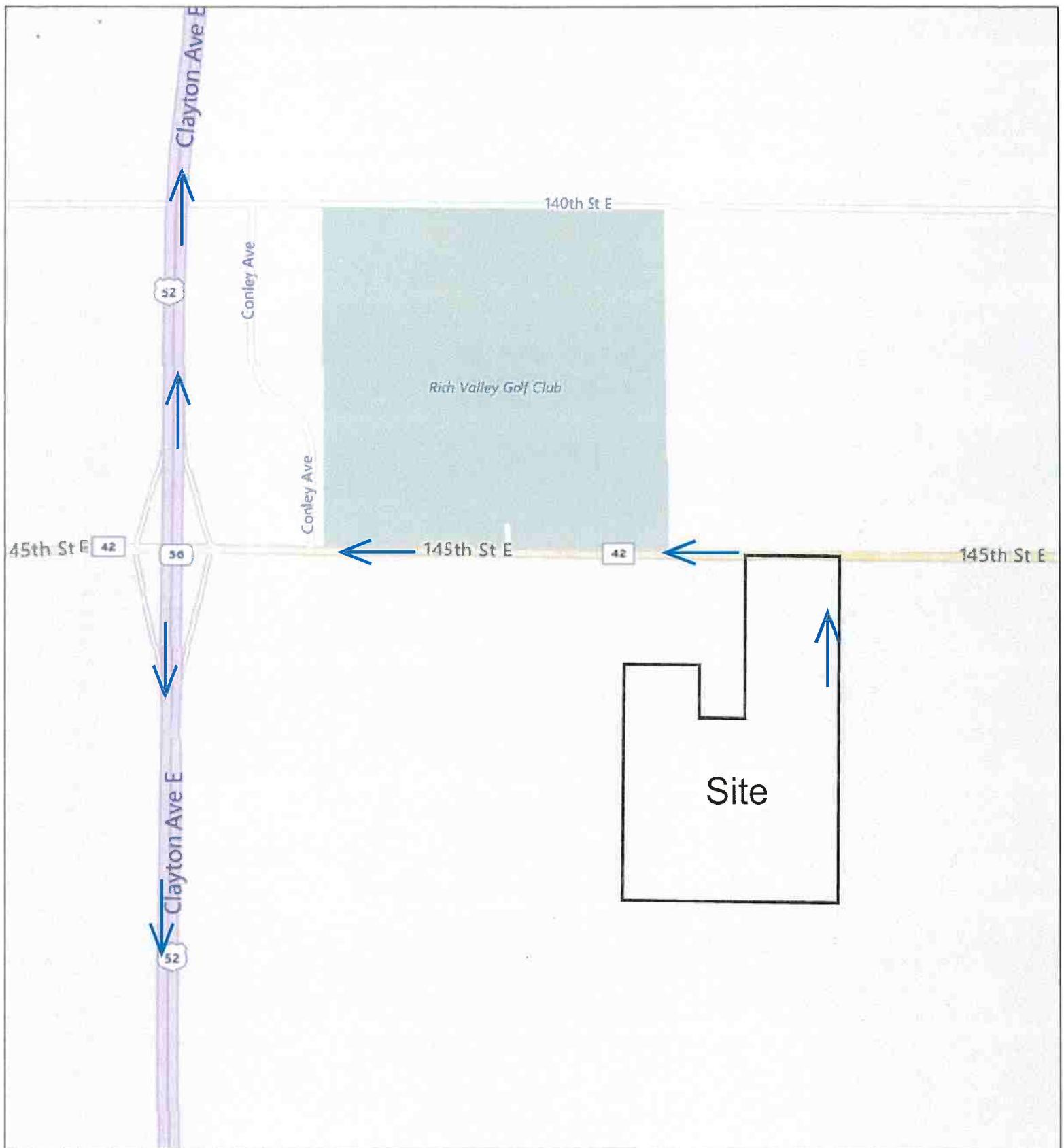


Figure 2
Haul Route



November 2023

Max Steininger, Inc.

Application

for

**2024 ANNUAL PERMIT REISSUANCE
SMALL SCALE MINERAL EXTRACTION**

City of Rosemount, Minnesota



*Sunde Engineering, PLLC
10830 Nesbitt Avenue South
Bloomington, MN 55437
952 881-3344*

MAX STEININGER, INC.
APPLICATION FOR
2024 ANNUAL PERMIT REISSUANCE
SMALL SCALE MINERAL EXTRACTION
ROSEMOUNT, MINNESOTA

1.0 INTRODUCTION

Max Steinger, Inc. (Steinger) operates a Small Scale Mineral Extraction operation on a parcel of property located in the City of Rosemount (Site). The Site was originally permitted in 2018 and requires annual renewals. This annual renewal application is for 2024 operations.

The Site encompasses 79 acres, of which 38 acres will be mined. The property is located just south of CSAH 42 and approximately three-quarters of a mile East of US Highway 52. The Site is zoned Agricultural (AG) and is located within the Small Scale Mineral Extraction Overlay District. Figure 1: *USGS Quad Map Excerpt* Shows the location of the Site with respect to the surrounding area. Surrounding land use includes mining operations to the west, agricultural uses to the north south and east, and a golf course to the northwest.

2.0 ANNUAL REPORT

As required the applicant shall annually submit to the council written estimates of:

- 2.1 The total area of the mineral extraction operation (expressed in acres) to be actively mined during the forthcoming year;

The active mine area in 2024 will be approximately 5.25 acres and will include approximately 3.9 acres of current active mine area plus 1.25 acres of additional area to be mined in 2023.

- 2.2 The area under the permit (expressed in acres) which will not be actively mined during the forthcoming year.

The remaining area within Phase 1 which will not be mined in 2024 is approximately 9.5 acres.

- 2.3 Security Bond:

Steinger will post a reclamation bond equal to \$7,500 /acre of open mine area in a form acceptable to the City, (cash escrow or letter of credit) in an amount determined by the council. The security shall remain in full force and effect for a minimum period of one year after expiration of the extraction permit to guarantee the required reclamation as well as the other requirements herein provided. The reclamation bond may be adjusted on an annual basis to reflect the amount of active mine area open and unreclaimed and the amount of mine area reclaimed. The total active mine area open and unreclaimed at the end of 2023 is 4.2 acres and is anticipated to be 5.25 acres by the end of 2024.

3.0 2023 MINE PLAN NARRATIVE

Five acres have been previously stripped, and mining has progressed across approximately 3.9 acres within the northern portion of Phase 1. Approximately 51,000 tons of material were removed in 2023.

Material from the original stripping operation was used to complete the berm along the access road which was seeded and mulched to establish vegetation upon completion. Instead of the berm extending along CSAH 42, the topsoil stockpile located adjacent to the active mining operation was reshaped to provide screening of the operation from CSAH 42. Mining is setback from the county road by over 700 feet. The remainder of the Site is farmed with no buildings or structures located on Site. During the 2024 mining season, it is anticipated that one additional acre will be stripped and that approximately 50,000 tons of material will be mined within Phase 1.

The County is monitoring access on County Road 42 and has reserved the right to require a turn lane should the need arise.

In accordance with the permit, the operator has not removed any topsoil from the site. Topsoil is stockpiled on site and will be used to perform site reclamation. No clean haul back reclamation fill material has been brought to the site to date. Clean material from various job sites is expected to be hauled back to the site in the future and used in reclamation backfilling and sloping.

4.0 APPLICATION FORM

4.1 Legal description:

See Attachment 1

4.2 Name, address, phone number of the applicant, landowner, and person in charge of the mining operation:

Greg Steininger
Max Steininger, Inc.
3080 Lexington Avenue South
Eagan, MN 55121
651 454-6620

4.3 Names and addresses of adjacent landowners within one quarter mile of the Site:

There are nine property owners located within one-quarter mile of the Site. A list of their names and addresses obtained from Dakota County GIS tax records is provided in Attachment 2.

4.4 The purpose of the proposed excavation:

The mining operation supplies material predominantly for use in the operator's own construction projects with limited sales to outside parties.

- 4.5 The estimated time required to complete the proposed excavation and rehabilitation:
The estimated life of the excavation and reclamation operation is twenty years. The life of the Site will depend upon the market demand and general development and construction activity in the area. 2019 was the first full year of operation. To date approximately 185,800 tons of material have been removed from the Site.
- 4.6 The names of the highways, streets, or other public roadways within the city upon which the material shall be transported:

Material is hauled from the Site accessing CSAH 42 and then west to US 52 as illustrated on Figure 2, Haul Routes. Some local jobs may result in variations to this general haul route.

5.0 SITE ANALYSIS

Mine operations began with the construction of the Site access road. Five acres have been stripped as of November 2023. Construction of the screening berm along the access road has been completed and the berm has been seeded. Instead of a berm along CSAH 42, the berm wraps along the base of Phase 1 to screen operations from the highway. (There is over 700 feet of setback between highway and mining limits). The berm has been seeded and mulched.

Mining has progressed across approximately 4.2 acres of the northern portion of Phase 1. Approximately 185,800 tons of material have been removed from the site to date. During the 2024 mining season, it is anticipated that an additional one acre will be stripped, and an additional 50,000 tons of material will be mined. Mining will continue to progress through Phase 1. The remainder of the site is farmed with no buildings or structures. Surrounding land uses are predominantly agricultural and rural residential, a golf course to the northwest, and active mining operations to the east. Figure 1, USGS Quad Map Excerpt, illustrates features of the Site and surrounding land. Sheet C1, Existing Conditions, illustrates site features in more detail.

The Site is not located within a floodplain.¹ There are no watercourses or wetlands located on the Site according to the National Wetland Inventory. The northern portion of the Site borders CSAH 42. The topography of the Site slopes to the South and ranges in elevation from 852 feet above mean sea level (msl) near CSAH 42 to 914 feet above msl at the southern property line. Slopes vary from 1% to 25%. There is a 25 foot rise in elevation that runs northwest to southeast through the northern portion of the property. The slope is vegetated with brush and grass. The mining activity will occur into the upper terrace progressing into the central and southern portion of the Site.

There are two residential properties located to the northwest of the proposed mine limits. Mining areas have been planned to have the least impact on the nearest residential land uses. The air photograph inset below illustrates a view of the Site. Aerial photograph is from Minnesota Geospatial Commons dated 9-10-2021.

¹ Federal Emergency Management's Flood Insurance Rate Map for Dakota County, MN 270 37C 0235E retrieved online at <https://msc.fema.gov/portal/search?AddressQuery=Rosemount%20MN#searchresultsanchor>

Inset 1: Minnesota Geospatial Commons Aerial Photograph



The elevation of the water table beneath the Site is illustrated on Sheet C1, Existing Conditions. The water table varies from 795 feet above msl in the northeast corner of the Site to just over 810 feet above msl in the southwest corner of the Site. The direction of groundwater flow is to the northeast. Water table elevation information is from area well records and information contained in the Dakota County Geologic Atlas. All mining activity will occur above the water table.

6.0 Mine Operations Plan:

6.1 Site Preparation:

An access road into the Site has been constructed. A screening berm is complete and has been seeded to establish vegetation.

6.2 Phasing:

The Site is mined in phases. Each phase is 15 acres or less. In accordance with the City of Rosemount Small Scale Mineral Extraction Code, the 2023 Mineral Extraction Permit will be valid for Phase 1 only. An extraction permit for Phase 2 will not be issued until at least 70% of the Phase 1 has been reclaimed in accordance with an approved reclamation plan. Mining will proceed in a north to south direction through Phase 1.

6.3 Mining and Processing:

Material is excavated and processed on site. Processing consists of crushing and screening with portable processing equipment set up upon the floor of the mine recessed from the surrounding grade to reduce noise and dust emissions. Material is stockpiled on the floor of the mine. Recycling of concrete and asphalt will also take place on site. These materials will be crushed and blended with on-site materials to produce recycled aggregate blends. Clean soil fill may be backhauled to the site from the operator's construction jobs and used in site reclamation.

6.4 Setbacks:

A minimum 30-foot setback is maintained between the mining excavation and all property lines, except the eastern property line where there is a common mining border. The setback from CSAH 42 will be over 700 feet. Processing equipment will be setback over a minimum of 1,000 feet from any residential structure.

6.5 Fencing:

The operator has installed safety fencing along the southerly top of the excavation. No other fencing is proposed. The Site entrance is secured with a locking gate.

6.6 Appearance and Screening:

All machinery will be kept operational. Abandoned machinery and any rubbish will be promptly removed from the mining area. Reclamation will be completed within three months of termination of mining activity. This includes the dismantling of all buildings and structures incidental to the mining operations.

7.0 OPERATING STANDARDS

7.1 Noise

The mine operates in compliance with all State noise standards. State standards have been established for daytime hours and nighttime hours. The Site will operate entirely within the daytime hours.

Table 1.1 Minnesota Noise Standards for Residential Land Uses

Daytime		Nighttime	
L50	L10	L50	L10
60 dBA	65 dBA	50 dBA	55 dBA

Measures will be taken at the Site to minimize noise emissions from the Site. These measures include screening berms, recessing mining and processing activities below the surrounding grade so the topography shields and absorbs sound energy reducing sound emissions. Maintenance of operating equipment and use of standard noise control equipment such as mufflers will also reduce sound levels at the Site.

7.2 Hours:

All excavation operations shall be conducted between 7:00 A.M. and 7:00 P.M., Monday through Saturday only.

7.3 Explosives:

No explosives will be used at the Site.

7.4 Fugitive Dust:

All practical means to reduce the amount of dust generated by excavation operations will be utilized. Fugitive dust will be minimized by recessed operations, spray bars on processing equipment, dust suppressants on internal haul roads, and the establishment of permanent vegetation on perimeter berms and reclaimed areas. Fugitive dust will not exceed air pollution standards established by the Minnesota Pollution Control Agency (MPCA). Processing equipment is subject to a MPCA air emissions general permit for non-metallic mineral mining which includes standards for fugitive dust emissions.

7.5 Water Pollution:

The Site operates under an MPCA General Stormwater Permit for Nonmetallic Mineral Mining. (General NPDES Permit) Under the terms of the General NPDES permit, the mining is conducted under a site specific stormwater pollution prevention plan (SWPPP). This plan includes industry best management practices for managing stormwater and preventing contamination of surface and groundwater. The majority of stormwater will be managed internally through infiltration. Fuel storage will be in accordance with MPCA regulations. The SWPPP also contain spill prevention, response and reporting measures. No waste products or processed residue, including untreated wash water shall be deposited in any public waters of the State of Minnesota.

7.6 Topsoil Preservation:

All topsoil shall be retained at the Site until the completion of mining and used for reclamation.

7.7 Excavation Slopes:

All excavation slopes other than the working face shall not exceed 1:1 (horizontal to vertical) unless a steeper slope is approved by the City. No excavation shall take place adjacent to a public roadway or waterway.

7.8 Equipment:

All equipment and machinery will be located within the mine and operated in a manner that minimizes dust, noise, and vibration. Power drives or power producing machines will be setback a minimum of one thousand feet from a residential structure. Fugitive dust will be controlled from internal haul roads and the access road using water or calcium chloride.

7.9 Processing:

Portable crushing and screening equipment will be brought to the site on a periodic basis to process material. A portable washplant may also be periodically operated at the site. A MDNR Water Appropriation permit is required prior to conducting any washing activity at the site. Sedimentation ponds used to clarify and recycle washwater back to the washplant will be constructed on the floor of the mine. Washwater will be recycled and not allowed to discharge off site.

8.0 CERTIFICATION

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.



Kirsten Pauly

Date November 15, 2023

Reg No. 21842

Attachment 1 – Legal Description

The East 100 acres of the Southeast Quarter (SE 1/4) of Section Thirty (30), Township One Hundred Fifteen (115), Range Eighteen (18), Dakota County, Minnesota.

EXCEPTING THEREFROM that part thereof described as follows:

Commencing at the Northeast corner of said Southeast Quarter (SE 1/4), thence West (assumed bearing) along the North line thereof a distance of 719.86 feet to the point of beginning of the land to be described; thence continuing West along said North line of the Southeast Quarter (SE 1/4) a distance of 350.00 feet; thence South a distance of 1244.60 feet; thence East a distance of 350.00 feet; thence North a distance of 1244.60 feet to the point of beginning,

ALSO EXCEPTING THEREFROM:

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MINNESOTA-DAKOTA CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)
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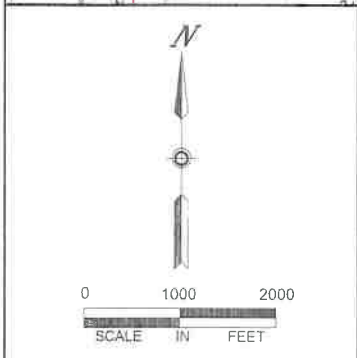
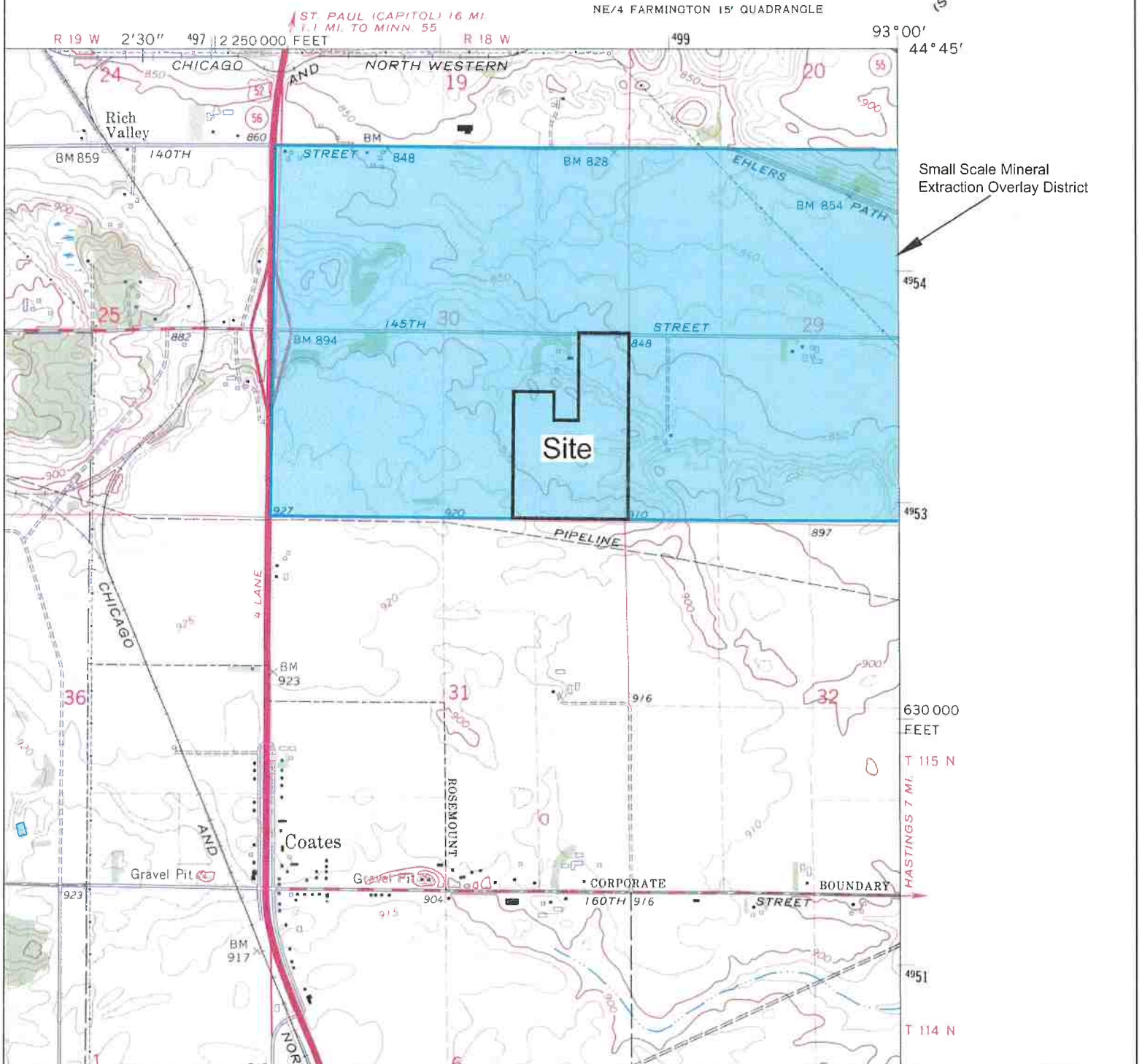


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United States Geological Survey
Quad Map Excerpt



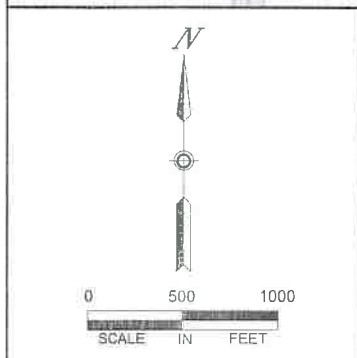
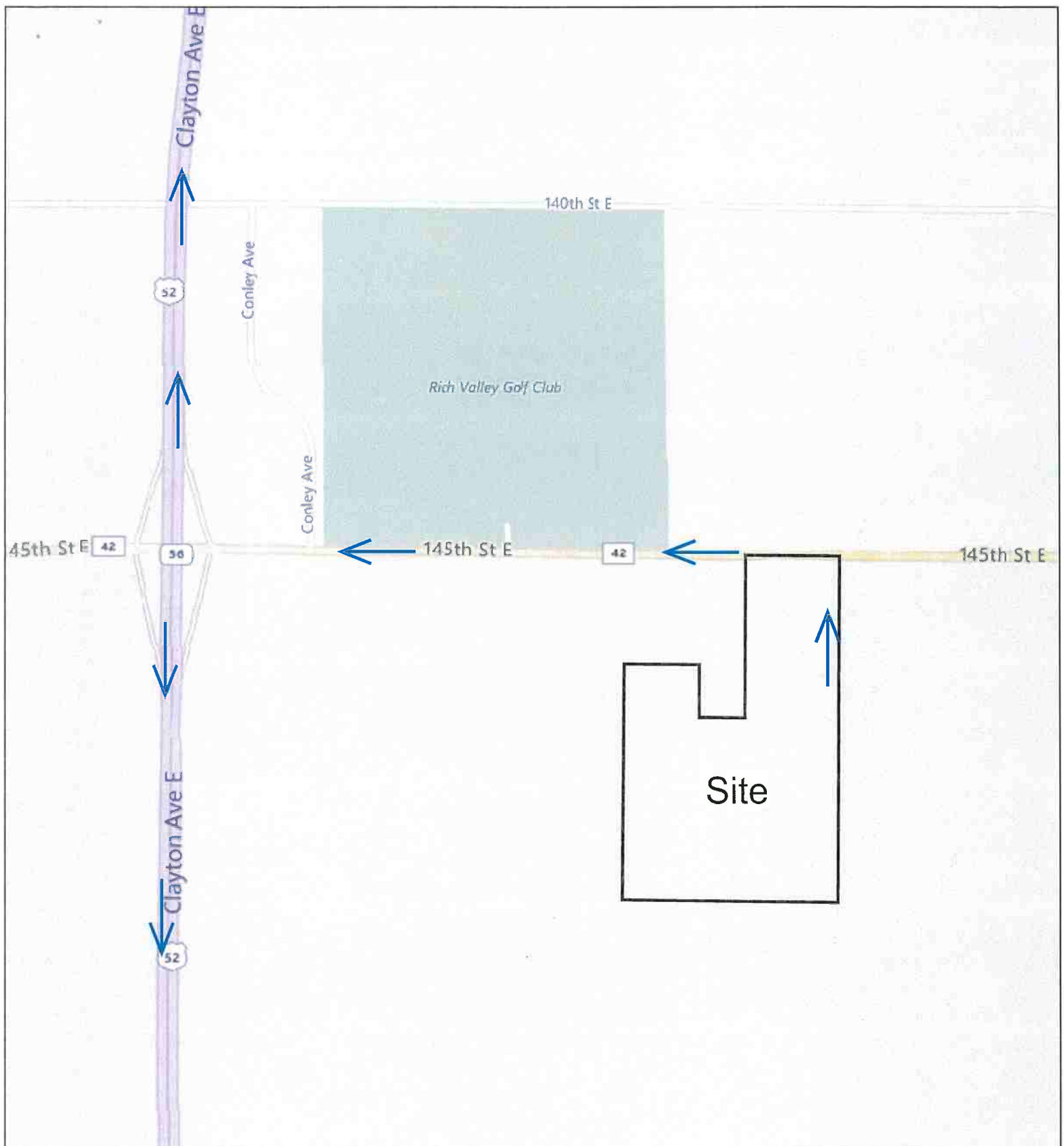


Figure 2
Haul Route



Max Steininger, Inc Aerial Images



September 2022



August 2023

Planning Commission Regular Meeting: December 18, 2023

Tentative City Council Meeting: January 16, 2024

AGENDA ITEM: Zoning Ordinance Text Amendment Request to Section 11-5-2: Supplementary Regulations to allow for horseshoe/looped shaped driveways within the RR-Rural Residential Zoning District.	AGENDA SECTION: PUBLIC HEARINGS
PREPARED BY: Julia Hogan, Planner	AGENDA NO. 6.f.
ATTACHMENTS: Applicants Narrative	APPROVED BY: AK, AN
RECOMMENDED ACTION: Motion to recommend the City Council approve the Text Amendment to the Zoning Ordinance Modifying Section 11-5-2: Supplementary Regulations to allow for horseshoe or looped driveways with no more than two curb cuts within the RR-Rural Residential Zoning District.	

BACKGROUND

SUMMARY

In 2022, City staff became aware that the property located at 12575 Biscayne Avenue had a second driveway connection to Biscayne Avenue, which per City Code only one curb cut is permitted per single family residential property. The City's seasonal code enforcement officer contacted the property owners regarding this code violation. The property owners explained that the new driveway and curb cut were temporary to bring in a large pool and materials for a new detached garage that was being built on site, but that the driveway would be closed with the completion of that construction. Staff sent a letter to the property owners on June 6, 2022, informing them that the City had not received a permit application for the driveway extension or the curb cut, and that the city would not have been able to approve a permit for the additional curb cut as it is not allowed per City Code. The letter also stated that the driveway must be brought into compliance with the zoning code as well as the ditch area where the additional curb cut was installed, would need to be restored to its original condition. The City's seasonal code enforcement officer met with the property owners onsite to discuss the code violation. The property owners wanted to explore options available to be able to keep both driveway accesses. A potential option that was discussed was to close the existing driveway and build a new one that would loop around and give access to the new garage on site. The property owners asked City staff if they could keep the temporary driveway until the completion of the detached garage, which staff agreed to, but staff did inform the property owners that after the completion of the detached garage that the driveway and ditch area would need to be restored to its original condition.

In June 2023, City staff were informed that the temporary secondary driveway had been paved and made permanent. Staff sent a letter to the property owners on June 21, 2023, stating that the City was aware that the secondary driveway was made permanent and that the driveway would need to be brought into compliance with the City code and the ditch area where the additional curb cut was located would need to be restored.

City staff were approached by the property owners about amending Section 11-5-2 of the City Code to allow for horseshoe/looped shaped driveways with no more than two curb cuts within the RR-Rural Residential zoning district. A majority of the Rural Residential zoned properties are located in the northwestern portion of the city. The Rural Residential district's purpose and intent is to provide for a large lot rural residential lifestyle which is separate from and not in conflict with commercial agricultural activities. The minimum lot requirements and setbacks for the RR zoning district are larger than the low-density residential districts. The minimum lot area allowed for RR zoned land is 2.5 acres for platted land and 5 acres for unplatted. With these properties being larger and setbacks being more restrictive, there is typically more driveway area established on these types of lots. Historically, there are a number of properties within this Rural Residential area of the city that have existing horseshoe/looped shaped driveways with two curb cuts to the roadway.

Staff has reviewed the narrative that was submitted by the property owners as well as other communities' ordinances as they relate to driveway/curb cut standards. With that review, staff is recommending an amendment to the City Code which would allow for horseshoe/looped driveways with no more than two curb cuts within the RR-Rural Residential Zoning District.

BACKGROUND

Legal Authority

Text amendments are considered legislative actions. In such cases, the City has a lot of discretion in its deliberations and the outcome of the request.

TEXT AMENDMENT

Staff reviewed the standards of driveways and as well as conditions associated with those standards in the Codes of other communities around the Twin Cities metropolitan area. Staff found that the surrounding cities of Eagan, Inver Grove Heights, Hastings, and Farmington did not specify the maximum number of curb cuts allowed per property. Lakeville was the only neighboring city that restricted the number of curb cuts, but they did allow for additional curb cuts if an administrative permit was approved. For an administrative permit to be approved the property would have to follow the criteria of the property having the minimum width of 125 feet and no access allowed to collector or arterial street as designated in the transportation plan where there is at least one other existing access to the property.

Staff also reviewed the Codes of Chaska, Bloomington, Edina, Roseville, and Lino Lakes. The cities of Bloomington and Edina also allowed for two curb cuts per property, but with standards. Edina's standards included a requirement of a minimum distance between the two driveways, minimum lot width, and number of curb cuts allowed on collector streets.

Below is the proposed amendment to 11-5-2: Supplementary Regulations that was presented by the applicant.

Note:

(3) Number Of Curb Cuts: Only one curb cut shall be permitted from a street, provided:

(A) The required driveway setback shall be a minimum of five feet (5') from interior lot lines, and the greater of the applicable front yard setback or the required sight triangle from the street side

yard property line on corner lots. In the event that a lot of record does not have sufficient width to meet the applicable driveway standards, the width and placement of the required driveway shall be subject to the approval of the city engineer.

(B) The proposed curb cut is in compliance with subsection [11-6-1G1](#) of this title.

(C) All district setback regulations for surface parking and impervious surface limitations are met. (Ord. B-158, 9-20-2005)

(D) A single-family lot of record in the Rural Residential zoning district may have a horseshoe or loop driveway, with no more than two curb cuts. The driveway must be constructed in accordance with the standards established by the City Engineer. The top inner arc of the drive shall be located a minimum of ten (10) feet from the right-of-way line or front property line, the owner must demonstrate that parked vehicles in said driveway shall not violate front yard setback ordinances, and the front yard area between the drive and the street must be landscaped with grass or other landscape material.

Below is what staff is recommending for the text amendment to Section 11-5-2: Supplementary Regulations of the City Code.

Note:

(3) Number Of Curb Cuts: Only one curb cut shall be permitted from a street, provided:

(A) The required driveway setback shall be a minimum of five feet (5') from interior lot lines, and the greater of the applicable front yard setback or the required sight triangle from the street side yard property line on corner lots. In the event that a lot of record does not have sufficient width to meet the applicable driveway standards, the width and placement of the required driveway shall be subject to the approval of the city engineer.

(B) The proposed curb cut is in compliance with subsection [11-6-1G1](#) of this title.

(C) All district setback regulations for surface parking and impervious surface limitations are met. (Ord. B-158, 9-20-2005)

(D) A single-family lot of record in the Rural Residential zoning district may have a horseshoe or loop driveway, with no more than two curb cuts, subject to the following criteria

1. The driveway must be constructed in accordance with the standards established by the City Engineer.
2. The property shall have a minimum width of two hundred feet (200').
3. The top inner arc of the drive shall be located a minimum of ten (10) feet from the front property line.
4. No access shall be allowed to a non-city road where there is at least (1) other existing access to the property.

RECOMMENDATION

This is the first time the ordinance is before the Planning Commission and has been advertised as a public hearing. Staff recommends holding the public hearing followed by discussion from the Commission. If Commissioners are comfortable with the proposed ordinance language, staff is recommending approval of the Amendment. If not, the Commissioners should provide staff direction and modifications to the draft ordinance would be made.

Larkin Hoffman

Larkin Hoffman

8300 Norman Center Drive
Suite 1000
Minneapolis, MN 55437-1060

General: 952-835-3800

Fax: 952-896-3333

Web: www.larkinhoffman.com

October 26, 2023

Julia Hogan, City Planner
City of Rosemount
2875 145th Street West
Rosemount, MN 55068

**BY U.S. MAIL
and BY EMAIL**

Re: 12575 Biscayne Avenue

Dear Ms. Hogan:

We represent Nick and Lori Geller. The Gellers live at 12575 Biscayne Avenue (the “Property”) within the City’s Rural Residential District (“RR District”). In the summer of 2022, the Gellers applied for and received a permit to install an outdoor pool at their home. After selecting a premanufactured steel pool, the Geller’s installed a class 5 crushed rock drive separate from their existing driveway. This drive provided the oversized truck and crane safe access to the pool site for install. The City undertook the repaving of Biscayne Avenue that summer and at that time the City’s contractor observed that the Geller’s had two curb cuts- one serving their original driveway and the second driveway designed to accommodate the ongoing work on their home.

On June 6, 2022, the Geller’s received a written notice from your office to eliminate the second curb cut and restore the area to its original condition. The Geller’s were directed to follow up with code enforcement staff to discuss the issue. Code enforcement staff shared with the Gellers that the zoning ordinance allows a single driveway with a single permanent curb cut and that the separate driveway would need to be removed after construction on the pool was complete.

On July 25, 2022, the Geller’s sent an email to Code Enforcement asking whether retaining a portion of the separate driveway, specifically the second curb cut, to provide drive-thru access to a proposed garage might be possible. The next day, after an onsite meeting with Code Enforcement staff where Dr. Geller discussed the purpose of retaining the driveway, Dr. Geller understood that because there were no complaints from surrounding property owners and because neighbors had similar driveways in place, the Geller’s would not be required to remove the additional curb cut and a single driveway could be installed. With this in mind, the Gellers proposed connecting the temporary curb cut and their existing driveway to construct the pull through garage.

The Geller’s submitted and were approved by the City for a building permit for a separate detached garage utilizing the new single-circular drive. Garage construction was completed this

spring, with final permits approved by the City inspector, citing concerns related to the driveway. The driveway and garage as built are shown here.

On June 21, 2023, the Gellers received a notice of violation and order to remove the new driveway citing “a blatant and deliberate violation of the City code.” The Gellers did not intend to violate the City code or to act in bad faith. To remedy this, the Gellers are seeking a zoning text amendment pursuant to Section 11-10-11 of the zoning ordinance. The proposed text amendment is designed to permit circular, horseshoe or u-shaped driveways within the City’s rural residential district subject to City design standards. We understand from our initial conversations with City Attorney Tietjen, that staff is supportive of this approach, and we appreciate staff’s willingness to employ a creative solution here.



A footnote to Section 11-5-2 of the City Code contains the requirement that single-family detached residential homes are limited to a single curb cut. We propose the following revision to this section of the zoning ordinance to allow for “horseshoe” driveways within the RR District only.

(3) Number Of Curb Cuts: Only one curb cut shall be permitted from a street, provided:

(A) The required driveway setback shall be a minimum of five feet (5') from interior lot lines, and the greater of the applicable front yard setback or the required sight triangle from the street side yard property line on corner lots. In the event that a lot of record does not have sufficient width to meet the applicable driveway standards, the width and placement of the required driveway shall be subject to the approval of the city engineer.

(B) The proposed curb cut is in compliance with subsection 11-6-1G1 of this title.

(C) All district setback regulations for surface parking and impervious surface limitations are met.

(D) A single-family lot of record in the Rural Residential zoning district may have a horseshoe or loop driveway, with no more than two curb cuts. The driveway must be constructed in accordance with the standards established by the city engineer. The top inner arc of the drive shall be located a minimum of ten (10) feet from the right of way line or front property line, the owner must demonstrate that parked vehicles in said driveway shall not violate front yard setback ordinances, and the front yard area between the drive and the street must be landscaped with grass or other landscape material.

Within approximately 1500 feet of the Property, there are five existing horseshoe driveways. We believe that these are legally non-conforming driveways installed prior to the code revisions that limited the number of curb cuts. The existence of similar driveways ensures that approval of this provision does not change the broader character or nature of the RR District. As proposed, the draft amendment allows for engineering review to ensure that such a driveway can be installed safely and subject to City stormwater and traffic management standards. There may be some lots within the RR District where these types of driveways would be inappropriate because of the amount of lot frontage available or proximity to intersections or other driveways. The proposed language provides for staff review of new driveways on a case-by-case basis through the City's established permitting process.

Providing for a secondary curb cut in this case does not create more traffic or create more intensity. In emerging suburban areas, property owners may seek a secondary curb cut to provide access to an accessory building that houses business trucks and trailers, thereby creating the potential for increased traffic. Rather, the draft text amendment allows for additional curb cuts but only in the case where there is a shared driveway. This is similar to the driveway and use restrictions found in Chaska, Bloomington, Edina, Lino Lakes, Roseville and others where horseshoe drives are permitted subject to city specific standards. Furthermore, allowing additional flexibility in driveway design does not limit the future redevelopment of large lot properties within the City's RR District as evidenced by the adoption of these standards within suburban cities with minimum lot sizes starting at 7,500 square feet.

One of the significant benefits of the layout permitted by the proposed code revision is that it allows for vehicles to "pull through" a driveway and eliminates the need for vehicles to back out onto the road. The City has previously created design flexibility for driveways within certain areas of the City, requiring turnaround areas for properties on certain streets listed in Code Section 11-6-1(G). Approving this amendment is consistent with the City's past practice of considering driveway flexibility in light of increased safety needs. Very specifically as applied to the Gellers, approval of this text amendment and final driveway plans will allow the Gellers to pull their boats and trailers through the driveway and will altogether eliminate the need to back out onto Biscayne Avenue.

The proposed text amendment allows for flexibility for property owners within the RR District, moderated by City engineering standards. Horseshoe driveways are commonly found within the RR District and approval of such driveways will not change the character of the District or limit its future development. For the Gellers, approval of the proposed text amendment will allow them to retain the significant investment they have made in creating safer access for their Property.

With regard to the proposed text amendment, please find the following enclosed:

- City of Rosemount Zoning Ordinance Application ("Application");
- Check in the amount of \$1,800.00 for the Application fee; and
- Check in the amount of \$750.00 for Legal Review Fees.

Julia Hogan, City Planner
City of Rosemount
October 26, 2023
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Please do not hesitate to contact me or the Gellers with any questions or recommended revisions to the draft ordinance.

Sincerely,



Megan C. Rogers, for
Larkin Hoffman

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cc: Mary Tietjen, City Attorney (by email - mtietjen@kennedy-graven.com)

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