

**CITY OF ST. AUGUSTA
COUNTY OF STEARNS
STATE OF MINNESOTA**

RESOLUTION NO 2024 - 08

**A RESOLUTION APPROVING AN INTERIM USE PERMIT FOR RICE
CONTRACTING**

WHEREAS, the City of St. August is a Minnesota Municipal Corporation, duly organized and authorized to conduct its affairs under the laws of the State of Minnesota; and

WHEREAS, Rice Contracting and Development Services, Inc. (the “Owner”) is the owner of certain real property (the “Subject Property”) located in the City of St. Augusta, State of Minnesota, legally described in Exhibit A; and

WHEREAS, Rice Contracting and Development Services, Inc. (the “Operator”) has applied for an interim use permit; and

WHEREAS, the Operator has an existing Interim Use Permit issued on May 2, 2023 by Resolution #2023-09 and has applied for a new Interim Use Permit (IUP) so as to allow the Operator to mine the Subject Property for aggregate as shown in the plans in Exhibit B (collectively the “Site Plans”); and

WHEREAS, the Planning Commission of the City did on February 26 and March 11, 2024 conduct a public hearing in relation to the Developer’s request for an interim use permit; and

WHEREAS, the Planning Commission of the City did on March 11, 2024 recommend approval of the interim use permit to the City Council, subject to certain conditions; and

WHEREAS, the City Council has considered the proposed application for an interim use permit and it makes the following ***findings of fact***:

Application

1. The Operator submitted an application (“Application”) for an interim use permit for an aggregate mine for the Subject Property.
2. The Subject Property consists of one parcel totaling approximately 143.13 acres.

3. The Subject Property is bordered on the west by agricultural, on the north by a residential property, on the east by another permitted mining operation and CR 136, and on the south by forested and agricultural property.

Review Process

1. Following appropriate published and mailed notice, a public hearing was held by the Planning Commission on February 26, 2024 and continued on March 11, 2024.
2. The Planning Commission, following receipt of public comments and deliberation on the proposed Application, recommended approval of the interim use at their March 11, 2024 meeting, subject to certain conditions.
3. Comments were received from the City Engineer contained within the memo from Moore Engineering memo dated M 2024. Comments were received from the City Planner contained within the memo from Collaborative Planning dated February 23, 2024. are incorporated herein (collectively referred to as the “Staff Memos”).
4. These findings and resolution are based upon the Staff Memos, all documents referenced in the staff report, the favorable recommendation of the City Planning Commission, and such additional information and documentation which is presented to the City Council on April 2, 2024 which will be the subject of a separate list prepared by the City Planner following the April 2, 2024 meeting.

Subject Property Zoning

1. The property is currently zoned A-1, General Agriculture.
2. Mining may be permitted as in interim use in the A-1 zoning district.
3. The Zoning Ordinance prescribes standards to be applied to mining operations, which have been reviewed by the City Engineer and City Planner and for which conditions in an Interim Use Permit can ensure compliance.

Traffic and Street Improvements

1. The Subject Property currently receives access from CR 136, and will continue to receive access from CR 136 with the updated IUP.

Surface Water Management

1. Various surface water management improvements are required to be constructed to support the mining operations of the Subject Property.

THEREFORE, BE IT RESOLVED, the interim use permit is approved subject to the following conditions:

1. The Findings set forth above are incorporated into this Resolution as though set out in full.
2. All comments contained within the memo from Moore Engineering memo dated February 23, 2024 and the memo from Collaborative Planning dated February 23, 2024 are incorporated herein (collectively referred to as the “Staff Memos”).
3. No construction shall be permitted on the Subject Property until updated Site Plans addressing the comments of the Staff Memos and the conditions of this Resolution are provided for review and approval by the City Engineer and City Planner. Following approval by the City Engineer and City Planner, these plans shall collectively be known as the “Approved Construction Plans.”
4. Not later than June 1, 2024, Operator shall provide a financial security in a letter of credit or some other instrument acceptable to the City Attorney in an amount determined necessary by the City Engineer to complete the reclamation of the site in accordance with the Approved Construction Plans.
5. Operator shall comply with all applicable Federal, State, and City ordinances, statutes, rules, regulations and permits including, but not limited to, those of the U.S. Army Corps of Engineers (“Corps”), Environmental Protection Agency (“EPA”), MPCA, MDH, DNR, and other regulations and standards applicable to the mining operation (“Regulatory Authorities”).
6. Once approved, the stormwater management feature and silt fence perimeter control must be implemented prior to commencement of mining activities.
7. Maintain the site is in compliance with City Ordinance 2017-05 for Stormwater Management.
8. While mining activities are performed at the site, stormwater BMPs and silt fence must be inspected and maintained in accordance with applicable permits. Documentation of inspections, stormwater monitoring, and maintenance activities shall be submitted to the City.
9. Once mining activities have stopped in an area, stabilization activities must be implemented immediately and completed within seven (7) days as required by applicable permits.
10. Documentation of final site reclamation shall be provided to the City when mining has been completed to show topsoil has been redistributed across the site and conditions have been restored for agricultural activities.
11. The IUP for aggregate mining and processing operations shall comply with the Approved Construction Plans which are all incorporated herein by reference. The Operator may

request modifications, as appropriate, to the Approved Construction Plans so long as such modifications continue to substantially comply with the Approved Construction Plans. All modification requests must be made to the City in writing. City staff shall have the authority and discretion to determine whether changes requested by the Operator substantially comply with the Approved Construction Plans, subject only to the City Council's final determination in the event the City Council disagrees with City Staff's determination. If the Approved Construction Plans vary from the written terms of this IUP, the terms that are the most conservative and restrictive shall control unless otherwise agreed to in writing by City staff.

12. All costs associated with remediation activities and development and operation of the site in compliance with the Approved Construction Plans shall also be the sole responsibility of the Operator.
13. Operator shall reimburse the City for all administrative, legal, planning, engineering and other professional costs incurred in the creation, administration, execution and approval and enforcement of this IUP prior to any Mining Activities commencing on the Subject Property. Further, Operator shall reimburse all reasonable engineering expenses incurred by the City in designing, approving, constructing, installing, and inspecting the road rights-of-way and other infrastructure improvements described in the Approved Construction Plans.
14. All unpaid IUP escrows owed to the City, if any exist, shall be paid prior to any Mining Activities commencing on the Subject Property. The Operator shall maintain a \$2,500 escrow to cover City staff and consultant time reviewing and responding to all inspections or monitoring of this IUP.
15. Any invoice from the City shall be paid by the Operator within 30 days of invoice date.
16. Operator shall identify in writing an officer within the company, together with his or her title and 24-hour contact information, for the City or for any Regulatory Authorities to contact regarding concerns regarding the operations of the mine, or this IUP. The assigned person shall respond to all non-emergency inquiries during normal business hours, within 48 hours of being notified of the inquiry. Inquiries deemed to be an emergency by the City shall be responded to immediately.
17. This IUP is issued specifically to Rice Contracting and Development Services, Inc.
18. Mining, as allowed by this IUP, shall be limited to dirt moving, berm construction, pond construction, overburden removal, stripping, filling, digging, dredging, crushing, screening, processing of mined aggregate as defined in MS § 298.75, subd. (a) , processing, stockpiling, crushing and washing aggregate; loading and on-site movement of materials, clearing, sodding, mobilization of equipment; and sale and removal of sand, aggregate, and recycle material (collectively the "Mining Operations"). Any activity not included in the prior sentence shall require an amendment to the IUP.

19. All signage on the Subject Property, if any, shall conform to the City Zoning Ordinance.
20. The Subject Property shall be maintained in a neat and orderly manner.
21. Hours of operation are limited to 7 a.m. to 7 p.m., Monday through Saturday.
22. Stockpiled topsoil shall remain on the property at all times in an amount sufficient to re-spread not less than six (6) inches across the entire area proposed to be mined on the Subject Property.
23. The Operator shall provide to Stearns County the appropriate quarterly reports and payments due for aggregate production tax "gravel tax" in accordance with MS §298.75. Any report and payment not received by Stearns County within fourteen days following the end of each quarter shall be subject to penalties pursuant to MS § 298.75, subd. 5.
24. Truck traffic shall comply with the haul route approved, which shall be to directly access CSAH 136.
25. All solid or hazardous waste generated on the Subject Property shall be properly disposed of per the requirements of Regulating Authorities. No dumping of solid or hazardous waste materials will be allowed at the Subject Property.
26. The Subject Property and Mining Operations shall be available for inspections by the City, within normal company working hours (7:00 A.M. to 7:00 P.M. Monday through Saturday). Any inspectors must identify themselves to an employee of the Operator before entering onto the Subject Property and must be escorted by an employee of the Operator at all times to ensure the safety of the inspectors. Inspectors shall receive hardhats, safety glasses and reflective vests from the Operator upon arrival.
27. This IUP does not authorize the production of asphalt or concrete on the Subject Property.
28. If any provision(s) of this IUP is determined to be unenforceable by a court of competent jurisdiction, the remaining provisions shall remain valid and enforceable.
29. Issuance of this IUP does not release the Operator, its successors and assigns, from any applicable obligation, duty, liability, or penalty imposed by law, statute, ordinance, rule, or regulation, except the obligation to obtain this IUP.
30. The issuance of this IUP does not create, and the City does not assume, any liability for damages to persons, property or the environment caused by the activities of the Operator, its successors and assigns, on the Subject Property, including any activities or operations undertaken pursuant to this IUP.

31. IUP Expiration:

This IUP shall expire at the earliest event listed below:

- A. This IUP is issued to a specific operator/owner. If the operator/owner changes from Rice Contracting and Development Services, Inc. this IUP shall become void.
- B. This IUP shall expire one (1) year from the date of issuance if the permit is not utilized.
- C. This IUP shall expire if the NPDES Permit expires, or is revoked or terminated for cause by the MPCA.
- D. This IUP shall expire if the IUP is revoked by the City for violations of the IUP's terms and conditions.
- E. This IUP shall expire at the conclusion or interruption of the Mining Operations for more than one year except that all reclamation conditions in this IUP shall be completed to the satisfaction of the City.
- F. **Term of Permit.** The IUP shall be issued for a term not to exceed 10 years. The operator may apply for a new IUP not more than eighteen (18) months prior to the expiration of the original IUP and shall supply all information required for a new IUP for mining as required by the ordinances in effect at the time that the extension is requested. The operator may, however, apply at any time for an amendment to an existing IUP in relation to any plan or condition modification except for the expiration date of the IUP.

Adopted by the City Council this 2nd day of April, 2024.

Michael G. Zenzen, Mayor

Attest:

William R. McCabe, City Administrator

C:\Users\cnash\Dropbox\St Augusta\Developments\IUP\Rice IUP 2024\Res IUP 2024 Rice draft1.doc
March 27, 2024 Draft 1

EXHIBIT A

The West $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 10, Township 123 North, Range 28 West of the 5th Principal Meridian, Stearns County, Minnesota

Exhibit B

Insert Plans

Memorandum

Date: February 23, 2024
Prepared By: John W. Morast, PE
Project: City of St. Augusta, MN
Rice Contracting Pit
Subject: Rice Contracting Mining Review

Following the application from an engineering perspective, the SWPPP plans dated 21JULY23, the follow up email for additional items needed including providing:

- Updated NPDES permit
- Property survey, including
 - o Existing topography
 - o Finished grade topography
 - o Delineated wetlands
- A SWPPP plan

Plans were reviewed and additional information, including SWPPP report, stormwater calculations and methods of excavation were requested and provided.

- The stormwater calculations and the site survey identify stormwater facilities, show existing and proposed final grading contours.
- The methodology of mining was from south to north, once the facilities are constructed.
- The General NPDEA construction permit has an estimated completion date of 05MAY2023, with no termination date shown
 - o **Provide MPCA documentation the permit is still current.**
- For MS4 permit requirements
 - o **Applicant shall comply with all applicable City stormwater requirements**
- Applicant has indicated they are a sand and gravel operation
 - o **Applicant shall comply with all MPCA Aggregate – sand and gravel requirements.**

Collaborative Planning, LLC

MEMORANDUM

To: Bill McCabe, City Administrator

From: Cindy Nash, City Planner

Date: February 23, 2024

Subj: Planning Review Comments – Rice Contracting IUP

I have reviewed the final plat and plans prepared by Schultz Engineering and Site Design dated July 21, 2023 and have the following comments.

1. Engineering comments will be included within a separate memo.
2. Please provide a legal description for the property.
3. Provide an existing conditions plan sheet (Plan A), Proposed Operations (Plan B), and End Use Plan (Plan C) that includes the items listed in Section 33 D.3. of the Zoning Ordinance.
4. Please provide a plan for dust and noise control per Section 33.D.4.
5. Per Section 33 D. 5., provide A narrative of the proposed mine operations including a complete description of the proposed operation to include the type of material to be excavated, mode of operation and processing, site dewatering, operational hours/days/months, estimate of the annual total volume of material to be removed, estimated site life or mine reserves in years, anticipated types of equipment to be used on site, mode of transportation of product, an estimate of the daily and peak daily number of vehicles accessing the facility, estimate of duration of the mining operation, phasing, and approximate acreage of each phase, a time schedule for reclamation and any other pertinent information to explain the request in detail.
6. The plans and narratives submitted should be sufficiently detailed to provide enough information to review the application for compliance with the Performance Standards in Section 33.E. of the Zoning Ordinance.

7. Mining operations shall not be conducted closer than one hundred (100) feet to any property line, or within one hundred feet (100) feet of the right-of-way line of any existing or platted street, road or highway, except that the City Council may permit excavating to be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway engineering plans.
8. Please verify that finished slopes do not exceed 20% grade.