

CITY OF ST. AUGUSTA
City Council Meeting
August 20, 2024
7:00 pm
AGENDA

1. Call Meeting to Order – Mayor Zenzen.
2. Planning Commission Recommendation – Knife River IUP
3. Adjourn

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

RESOLUTION NO 2024- [REDACTED]

A RESOLUTION APPROVING AN INTERIM USE PERMIT FOR KNIFE RIVER

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, James P. Honer and Janel A. Honer (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, Knife River Corporation – North Central (the "Operator") has on the Owner's behalf applied for an interim use permit; and

WHEREAS, the Operator has requested an interim use permit so as to allow the Operator to mine the Subject Property for aggregate as shown in the in the [REDACTED] plans prepared by [REDACTED] dated [REDACTED], 2024 (collectively the "Site Plans"); and

WHEREAS, the Planning Commission of the City did on August 5, 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 August [REDACTED], 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 three parcels totaling approximately 161 acres.
3. The Subject Property is bordered on the north and west by agricultural and residential lands as well as County Road 7, on the east by 28th Avenue and agricultural and residential lands, on the south by agricultural and residential lands.

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Review Process

1. Following appropriate published and mailed notice, a public hearing was held by the Planning Commission on August 5, 2024.
2. The Planning Commission, following receipt of public comments and deliberation on the proposed Application, recommended approval of the interim use at their August [REDACTED], 2024 meeting, subject to certain conditions.
3. These findings and resolution are based upon the Council Memo dated [REDACTED], 2024, the Environmental Assessment Worksheet (“EAW”) and all documents referenced in the memo and 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 [REDACTED], 2024 which will be the subject of a separate list prepared by the City Planner following the [REDACTED], 2024 meeting.

Subject Property Zoning

1. The property is currently zoned A-1, General Agriculture.
2. Mining may be permitted as an 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.

Environmental Assessment Worksheet

1. An Environmental Assessment Worksheet was prepared for the Subject Property, with the City Council adopting Resolution No. 22-09 making a negative declaration on the need for an Environmental Impact Statement on May 3, 2022. The Environmental Assessment Worksheet is incorporated herein by reference.

Traffic and Street Improvements

1. The Subject Property currently receives access from 28th Avenue.
2. During review of the EAW, it was determined that 28th Avenue is insufficient for hauling loads of the weight proposed, and additional expenses for the maintenance of 28th Avenue would have been required. In addition, to access 28th Avenue, the Operator may have needed to obtain permits to impact a wetland to construct a haul road on the Subject Property.

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3. In order to avoid the use of 28th Avenue and associated mitigation that would be necessary to utilize 28th Avenue, the Operator has submitted plans for a haul route across private property to access directly to CSAH 7. Access to CSAH 7 is subject to Stearns County review and permitting, and the Operator will be required to meet the terms of the Stearns County permit for access.

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.

I. I. GENERAL CONDITIONS

A. Legal Compliance:

1. Prior to the start of any activities and initial work at the Subject Property and prior to the start of each year's operations, Knife River Corporation – North Central hereinafter "Operator," "Permittee," or "Permit Holder" shall obtain any required Federal, State, County, City and other local permits for each operation and/or construction activity, including, but not limited to, from the Minnesota Pollution Control Agency ("MPCA"), Minnesota Department of Natural Resources ("DNR"), Minnesota Department of Health ("MDH"), City, and any other applicable government agency, as applicable to each operation and/or construction activity. Operator shall submit evidence of having obtained all required permits to the City for its review and approval, prior to any Mining Operations (as hereinafter defined).

Further, prior to the start of each year's operations, the City shall review Mining Operations to determine continued compliance with specific IUP requirements. Except where life safety issues exist, in which case no written notice is required, if the City determines that work on the Subject Property does not comply with specific IUP requirements, the City shall provide written notice to the Permit Holder specifying any asserted non-compliance and the Permit Holder shall have twenty-one days from the date of such notice to cure any asserted non-compliance. In the event the City determines that Permit Holder has not remedied the specified non-compliance upon expiration of such cure period, then the City may, at its option, refuse to allow

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continued Mining Operations under this IUP until the Permit Holder so complies and/or take any other action allowed by law. Upon the City's demand, the Permit Holder shall cease all work until there is compliance as reasonably determined by the City. All costs of the City associated with any permit review and submission of monitoring reports to the City shall be the sole responsibility of the Permit Holder.

2. Permit Holder 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").
3. The IUP for aggregate mining and processing operations shall comply Approved Plans which are all incorporated herein by reference. The Operator may request modifications, as appropriate, to the Approved Plans so long as such modifications continue to substantially comply with the Approved 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 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 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.

B. Permit Review:

1. Prior to February 28 of each year, Operator shall prepare an Annual Certificate of Permit Compliance for the mine on the Subject Property for submission to the City.
2. Any Operator proposed modifications to Approved Plans required in this IUP shall be included in the Annual Certificate of Permit Compliance and shall not take effect until such proposed modifications to the Approved Plans are approved in writing by the City.

C. Incorporation of Environmental Assessment Worksheet & Environmental Impact Statement:

1. The Environmental Assessment Worksheet ("EAW") and comments related to the use of the Subject Property for Mining Operations and impacts on the Subject Property and surrounding areas received were reviewed by the City Council on May 3, 2022. The City Council considered the comments and staff response to comments and the proposed Findings of Fact and Conclusions and determined that the EAW was

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adequate and approved a negative declaration on the need for an Environmental Impact Statement. The EAW, comments, staff responses to comments, and Finding of Fact and Conclusions presented to and adopted by the City Council on May 3, 2022 are hereby incorporated by reference to be used as an evidentiary document that outlines potential traffic and environmental issues. The Operator will use these documents as a resource when working with the appropriate agencies in permit applications and in the event that any findings outlined in the documents become realized.

D. Costs:

1. All costs associated with permit review and testing and preparation for and submission of monitoring reports to the City and any other Regulatory Authority requesting monitoring reports shall be the sole responsibility of the Operator. All costs associated with remediation activities and development and operation of the site in compliance with the Approved Plans shall also be the sole responsibility of the Operator.
2. 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 Plans.
3. All unpaid EAW or 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 \$5,000 escrow to cover City staff and consultant time reviewing and responding to all monitoring reports and testing throughout the duration of this IUP.
4. Any invoice from the City shall be paid by the Operator within 30 days of invoice date.

E. General Conditions:

1. 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.

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2. This IUP is issued specifically to Knife River Corporation – North Central.
3. Mining, as allowed by this IUP, shall be limited to dirt moving, berm construction, pond construction, overburden removal, drilling, 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; import and stockpile aggregate material; 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. Temporary buildings may be permitted in accordance with the Zoning Ordinance.
4. All signage on the Subject Property shall conform to the City Zoning Ordinance.
5. The Subject Property shall be maintained in a neat and orderly manner.
6. All mobile equipment, vehicles and miscellaneous storage associated with the Mining Operations on the Subject Property shall be screened from view of surrounding properties. Only equipment used in the Mining Operations shall be allowed to be stored on the Subject Property.
7. 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.
8. 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.
9. A hazardous waste license shall be obtained (if required by Stearns County). Best Management Practices shall be implemented limiting onsite maintenance of equipment.
10. Truck traffic shall comply with the haul route approved, which shall be to directly access CSAH 7. No access is permitted to 28th Avenue.
11. Prior to accepting any fill material onto the Subject Property, the Operator will identify the source of imported material and assess the potential for contamination. This assessment will include, at a minimum, contacting the source site owner/operator to ascertain whether any known contamination exists and reviewing available environmental documents (Phase I ESA, etc.).

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~~11.~~ If the assessment suggests that contamination may be present, the Operator shall promptly notify the City and the City may require sampling and laboratory analysis of the soil to demonstrate compliance with the Soil Reference Value (SRV) limits prior to the material being unloaded at the Subject Property. [SRVs are numerical values representing the amount of chemical in soil that is safe for people who use the site. These values are determined by the MPCA using calculations provided by the US EPA]. The reclamation fill cannot contain chemical constituents of concern that exceed the limits specified for the MPCA's Tier I SRV. Documentation of investigation and test results of imported fill that is subject to testing as noted above will be provided to the City within ten days of the Operator receiving the environmental review documents or test results.

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12. Excavated soils and imported soils to be used for site reclamation must be stockpiled outside of the wetlands and protected from erosion to preclude sediment impacts on the wetlands.
13. 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.

14. Prior to commencement of Mining Operations ~~or October 31, 2024, whichever comes first,~~ Operator shall install screening, approved by the City, which includes vegetation and berms as shown on the Viewshed Analysis in the Engineering Report. In addition the berms shown on the Approved Plans related to Phase 1 shall be installed prior to commencement of Mining Operations to screen the Mining Operations from public view. As each new phase starts, the berms for that phase shall be installed and the berms associated with older phases may be removed to facilitate reclamation. The screening shall remain in place at all times until Mining Operations cease.

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15. This IUP does not authorize the production of asphalt or concrete on the Subject Property.
16. Issuance of this IUP does not preclude the City from, in the future, adopting ordinances, rules and standards which are more stringent than those in place as of the issuance of this IUP and enforcing such ordinances, rules and standards.
17. If any provision(s) of this IUP are determined to be unenforceable by a court of competent jurisdiction, the remaining provisions shall remain valid and enforceable.
18. 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.

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19. 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.

II. MINE OPERATIONS

A. Hours of Operation:

1. All Mining Operations on the Subject Property and entry and exit of trucks hauling materials shall be permitted on Monday through Friday from 7:00 a.m. to 7:00 p.m., and Saturdays from 7:00 a.m. to 2:00 p.m. No Mining Operations are permitted on Sundays or holidays.
2. Mitigation measures necessary to control fugitive dust and other nuisances may be conducted at any time, including weekends and holidays and in accordance with the Approved Plans.

B. Noise:

1. ~~The Operator shall obtain a noise analysis by a third-party qualified noise consultant approved by the City at the request of the City after Mining Operations begin and when processing equipment is less than seven hundred fifty (750) feet from a noise receptor to verify compliance with Minn. Rules Chapter 7030. The City may require additional noise analysis at Operator's expense. The noise analysis will be submitted to the MPCA and the City. A noise analysis shall be performed by the Operator once the mining operations are set up and operational to ensure mining operations are within the limits imposed by Minn. Rules Chapter 7030. When the mining operations change, or a new phase begins, additional noise tests shall be performed within 14 days of the change, to ensure noise levels remain in compliance. Reports from these noise analyses shall be submitted to the City if requested by the City.~~

The Operator shall obtain a noise analysis by a third-party qualified noise consultant approved by the City if requested by the City after Mining Operations begin and when processing equipment is less than seven hundred fifty (750) feet from a noise receptor to verify compliance with Minn. Rules Chapter 7030. The noise analysis shall be at Operator's expense. The noise analysis will be submitted to the City.

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1.

2. Use of all production equipment in the Mining Operations at the Subject Property will be designed and operated to meet the Federal and MPCA noise standards at the nearest receptor. The Operator will be notified in the event City staff receives a complaint regarding noise generated by Mining Operations. The Operator shall address all noise violations within 24 hours and report back to the City.
3. Operator shall exercise their best efforts to control noise to minimum practical levels. Backup horns, bells, strobe lights, and other warning devices shall be adjusted to the minimum level required by law.

D. Air Emissions Permit:

~~This Mining Operation does not require an air emissions permit. If one is required by the MPCA in the future, a Total Facility Operating Permit for Mining Operations located on the Subject Property the air emissions permit shall be secured before Mining Operations commence. Oby the Operator who shall comply with all terms and conditions of such permit.~~

E. Inspections:

The Subject Property and Mining Operations shall be available for inspections by the City, within normal company working hours (hours as prescribed in Condition II.A.1). 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.

III. SURFACE WATER QUALITY AND QUANTITY

A. Surface Water Quality:

1. Stormwater shall be managed internally within the mine area to prevent runoff to adjacent properties during mine activities. Management of stormwater shall be in compliance with the requirements of the State of Minnesota NPDES/SDS General Permit MNG490000 that regulates aggregate mining. The General Permit is due to expire on May 31, 2027. Mining operations shall comply with the existing permit and all future permits as they are reissued.

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2. Prior to commencement of mining at the site Knife River will provide the City with their stormwater management plan for the site detailing ponding and BMPs to be implemented. The City will also be provided a copy of the Stormwater Pollution Prevention Plan (SWPPP) that will be prepared as required by MNG490000.
3. Operator shall comply with all provisions of its National Pollutant Discharge Elimination System (NPDES) Permit (as amended, replaced or renewed by the MPCA) for the Subject Property and the Mining Operations thereon. A copy of the current construction storm water and/or industrial storm water/NPDES permit(s) shall be provided by Operator to the City to be kept on file for review by City officials or the public.
4. Storm water runoff from the Subject Property to surrounding properties shall not exceed predevelopment runoff rates based on 2, 10, and 100-year storm events. All areas used to convey storm water runoff shall be covered by permanent, dense vegetative cover or other permanent structural controls.
5. Operator shall implement, during all phases of the project, all applicable Storm Water Management Best Practices (BMPs), as may be necessary, to protect surface water quality. These BMPs include, but are not limited to, the following:
 - a. All berms shall be seeded with vegetation as defined in the Approved Plans & NPDES permit in a timely manner after completion of berm construction.
 - b. Reclamation shall proceed in accordance with the Approved Plans in a continuous manner consistent with the phasing of Mining Operations on the Subject Property.
 - c. Stormwater ponds and infiltration areas shall be constructed within the mining area as identified in the Approved Plans and maintained in operational order at all times by the Operator.

IV. WATER QUALITY AND QUANTITY

1. Based on the updated Approved Plans mining would not be conducted within the groundwater table and dewatering is not proposed. In the event that groundwater is encountered at the site the Operator must notify the City and set up a meeting to examine site conditions. Updated mine plans, a dewatering plan, and a dewatering permit (if necessary) would be required before mining could proceed within the groundwater table.
2. Mining Operations shall not be closer than ten (10) feet to the water table except for construction of stormwater ponding as shown on the Approved Plans.

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~~3. Operator shall provide a copy of the Annual Report required in the Industrial Stormwater permit to the City by February 28 of each year.~~

43. Petroleum or chemical storage tanks and equipment.

a. Fueling stations, vehicle maintenance stations, petroleum and chemical storage shall be conducted in compliance with MPCA requirements. MPCA required liners and spill cleanup equipment shall be available onsite at all times. Petroleum products such as diesel fuel will be stored onsite in a double-walled above-ground fuel tank. Small amounts of other liquid lubricants (grease, lubricating oils, etc.) will be stored onsite in a closed, lockable container such as a semi-trailer. Fuel tank and storage container will move with aggregate processing equipment. If petroleum products are spilled onsite, the applicant will immediately respond to the spill with absorbent materials and other clean up equipment to contain the spill. Any spill contaminated aggregate materials will be removed from the site and deposited in an MPCA approved facility. All spills must be reported to the City, Stearns County and the MPCA.

b. Below ground petroleum or chemical storage tanks shall be prohibited.

54. All waste oil products shall be properly recycled.

65. All minimum setbacks, as prescribed by the MPCA and the MDH shall be observed between water wells and petroleum or chemical storage tanks or other potential contaminant sources.

V. **RECLAMATION**

A. **Reclamation Plan:**

1. Reclamation shall comply with the Approved Plans.
2. When mining is complete or Mining Operations have ceased for 180 consecutive days in any phase, a registered civil engineer, retained at Operator's expense, shall certify to the City that the Subject Property has been restored in accordance with the Reclamation Plan included within the Approved Plans.
3. Operator shall be ultimately responsible for all means and methods utilized in the implementation of all mining, processing and reclamation plans. Reclamation fill within areas designated as building pads and roadways will be compacted in lifts to at least 95 percent of Standard Proctor maximum dry density.

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4. At the conclusion or interruption of the Mining Operations for more than 180 consecutive days, all processing facilities and equipment shall be removed from the Subject Property. Security for reclamation, as increased over time to reflect inflation or decreased over time to reflect completed reclamation activities, shall remain in place until all processing facilities and equipment are removed.

B. Reclamation Standards:

1. Reclamation shall be conducted in the general sequence and manner as described in the Approved Plans. Any deviation from the approved plans will require a resubmittal of the reclamation for review and approval.
2. Reclamation shall be on-going with back filling of areas and establishment of vegetation proceeding as soon as practical after a mining area has been completed in each phase. Not more than 15 acres shall be mined or without permanent vegetative cover at any point in time
3. Operator shall report all reclamation activities in the Annual Certificate of Permit Compliance. Reclamation security will be reviewed annually and can be amended based on inflation or reclamation activities.
4. If any imported spoil is accepted at the mining site and used for reclamation, during reclamation, soil samples are to be taken and laboratory tested to confirm compliance with the Soil Reverence Value (SRV) limits established by the MPCA. The reclamation area shall be randomly sampled using a 300ft x 300ft grid system. At each grid location a soil sample is to be obtained for each 3 vertical feet of imported fill material. Copies of test locations and test results are to be submitted to the City. Fill material not in compliance with the SRV limits shall be removed from the site and replaced with acceptable material. Additional testing shall be completed as necessary to confirm complete removal of non-compliant material.
5. At the conclusion of the reclamation process the Operator's geotechnical engineer must perform a post reclamation evaluation and certify to the City that the reclaimed areas are suitable for the future end use, as defined in the Reclamation Plan included in the Approved Plans for the Subject Property. In the case of future building sites and roadways, the geotechnical engineer must provide certification to the Operator and City that settlements shall not exceed 95 percent of Standard Proctor maximum dry density.

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VI. FINANCIAL SECURITIES

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The Operator shall provide security for site reclamation in an amount initially established as \$_____. The City shall require this security as a Letter of Credit in a form and content reasonably acceptable to the City in its determination. The amount of the security shall be reviewed annually and can be amended based on inflation or reclamation activities as determined by the City in its sole discretion.

VII. PERMIT EXPIRATION

A. IUP Expiration:

This IUP shall expire at the earliest event listed below:

1. This IUP is issued to a specific operator/owner. If the operator/owner changes from Knife River Corporation – North Central this IUP shall become void.
2. This IUP shall expire one (1) year from the date of issuance if the permit is not utilized.
3. This IUP shall expire upon the termination of Mining Operations and all reclamation conditions listed in Section V. have been completed to the satisfaction of the City.
4. This IUP shall expire if the NPDES Permit expires, or is revoked or terminated for cause by the MPCA.
5. This IUP shall expire if the IUP is revoked by the City for violations of the IUP's terms and conditions.
6. This IUP shall expire at the conclusion or interruption of the Mining Operations for more than one year except that all reclamation conditions listed in Section V. shall be completed to the satisfaction of the City.
7. This IUP may terminate by operation of law as set out in MINN. STAT. 462.3597, subd. 2.
- 8. Termination of Permit. The operation shall be completed within ten (10) years of the issuance of the permit, which is _____, 2035. If mining is still a possible interim use in the zoning district in which it is located, the Operator may apply to the City for a new IUP under the terms of the Zoning Ordinance in effect at that time.**

Adopted by the City Council this _____ day of _____, 2024.

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Michael G. Zenzen, Mayor

Attest:

William R. McCabe, City Administrator

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EXHIBIT A

Mining Legal:

(Need to insert)

Driveway Legal:

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