

PT NE-SE  
PT SW-SE  
PT SE-SE  
74.11.41.082387  
74.11.43.082389  
PT NW-SE  
74.11.42.082389

PT SW-NE  
74.11.13.075989  
PT SE-NE  
74.11.14.030899

11-107-14



Doc No. A- 1460656  
OFFICE OF COUNTY RECORDER  
OLMSTED COUNTY, MINNESOTA

I hereby certify that this document was filed in this office  
for record on --October 26, 2018 3:56 PM

W. MARK KRUPSKI - Co. Recorder  
Well Certificate: \_\_\_\_\_ Abstract: \_\_\_\_\_

by deputy:

Fee: \$46.00

TCPA  
4111 - 11TH AVENUE SW, RM 10  
ROCHESTER, MN 55902

**CASCADE TOWNSHIP  
CONDITIONAL USE RESOLUTION REVISION  
NUMBER CUP-18-01**

**WHEREAS**, an application for a Conditional Use Permit to allow for the extraction of sand and gravel and hard rock mining within an Agricultural/Resource Commercial District – Aggregate Extraction and Reuse (Ag/RC-aer) by Mathy Construction on property owned by Wilmar Investments LLC and described as:

SECT-11 TWP-107 RANGE-014

E37A SE1/4 SE1/4 AND S2A W36A E37A N 1/2 SE 1/4 LESS  
TH PT S1/2 SE1/4 SEC 11 SHOWN AS PARCEL 2 ON OLMSTED COUNTY ROW  
PLAT NO 198 APPROVED  
IN RESOLUTION 15-21 SEC 11-107-14

And

SECT-11 TWP-107 RANGE-014

E23A W43A S1/2 SE1/4 & N1/2 SE1/4 LESS S2A W36A E37A N1/2 SE1/4 LESS TH  
PT NE1/4 SE1/4  
LYING N OF CEN LINE OF RIVER LESS COM AT SECOR SE1/4 TH N1853.27FT  
FOR PT OF BEG TH  
NW100FT TH N300FT TH SE100FT TH S AL E LINE SE1/4 300FT TO BEG LESS  
ROAD ALSO LESS TH PT  
NW1/4 SE1/4 LYING NWLY OF THE OF THE CENTERLINE OF THE SOUTH FORK

TCPA  
10-26-18  
MS

OF THE ZUMBRO RIVER  
LESS TH PT S1/2 SE1/4 SEC 11 SHOWN AS PARCEL 2 ON OLMSTED COUNTY  
ROW PLAT NO 198 APPROVED IN  
RESOLUTION 15-21 SEC 11-107-14

And

SECT-11 TWP-107 RANGE-014

TH PT SW1/4 NE1/4 SEC 11 DES AS FOL BEG SECOR SW1/4 NE1/4 TH N AL W LN  
SD SW1/4 312.21FT  
TH S 84 DEG 09'41"W 202.08FT TH S 33 DEG 28'46"W 256.28FT TH S 52 DEG  
12'04"W 129.85FT  
TO S LN NE1/4 TH E AL SD S LN 451.21FT TO POB SEC 11-107-14

And

SECT-11 TWP-107 RANGE-014

COM AT SWCOR SE1/4 NE1/4 TH N595.3FT TH SE185.33FT TH SE322.81FT TH  
SE217.83FT TH  
SE145.62FT TH SE216.61FT TO S LINE SD 1/4 TH W745.14FT TO PL OF BEG SEC  
11-107-14

**WHEREAS**, extraction of sand, gravel and hard rock mining are allowed within said zoning district upon receiving a conditional use permit. Article IV of the Cascade Township Zoning Ordinance provides guidance as to the conditional use process and . . .

**WHEREAS**, the matter has been reviewed by the Zoning Administrator and he has submitted his report to the Cascade Township Planning Commission concerning the Conditional Use, and . . .

**WHEREAS**, a public hearing on the proposed Conditional Use was duly noticed and held by the Cascade Township Planning Commission at the Cascade Town Hall, 2025 75<sup>th</sup> Street NE, Rochester, MN after 7:00 pm on Tuesday, August 21, 2018 at which time all interested persons were given the opportunity to be heard.

**WHEREAS**, the Cascade Township Planning Commission at that hearing voted to grant the CUP with conditions and adopted proposed findings and conclusions, copies of which are attached to this document,

**NOW, THEREFORE**, the CUP is granted subject to the following conditions:

**Conditions:**

**1. Hours of Operation**

All work on the section 11 properties will occur only during the following hours:

Crushing Operations:

October 1 – March 31: Monday through Friday only, 7 a.m. to 5 p.m.

April 1—September 30: Monday through Friday only, 6:30 a.m. – 6:30 p.m.

Hauling and Other Operations:

October 1 – March 31: Monday through Friday only, 7 a.m. to 6 p.m.

April 1—September 30: Monday through Saturday only; Monday through Friday, 6:00 a.m. – 8:00 p.m.; Saturday, 7:00 a.m. — 3:00 p.m.

Crushing Operations includes all blasting, excavating, removal of materials, processing of materials, and rock crushing. Blasting hours are also subject to the separate limitations provided below. Hauling and Other Operations includes all loading and hauling operations associated with sales from the property.

Employees and agents may be present on premises outside of operational hours for security and other non-production tasks. There may be emergency exceptions granted based on a joint agreement between Applicant and Cascade Township.

**2. Days of Operation**

Monday through Friday, and Saturday as shown above. There shall be no operation on legal holidays, including New Years Day, Memorial Day (observed), Independence Day, Labor Day (observed), Thanksgiving Day, and Christmas Day.

**3. Noise Limitations and Mitigation Measures**

All activities will fully comply with all applicable state and federal regulations related to noise control.

In accordance with the Applicant's attached Noise Mitigation Plan, the operation will comply with MPCA regulations for Noise Pollution Control (Minnesota Rules 7030) and blasting activities will comply with NFPA 495 guidelines, Minnesota Statutes §§ 299F.72 – 299F.831, Minnesota Administrative Rules Ch. 7500 and common industry practices.

Berms will be constructed to minimize the effects of sound on surrounding properties. The location of these berms is shown on the attached Operations Plan. Hauling from the site shall be configured so as to minimize the backing of trucks and the attending noise due to backup alarms.

Loading vehicles and excavating equipment shall be equipped with back up alarms that use alternatives to the traditional high-frequency beeping that is most commonly used as a backup warning.

Equipment and trucks shall refrain from all jake braking

Trucks and equipment shall have effective mufflers and related technology to lower the noise emissions and mitigate noise.

For noise mitigation, the Applicant will build aggregate stockpiles and maintain natural screening to the extent possible through preservation of trees, scrub, other vegetation and topography.

Applicant has provided the Township with a Noise Mitigation Plan, which contains the noise reduction provisions of this agreement and is designed to minimize noise and impacts on residents. Applicant must comply with the terms of the Noise Mitigation Plan. Applicant agrees to incorporate industry best management practices and incorporate technological improvements in their Noise Mitigation Plan. The Applicant's Noise Mitigation Plan has been reviewed by a qualified engineer agreed to by the parties and the Applicant has implemented and will continue to implement the reasonable recommendations from the engineer. The Township shall pay the cost of the engineer's services.

#### **4. Dust Control**

For dust mitigation, the Applicant will introduce wind barriers, such as earth berm(s) or tree line(s). In addition, dust will be suppressed on site using equipment water suppression systems, water trucks, or other appropriate measures.

Dust abatement methods shall be required and enforced when: working and mining within the site, hauling from the site, on the access driveway and hauling material from the extraction site, to the nearest paved road. Mitigating measures, such as vegetated earth mounds, vehicle speed limits, and maintaining roads, windbreaks, dust suppression, and strategic placement of stockpiles, will be used to minimize fugitive dust emissions. Mining operations cannot create any undue smoke or odors. Best management practices for dust control shall be strictly observed.

Applicant has provided the Township with a Fugitive Dust Control Plan to minimize the effects of dust and airborne particulates on surrounding properties. (See attached Fugitive Dust Control Plan.) Applicant must comply with the terms of the Fugitive Dust Control Plan. Applicant agrees to incorporate industry best management practices and incorporate technological improvements in its Fugitive Dust Control Plan. The Applicant's Fugitive Dust Control Plan has been reviewed by a qualified engineer agreed to by the parties and the Applicant has implemented any reasonable recommendations from that engineer. The Township shall pay the cost of the engineer's services. The Fugitive Dust Control Plan addresses the presence of particulate dust smaller than 10 microns at neighboring property lines.

**5. Berms and Visual Blocking**

The Applicant must preserve the existing perimeter tree canopy (at highest point of elevation) and vegetation must remain to keep the visual appearance, aesthetics, and reduce the amount of dust and noise from leaving the mining area. Additionally, berms will be created and vegetated to assist with this effort. The locations of berms and preserved areas are shown on the Operations Plan.

The operation shall include the construction of berms to block views of the operations from the surrounding properties. The mining and processing facilities should be designed to be as inconspicuous to the immediate public as possible.

**6. Height of Storage Piles**

The top of storage piles shall be no higher than 1,063 feet above sea level.

**7. Light Pollution**

Lighting of the section 11 properties shall be minimized so as to avoid impacts on surrounding properties. Lighting for the operations must be directed away from neighboring properties. Any lighting for the operations used shall be shielded so as to minimize effects on surrounding properties.

**8. Blasting Limitations**

Blasting shall be conducted in accordance with NFPA guidelines, Minnesota Statutes §§299F.72 – 299F.831, Minnesota Administrative Rules Ch. 7500, and industry practices to minimize adverse effects and ensure no damage to neighboring properties.

Blasting shall only occur Monday through Friday.

Any blasting shall take place between the hours of 10 a.m. and 4 p.m., unless a delay occurs due to weather conditions or equipment breakdown. 'Weather conditions' includes only unanticipated conditions that interfere with blasting on any given day, not, for instance, excessive rainfall that delays or interferes with construction projects that rely on the quarry for materials. The Township must be notified if a delay occurs that requires blasting outside of these hours, and the cause of the delay.

The quarry operator shall provide 48 hours advance notice of its intention to conduct blasting by way of a phone call, fax, email notification, or website posting, including the date and approximate hours during which blasting will take place, to individuals residing within ½ mile of the Section 11 property that have requested that they be so notified.

## 9. Groundwater Levels

All water use at the site will be managed in accordance with the requirements of the Water Appropriation Permit to be issued by the Minnesota Department of Natural Resources (MNDNR). Conditions of this permit will be solely governed and determined by the MNDNR and shall address (see attached Groundwater Monitoring Plan):

- Installation of monitoring wells
- Automated monitoring of water levels
- Reporting of the results of water levels monitoring to the MNDNR
- Reporting of water appropriation volumes to MNDNR
- Adherence to Water Use Conflict and Well Interference resolution processes

If the holder of the Water Appropriation Permit (the Applicant) is notified by the MNDNR that a water use conflict is suspected and probably due to the Applicant's water appropriation, based on confirmation of a formal well interference complaint or a preliminary hydrologic assessment, all appropriation authorized by the MNDNR permit must cease immediately until the interference is resolved. The Applicant may be required to obtain additional data to support the technical analysis, such as domestic well information within a radius of one and one-half miles of the production well. The Applicant and the impacted party may engage in a negotiated settlement process and there may be modifications made to the MNDNR permit in support of conflict resolution.

Without regard to whether a complainant makes a formal complaint through the MNDNR well complaint process or not, should the availability of water to existing domestic water well be interrupted or cease and it is believed to be a result of the Applicant's dewatering activities, the well owner may submit details of the problems to the Applicant. Within 12 hours of the receipt of the complaint, the Applicant must contact a licensed well contractor who has sufficient credentials (e.g. is familiar with local geology, local wells, well drilling, well repair, and located in the local proximity) to investigate the complaint. The well contractor shall advise the Applicant and the complainant of the timetable for the initial investigative visit. The initial investigative visit by the well contractor must be paid for by the Applicant. Should the initial investigative visit determine that the Applicant's dewatering activities have caused an interruption to the availability of water to the well, the Applicant shall incur the expenses required to remedy the situation. Costs include, but are not limited to, the well investigation by consultants, well repairs, and well construction. The Applicant shall provide a safe and adequate drinking water supply within 12 hours of notification and until either the water supply has been re-established to the homeowner, or the investigation has determined that the lack of water available to the well is not associated with the Applicant's dewatering activities. Within 48 hours of receiving a well complaint, the Applicant shall notify the DNR Area Hydrologist that a complaint was received. If the complaint is unresolved, the complainant may choose to submit a formal well interference complaint to the DNR Area Hydrologist. The DNR will then conduct a technical review, determine the

probable cause of the problem, and take appropriate action under the Water Appropriations Permit Program.

**10. Location of Noisy Equipment (Rock Crushers)**

Rock crushing equipment shall be located so as to minimize impacts on surrounding properties.

**11. Location of Load Out Operations**

Load out operations shall be located so as to minimize impacts on surrounding properties.

**12. Traffic Management Plan**

The Applicant shall present a traffic management plan that defines routes of traffic coming to, operating on, and departing from the section 11 properties. All operations shall be in accordance with the traffic management plan. (See attached Haul Traffic Route display.)

The Applicant will maintain and repair any damage to Access Road to the east of the property access point to its intersection with East River Road to the Township engineer's reasonable satisfaction as long as the quarry is in operation. Once quarrying has ceased, this maintenance will be the responsibility of Cascade Township.

Any access shall be approved by the appropriate road authority. Ingress and egress points shall be clearly marked and only those signed access points shall be used.

"Trucks Hauling" signs with red flags are to be posted in locations to be determined by an engineer identified by the Township when hauling from the site and to be removed when hauling is not taking place.

**13. Limitations on Hauling to the Site from Off-site Locations**

The section 11 properties shall not be used as a stockpiling, storage, or processing site for materials that were not excavated from the section 11 properties.

No crushing of recycled asphalt or concrete will be allowed on the section 11 properties. No off-site materials will be transported to the section 11 properties for crushing purposes.

**14. Use of Non-Standard Backup Alarms on Trucks and Loading Equipment**

Loading vehicles and excavating equipment shall be equipped with back up alarms that use alternatives to the traditional high-frequency beeping that is most commonly used as a back up warning.

**15. Reclamation and Restoration**

Progressive reclamation will occur as extraction of aggregate resources is completed. (See attached Reclamation Plan(s)) Two conceptual Reclamation Plans have been provided. The first plan would create solely a recreational water body with safe slopes created on site. The second plan includes a generalized mixed use development of the property. Both of these plans have been provided due to two factors. First, the unknown community needs for the property many decades into the future. Second, the unknown community needs for aggregate in the future. The marketability of aggregates derived from the proposed quarrying will have a direct effect on the amount of earth material available for completion of reclamation at the site and the final topography of the site. The two plans provided are conceptual and are presented merely for consideration of possible future conditions. Ultimately, the final end use of the property will be determined by Wilmar Investments, LLC.

**16. Bond or Security for Reclamation and Restoration**

The Applicant shall post a reclamation guarantee for the area of disturbance giving financial assurance to Cascade Township and shall post a bond or security sufficient to assure reclamation and restoration in an amount to be agreed upon by the parties, or if the parties cannot agree, an amount determined by a third party agreed upon by the parties. The bond or security shall be for the purpose of assuring reclamation and restoration.

**17. Security of the Site**

The site shall be secured with locking gates and fencing along the east property line near the trailer homes. "No Trespassing" signs will be located on the property so as to deter access to the section 11 properties by children or other unauthorized individuals. If fencing is not present along areas that abut public property, Applicant shall post signs warning of hazards to those that might enter the property from public land.

**18. Fuel Storage**

No fuel shall be permanently stored on the section 11 properties.

**19. Wetland Impacts and Stormwater**

All aggregate extraction and processing operations shall be conducted in a manner that minimizes impacts to wetlands. All aggregate extraction and processing operations shall be set back at least 200 feet from the north branch of the Zumbro River with the exception of the following:



- Stormwater structures and Best Management Practices
- Existing internal roadway
- Existing berm(s)
- Dewatering structures
- Maintenance activities of the aforementioned items

The Applicant will maintain a Stormwater Management Plan for the operation in order to be compliant with the Nonmetallic Mining Storm Water Permit with the Minnesota Pollution Control Agency. That plan will dictate the stormwater management at the site. (See attached Storm Water Pollution Prevention Plan)

For erosion control, the Applicant will employ the use of silt fencing, erosion control nets or mats, mulching, filter fabric barriers, and/or straw bale barriers where appropriate and as Minnesota Pollution Control Agency permits require.

**20. Utility Impacts**

All operations shall be conducted in a manner that does not have adverse impacts on utilities, either existing or proposed.

**21. Compliance with Laws and Regulations and Representations Made During Environmental Review (Gallons of Water to be Extracted; Material Not Excavated Below 900'; Etc.)**

The Applicant shall comply with all rules, regulations, requirements, or standards of the Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, Army Corps of Engineers and other applicable federal, state, or local agencies protecting the public's health, safety, and general welfare. Mining activities must always comply with the most recent Minnesota Department of Natural Resources standards including the Wetlands Conservation Act. These include but are not limited to air emission permitting and storm water permits. All MN DOT permits must be obtained and the Applicant must adhere to all MN DOT regulations.

All facilities and activities shall comply with all applicable land use, health, building, plumbing, mechanical, and electrical codes. All structures erected, built, or installed shall have a building permit. All fuel tanks and flammable materials shall be located above ground, in such locations, with containment, and under such conditions as to conform to the requirements of the national fire codes (NFPA).

Applicant's operations will be consistent with the conditional use permit.

Unit of government	Type of Application
Minnesota Department of Natural Resources	Water Appropriation Permit
Minnesota Pollution Control Agency	General NPDES Storm Water Permit

Minnesota Pollution Control Agency	Air Emissions Permit
Cascade Township	Rezoning and Conditional Use Approval

**22. Odor Control**

Odors at the site shall be controlled in a manner that minimizes impacts on adjoining properties.

**23. Vibration Control**

Operations shall be conducted in such a manner as to minimize impacts on adjacent properties caused by vibration. Blasting vibration shall be allowed up to industry standards and regulations.

**24. Excavation Setbacks from Property Lines**

Beyond any setbacks required by law, all activities related to the operations, including berms, shall be set back at least 100 feet from the property line.

**25. Complaint Process for Complaints Related to Operations**

Applicant shall have a written procedure for receiving and responding to community complaints related to its operations. Applicant shall identify a contact person who will receive complaints and shall promptly respond to complaints. Applicant shall promptly supply all complaint information to the Township.

**26. Spills on Roadways**

Trucks used in hauling materials from the site shall be loaded in a manner to minimize spillage onto public roadways. The clean-up of aggregate as a result of spills or general transportation of aggregate from the Section 11 property to the Section 14 property for further processing, from the property access point on Access Road to the south access point of Rochester Sand & Gravel on East River Road, shall be the responsibility of the mine operator if the truck: (i) is owned and operated by the mine operator or a subsidiary or affiliated company; or (ii) the mine operator has directly contracted with the truck for the purpose of transporting aggregate from the Section 11 property to the Section 14 property.

**27. Critical Habitats and Historical Features**

No critical habitats or historical features will be affected by the mining activity on the property.

**28. Violations**

Violation of the terms of the conditional use permit are subject to the provisions of the CUP and the Township CUP ordinances. Applicant shall have the rights

and remedies provided in the CUP. Violations of the CUP may result in revocation of the conditional use permit and the Township shall have all remedies available to it pursuant to its ordinance or otherwise available to it in law or equity. Notwithstanding the foregoing, in the event that Applicant fails to perform any of the terms and conditions of the CUP, the Township shall provide Applicant, in writing, a notice of default and the parties shall hold an initial meeting within ten (10) days following notice of such default for purposes of attempting to resolve the default on an amicable basis unless the Township determines that threats to health, safety or property require a shorter notice period. If the parties cannot resolve the matter, the Township may issue a notice of violation to Applicant setting forth, in detail, the action(s) that must be taken to remedy the alleged default and a reasonable time period for curing the default.

**29. Erosion Control & Wetlands**

An Erosion Control Plan signed by a license engineer must be submitted and grading permit applied for prior to beginning operations. The erosion control plan will need to show how the overburden and excavated material will be stockpiled and erosion prevented. The applicant shall maintain the site to meet the soil erosion standards as listed in Section 10.20 C. of the Cascade Township Zoning Ordinance.

A wetland delineation for the site must be completed prior any mining activity. The applicant should meet with the Olmsted County Soil and Water Staff as to location of any wetlands how those wetlands will be mitigated.

**30. Restroom Facilities**

The Applicant shall install a permitted septic system and rest rooms or provide portable toilets during operations.

**CONCLUSION:**

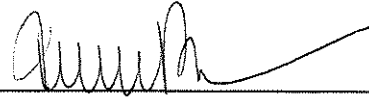
Motion by Dean Hegrenes and second by Dana Duffield to grant Conditional Use Permit # CUP-18-01 with the conditions listed above per Section 4.02 of the Cascade Township Zoning Ordinance.

Motion carried with 4 yes votes, 0 no votes and 0 abstentions.

Passed and adopted by the Cascade Township Planning Commission the 21<sup>st</sup> day of August 2018.

Attached are the Findings of Fact and Conclusions adopted by the Planning Commission and the following attachments, exhibits, and plans, which are incorporated into the CUP:

1. Findings and Conclusions:
2. Operations Plan
3. Noise Mitigation Plan
4. Fugitive Dust Control Plan
5. Groundwater Monitoring Plan
6. Traffic Management Plan
7. Reclamation Plan
8. Stormwater Pollution Prevention Plan



Commission Vice - Chair

Attest:



Clerk



DISTRIBUTION:  
County Recorder  
Township Clerk  
County Planning  
Zoning Administrator  
Applicant  
County Assessor

TCPA  
4111 11<sup>th</sup> Avenue SW  
Rochester, MN 55902

Acknowledged and agreed to by Wilmar Investments LLC on the 19 day of OCTOBER, 2018

[Signature]  
President Secretary & Treasurer

State of Minnesota)  
  ) SS  
County of Olmsted)

The forgoing instrument was acknowledged before me on 19 day of OCTOBER 2018 by Bruce Fitzgerald, President of Wilmar Investments LLC, a Minnesota limited liability company, on behalf of the limited liability company.



[Signature]  
Notary Public

Acknowledged and agreed to by Mathy Construction on the \_\_\_\_ day of \_\_\_\_\_, 2018

Title: \_\_\_\_\_

State of Minnesota)  
  ) SS  
County of Olmsted)

The forgoing instrument was acknowledged before me on \_\_\_\_ day of \_\_\_\_\_ 2018 by \_\_\_\_\_ of Mathy Construction Company, on behalf of said company.

\_\_\_\_\_  
Notary Public

**CASCADE TOWNSHIP PLANNING COMMISSION  
FINDINGS OF FACT AND CONCLUSIONS  
GRANTING A CONDITIONAL USE PERMIT**

Name of Applicant **Milestone Materials**      Date: **August 21, 2018**

Tax Parcel Numbers: **74.11.14.030899; 74.11.13.075989; 74.11.43.080430,  
and 74.11.44.030911.**

**FINDINGS OF FACT**

1. On July 30, 2018, Milestone Materials, a division of Mathy Construction Company, submitted an application to allow sand and gravel mining and quarrying on four adjacent parcels, approximately 140 acres, located at 105 55<sup>th</sup> Street NE in section 11 of Cascade Township: parcels 74.11.14.030899; 74.11.13.075989; 74.11.43.080430, and 74.11.44.030911.
2. Two of these parcels, 74.11.43.080430, and 74.11.44.030911 recently have been assigned new parcel i.d. numbers, 74.11.44.082387 and 74.11.43.082389.
3. The parcels at issue are zoned Agricultural Resource Commercial District—Aggregate Extraction.
4. The Conditional Use Permit (“CUP”) application seeks to allow the extraction of sand and gravel and quarrying.
5. The parcels that are the subject of this application have been held in common ownership for many decades. These parcels have historically been used for sand and gravel extraction and crop farming.
6. Wilmar Investments LLC, Rochester Sand and Gravel, Mathy Construction Company, and Milestone Materials have variously owned and operated sand and gravel mining facilities on a site located in section 14 of Cascade Township, adjacent to the location of this CUP application.
7. In April of 2011, Mathy Construction submitted an Environmental Assessment Worksheet (“EAW”) in connection with the expansion of the quarry into section 11. The Minnesota DNR, the Responsible Governmental Unit, prepared the EAW and on April 2, 2014 issued a negative declaration, determining that no Environmental Impact Statement should be required. Though the project was later modified, the Minnesota DNR has determined that this revised mining and quarrying project does not require the submission of a new EAW.
8. On July 1, 2015, Wilmar Investments LLC, the owner of the parcels at issue here, filed a lawsuit in Olmsted County District Court. The lawsuit sought a declaration that the parcels that are at issue in this application were not subject to the requirements of

the Cascade Township Planning and Zoning Ordinance because the use predated the enactment of zoning ordinances applicable to the parcels in question.

9. In an effort to resolve the declaratory judgment action, the parties negotiated a proposed CUP. The terms of the proposed CUP are stated in the CUP Application, a copy of which is attached to this document.

10. The proposed CUP would contain limits on hours of operation. These limits on hours of operation would decrease the impact of the use on neighboring properties.

11. The proposed CUP would preclude operation on Sundays and certain holidays. These limits on days of operation would decrease the impact of the use on neighboring properties.

12. The proposed CUP contains numerous noise mitigation provisions and also contains a noise mitigation plan. The proposed CUP also contains terms related to blasting, location of noisy equipment, the manner of load out operations, a traffic management plan, off-site hauling, and non-standard backup alarms. These terms and this plan would decrease the noise impact of the use on neighboring properties.

13. The proposed CUP contains numerous provisions related to dust control and includes a Fugitive Dust Control Plan. These terms and this plan decrease the impact of the use on neighboring properties.

14. The proposed CUP contains provisions relating to visual blocking, storage pile height, and light pollution. These provisions decrease the impact of the use on neighboring properties.

15. The proposed CUP contains provisions related to groundwater levels, fuel storage, wetlands, and stormwater. A Stormwater Management Plan has been submitted with the CUP application. These provisions and the Stormwater Management plan provide protections to neighboring properties.

16. With respect to uses contemplated by the CUP, the mining and quarrying activity will not be occurring within a Floodway, Flood Fringe, or Flood Plain District. The commission received a submission stating that the use would have no impact on the flood plain, given that flood plain velocities would remain unchanged if the use were allowed.

17. The Minnesota Department of Natural Resources has commented on the CUP application and made comments regarding the application by correspondence dated August 16. The applicant has reasonably responded to these comments in the following manner: agreeing to seek necessary permits related to water appropriation; agreeing to comply with applicable regulations related to obtain necessary permits related to placement of the fill in the public waters adjacent to the project; agreeing to comply with applicable regulations related to wetland delineation and replacement; agreeing to

comply with applicable setback requirements; and otherwise address the concerns expressed by the Department.

18. The proposed use is consistent with the Comprehensive Plan provisions relating to the conservation and use of valuable resources because it allows mineral resources need by the community to be recovered. It is also consistent with the principle of orderly development, because it allows, though over a long period of time, for mineral and aggregate resources to be recovered and for the land to then be converted to potential residential use.

19. The proposed operations are a continuation of previous and current activities at the site and are not injurious to the use or values of other properties. The existing quarry has been in operation since the 1960's and appears to not have had any effect on the property values with the continued growth surrounding the property over the past 50+ years. Although the proposed operations are closer to some of the residences than the existing operations, the mitigation measures proposed were not uniformly in use at the site of the existing operations and will reduce any impacts from the proposed operations.

20. Development in other areas of the township has shown that residential development can coexist with sand and gravel mining activity. There are other developments in the township where hard rock mines are located near residential developments and it has been the experience of the Township that these uses can coexist.

21. There has been mining activity on adjacent parcels for many years. There has also been historic mining activity and recent mining activity, though of a different character, on the parcels at issue. The proposed operations are a continuation of activity that has long existed.

22. A Traffic Impact Study was required by Cascade Township. This study was completed by a qualified third-party contractor. The conclusion of this study was that all intersections to receive forecasted traffic will operate acceptably. Transportation officials from Olmsted County and the City of Rochester have not objected to these conclusions. Proposed Conditional Use Permit condition 12 of the Settlement Agreement addresses the traffic produced by the proposed use. This condition dictates the roadways that will be utilized by the operation's traffic. This condition also addresses the need to acquire approval of all access points by the appropriate road authority, the required signage, and maintenance of the roadways.

23. Parking will not be an issue because the mine will be closed to the public and there will be adequate parking on site for the applicant's employees' vehicles.

24. The site plan contains detailed drainage information that assures that surrounding properties will not be affected by runoff from the subject property.



25. The traffic study information provided by the applicant adequately addresses issues related to traffic safety. While there will be increased traffic coming from the quarry, this increase in traffic will not so overwhelm the existing roads as to create unreasonable traffic hazards. As traffic volumes in the area increase with future development, traffic safety issues should be monitored.

26. The applicant shall submit an erosion control and wetland delineation plan for the subject property.

27. A septic system or portable on-site septic facilities shall be provided for the subject property.

### **CONCLUSIONS**

1. The use, with the proposed conditions, conforms to the terms of the Township's Comprehensive Plan.

2. The use, with the proposed conditions, is compatible with the existing adjacent areas and is site appropriate.

3. The use, with the proposed conditions, will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of such properties.

4. The use, with the proposed conditions, will not impede the normal and orderly development and improvements of the surrounding property.

5. Adequate utilities, parking, drainage and other necessary facilities will be provided.

6. Adequate ingress and egress will be provided to minimize traffic congestion in the public streets.

7. With the proposed conditions, the traffic generated by the proposed use can be safely accommodated on existing or planned street systems; and the existing public roads providing access to the site will not need to be upgraded or improved by the Township or County, except as has already been agreed to by the applicant, in order to handle the additional traffic generated by the use.

8. Adequate measures have been taken or are proposed to prevent or control offensive odor, fumes, dust, noise, vibration, lighting or storm water runoff, which would otherwise disturb the use of neighboring property.

9. The special criteria or requirements indicated in Article X, General Regulations, are complied with.

10. With respect to uses contemplated by the CUP, the mining and quarrying activity will not be occurring within a Floodway, Flood Fringe, or Flood Plain District so that the factors related to flooding as contained in the Cascade Township Planning and Zoning Ordinance, section 4.02(A)(9-20) do not apply to this CUP application. As suggested in the submission of Tara Wetzel, the use should have no impact on floodways and floodplains.

11. Given the nature and type of activity taking place on the parcels included in this CUP application, and the numerous conditions that have been included in the proposed CUP, the Planning Commission determines that the factors included in the Cascade Township Planning and Zoning Ordinance, section 4.02(A)(9-20) do not support denial of the CUP, but support granting the CUP with conditions.

12. The CUP application should be granted, for parcels 74.11.14.030899, 74.11.13.075989, 74.11.43.082389, and 74.11.44.082387.

**DECISION**

1. The CUP is granted pursuant to the terms and conditions of the proposed cup terms included in the settlement agreement with its exhibits, attachments, and plans.

2. The zoning administrator is authorized to prepare the CUP, with all appropriate attachments, exhibits, and plans, for signature by the applicant and the commission chair or acting chair.

3. The chair or acting chair of the Planning Commission is authorized to sign the final prepared CUP on behalf of the planning commission.

**Dated: August 21, 2018**

**Cascade Township Planning Commission**

By 

Its vice chair

# OPERATIONS PLAN

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**MILESTONE  
MATERIALS**

A Division of Mitty Construction Co.

