

**SAN FRANCISCO TOWNSHIP
CARVER COUNTY, MINNESOTA
Resolution No. 20-02**

**A RESOLUTION APPROVING AN AMENDED INTERIM USE PERMIT
FOR MINERAL EXTRACTION AT THE HANSON MINE**

WHEREAS, Chard Grading and Excavation, LLC ("Applicant") submitted an application for an amended interim use permit to San Francisco Township ("Town") requesting amendments to the existing interim use permit the Town issued in February 2015 ("2015 IUP") for the operation of a mineral extraction facility on property owned by Terry Hanson ("Owner"), which is legally described in the attached Exhibit A ("Property");

WHEREAS, the Applicant, formerly known as Chard Tiling and Excavation, Inc., currently has a mining operation on the Property, which is referred to as the Hanson Mine ("Mining Operation"), pursuant to conditional use permit #7111 ("County CUP") issued by Carver County ("County") in 1992 and the 2015 IUP;

WHEREAS, the County CUP allowed mining of approximately 22 acres of the Property and allowed the import, crushing, and recycling of concrete and asphalt material on the Property as accessory uses to the mineral extraction operation;

WHEREAS, the 2015 IUP expanded the Mining Operation to operate on a 35 acre portion of the Property, legally described in the attached Exhibit B, which included up to 10 acres of extraction area, 15 acres of operations area (screening, stockpiling and loading), and 10 acres of restoration area (reclamation), but which specifically excluded importing, processing and recycling of concrete, asphalt and other recyclable materials;

WHEREAS, the Applicant's request for an amended interim use permit includes the following: (1) the initial approval of a further expansion of the Mining Operation identified as "Phase 2" in the application materials, (2) the adoption of a phasing plan ("Phasing Plan"), attached hereto as Exhibit C, for the future expansion of the Mining Operation, which would include Phases 3 through 8 as identified in the Phasing Plan, with all phases of expansion requiring approval of the Town, and (3) the approval of importing, processing and recycling of asphalt and concrete as part of the Mining Operation;

WHEREAS, on July 13, 2020, after due notice having been provided, the Planning Commission conducted a public hearing regarding the requested amendments to the 2015 IUP, and the Planning Commission forwarded the application to the Town Board with a recommendation that it be approved with certain conditions; and

WHEREAS, the Town Board hereby finds and determines as follows with respect to the requested amended interim use permit:

- a. The Applicant's request for amendments to the 2015 IUP for the existing Mining Operation is subject to Chapter 15 of the Town's Mineral Extraction Ordinance, Ordinance No. 8

("Ordinance"), which requires applications be forwarded to the Planning Commission for a public hearing upon due notice and that the Planning Commission forward its recommendation on to the Town Board for final action.

- b. The Ordinance, which was recently amended, also imposes various conditions, regulations and performance standards for such a Mining Operation.
- c. The Applicant's "Application to Amend Mineral Extraction Interim Use Permit" dated April 2020 ("Application Packet"), which is incorporated herein by reference, includes the application form, supporting documentation, performance standards, a phasing plan, a reclamation plan, and GPS coordinates of mine limits by phase created by Sunde Engineering, PLLC.
- d. The Property is located within the Agricultural District.
- e. Active mining and extraction at the Mining Operation has now been completed over most of the area permitted by the 2015 IUP, which includes five (5) acres of extraction area, seven (7) acres of operations area and nine (9) acres of active restoration area for reclamation.
- f. The Applicant proposes to expand the Mining Operation on the Property through the adoption and approval of the Phasing Plan, which includes the initial approval of Phase 2, which would add 10 acres of active mining area, and subsequent expansions from Phase 3 through 8, subject to Town approval.
- g. The Applicant proposes to restore, reclaim and alter the extraction and operations areas concurrently and progressively with its mining activities so that at all times no more than ten (10) acres of the Property will constitute the extraction area, no more than fifteen (15) acres of the Property will constitute the operations area (screening, stockpiling and loading), no more than ten (10) acres of the Property will constitute active restoration area for reclamation, and the active mining area in total will include no more than 35 acres of the Property.
- h. The estimated time to complete Phases 2 through 8 of the Phasing Plan is 25 to 30 years, with the actual life of the Mining Operation being dependent upon market demand.
- i. The expanded Mining Operation, and the related accessory uses, propose the use of equipment to extract, move and stockpile minerals as well as use of a screening plant and crushing plant.
- j. The Applicant proposes that the Mining Operation, and the related accessory uses, also be expanded to include the importing, processing and recycling of asphalt and concrete. The recycling operations shall be subject to the terms of the required operations agreement.
- k. The Mining Operation has direct access onto County Road 11, which is a 10-ton blacktopped road. Two accesses to County Road 11 from the Property were previously identified for the Property, which were referred to as the North Access and the South Access. The North

Access was eliminated and only the South Access actually provides access to the Mining Operation.

- l. Prior to the adoption of the 2015 IUP, the Applicant hired an engineering firm to complete a traffic study, which is dated January 29, 2015 ("Traffic Study"). The recommendations from the Traffic Study included the following:
 - (1) All traffic must enter and exit the Property exclusively by the South Access.
 - (2) Special consideration should be made to limit any sight distance impacts from future structures, landscaping, and signing.
 - (3) The South Access location shall continue to be monitored to determine if unforeseen future roadway conditions will necessitate improvements.
- m. The Applicant has not provided an updated traffic study, and the application does not seek approval of an alternative access plan. The traffic conditions in the area have not significantly changed since the original 2015 Traffic Study, and the number of haul trucks accessing the Mining Operation on a daily basis will remain consistent with past and current operations. Therefore, the Town does not require an updated traffic study.
- n. An environmental worksheet ("EAW") was completed for the mining operation in January 2005 as part of the County's permitting process. The EAW took into account the entire Property. The County issued a negative declaration on the need for an environmental impact statement ("EIS"). By Resolution dated January 12, 2015, the Town Board found the existing EAW sufficient for the purposes of considering the requested 2015 IUP and, as such, determined it was not necessary for the Applicant to prepare a new EAW for the 2015 IUP application. For the same reasons set forth in the Resolution dated January 12, 2015, the Town Board determines that it is not necessary for the Applicant to prepare a new EAW for this application.
- o. The addition of concrete and asphalt recycling to the Mining Operation does not require the preparation of an EAW in accordance with Minnesota Rule, part 4410.4300 and does not require the preparation of an environmental impact statement ("EIS") in accordance with Minnesota Rule, part 4410.4400.
- p. The nature or location of the proposed concrete and asphalt recycling will not have the potential for significant environmental effects, and therefore, the Town declines to require an EAW, in its discretion, in accordance with Minnesota Rule, part 4410.4500.
- q. Chapter 6, Section 1(H) of the Ordinance requires the Applicant and the Owner to enter into an Operations Agreement with the Town, and in this instance, the Applicant and the Owner will be required to amend the existing Operations Agreement in accordance with this amended interim use permit ("Amended IUP").

- r. Pursuant to Chapter 4, Section 2 of the Ordinance, the Town Board, having considered the limitations imposed by the Ordinance and this Amended IUP, hereby finds as follows:
- (1) The expanded Mining Operation will not create an excessive burden or cause adverse impacts on existing parks, schools, streets, or other public facilities. The use does not require the provision of any additional public utilities, has no direct impact on parks or schools, and County Road 11 is sufficient to accommodate the truck traffic generated by the use;
 - (2) Compliance with the required setback distances and the use of berms are sufficient to avoid adversely impacting adjacent properties;
 - (3) The appearance of the structures within the Mining Area will not have an adverse impact on the surrounding properties. There are no buildings proposed for the operation. The screening plant and crushing plant are the only structures proposed for the Property and the appearance of such structures are not inconsistent with the various agricultural related structures located within the area and throughout the Town;
 - (4) The Mining Operation currently exists and the proposed expansion will not adversely impact bluff and ravine areas of the Town;
 - (5) The expanded Mining Operation is consistent with the Town's plan;
 - (6) The traffic study indicates hauling from the Property does not pose a particular interference to traffic and the conditions placed on the number of truck hauls in an hour helps to reduce traffic issues. The access road is sufficient to accommodate the hauling traffic; and
 - (7) The expanded Mining Operation as proposed and restricted by this Amended IUP will not adversely impact surface or ground water resources. The EAW did not identify any water impacts of concern.
- s. The proposed mineral extraction facility satisfies the general provisions contained in Section 152.081 of the County Ordinance and the criteria for issuance under Section 152.082. The Applicant is eligible for this Amended IUP under the criteria and the conditions placed on this Amended IUP are intended to ensure compliance with the operational requirements in the criteria.
- t. This Amended IUP constitutes a mineral extraction permit for the purposes of the Ordinance.
- u. The concrete and asphalt recycling conducted on the Property constitutes an accessory use for the purposes of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that based on the record of this matter, including the Application Packet, EAW, traffic study, and the information presented at the public

hearing, the Town Board hereby approves and issues an amended interim use permit to operate a mineral extraction facility within the Mining Area on the Property subject to all of the following conditions, restrictions, and requirements:

1. Scope of Use. This Amended IUP allows the Applicant to conduct a Mining Operation on 35 acres of its Property to be identified as the Mining Area, which may include the 10 acres identified as Phase 2 in the Phasing Plan for active mining. No more than 10 acres of the Mining Area may be actively mined at any one time. Of the remaining 25 acres of the Mining Area, 15 acres may be used as the operations area (stockpiling, crushing, screening, loading, etc.), and 10 acres for restoration area for reclamation. All mining activities shall occur in accordance with the plans and drawings submitted as part of the application, including the Phasing Plan. The uses allowed by this Amended IUP include the excavation, processing, storage, and removal of mineral materials from the Property and the importing, processing and recycling of concrete and asphalt. Processing of the mineral materials may include, as accessory uses, the crushing and screening of mineral materials. This Amended IUP does not allow, and the Applicant is prohibited from, importing any materials for recycling other than concrete and asphalt. No explosives are allowed to be used or stored on the Property. The uses allowed to occur as part of the Mining Operation are subject to and must comply with the conditions imposed on this Amended IUP, the requirements of the Ordinance, and all other applicable regulations.
2. Phasing Plan – Phases 3 through 8. No mining activities, including the importing, processing and recycling of concrete and asphalt, shall occur in Phases 3 through 8 until approved by the Town. The expansion of the Mining Operation in Phases 3 through 8 shall not require further amendments of this Amended IUP.
3. Accessory Uses. The accessory uses allowed by this Amended IUP include the placement and operation of such equipment as may be needed to crush and screen mineral materials, concrete and asphalt as part of the Mining Operation. All such equipment must be located, to the extent reasonably possible, at the bottom of the pit and in compliance with all setback distances required of the Mining Operation.
4. Operations Agreement. The provisions of the existing Operations Agreement shall be amended by a written amendment executed by the parties in accordance with the terms of this Amended IUP. The Operations Agreement is binding on the Applicant and Owner and a violation of a material term or condition may result in the revocation of this Amended IUP.
5. Hours of Operation. The hours of operation for the Mining Operation are limited to 6:00 a.m. to 6:00 p.m., Monday through Friday. These hours of operation are subject to restriction within the Operations Agreement. The Mining Operation may be opened one hour before the start of the hours of operation for staging. Staging activities does not include the loading of trucks. Operation on holidays as identified in the Ordinance is prohibited. A Town Supervisor may grant a temporary extension to the hours of operation to allow the Applicant to respond to emergencies. Any request for a non-emergency exception to the hours of operation must be presented to the Town Board for a review and decision in accordance with the Ordinance.

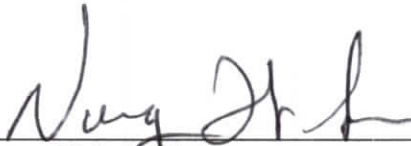
6. Truck Trips. The number of haul trucks shall not exceed the following: (a) 24 trucks per hour one way from 6:00 a.m. to 9:00 a.m.; and (b) 30 trucks per hour one way from 9:00 a.m. to 6:00 p.m., but the allowance of the additional six trucks shall be limited to irregular truck trips associated with small projects (i.e., not regular hauling as part of a large project). The count includes each truck entering or leaving the Property regardless of whether the truck is carrying mineral materials or is empty.
7. Concrete and Asphalt Recycling. The importing, processing and recycling of concrete and asphalt is allowed as part of the Mining Operation. The importing of material can occur year round, but the processing and recycling operations shall be limited to the time period beginning on November 15th and ending on April 15th each year. All importing, processing, and recycling activities shall only be conducted during daylight hours. Any request to process or recycle concrete or asphalt from April 16th to November 14th must be presented to the Town Board for a review and decision in accordance with the Ordinance. At no time shall the Applicant stockpile more than 45,000 tons, in total, of concrete and asphalt. Any area used for the stockpiling of concrete and asphalt materials shall be included in the 15 acre operations area.
8. Property Accesses. Trucks entering and leaving the property as part of the Mining Operation shall only use the South Access. No structures, landscaping, trees, bushes, signs or other items shall be placed on the Property in any way that reduces sight distances related to the use of the South Access.
9. Reclamation. The Applicant shall be required to reclaim the Mining Area in accordance with the reclamation plan and the Ordinance. Reclamation activities shall not constitute active mining or land open for mining for the purposes of this Amended IUP. Portions of the Mining Area on which mining has ceased and reclamation has begun are not to be counted toward the 10 acre limit on active mining area.
10. Setbacks. All areas of the Mining Operation, including the area to be mined, all internal haul routes, and the entrance/exit onto the roadway, shall be set back at least 1,000 feet from any residence, except the residence on the Property, and 200 feet from the property lines. All mining activities shall be set back: at least 1,000 feet from the ordinary high water level of any lake, pond, or flowage; and 300 feet from rivers and streams designated by Carver County Zoning Map, or the landward extent of the designated floodplain area of a river or stream, whichever is greater.
11. Screening. The Applicant shall be required to construct and maintain berms in accordance with Chapter 7, Section 1(P) of the Ordinance. The height of the berms is not required to exceed 8 feet. Topsoil removed from the Mining Area may be used to construct the berms.
12. Gate. The Applicant shall maintain a gate across the access drive to the Mining Area which shall be locked outside of the permitted hours of operation.

13. Signage. The Applicant shall coordinate with the County and the Town for the placement of signs on or along County Road 11 as is deemed appropriate to warn the traveling public of hauling activities related to the Mining Operation.
14. Haul Routes. All trucks entering and exiting the Property related to the Mining Operation shall use County Road 11 and the applicant is required to comply with dust clean up and control from hauling activities as provided in the Ordinance and as may be required by the County.
15. Depth of Excavation. The depth of the excavation is limited so that no excavation occurs within 10 feet of the normal water table. Dewatering to obtain material intersecting the groundwater is prohibited. A registered surveyor must certify the mining depth annually and this information shall be included in the annual report to the Town as required by this Amended IUP.
16. Annual Report. The Applicant shall submit an annual report to the Town Board by February 1st. The report shall include an outline of the mining activities that occurred in the year, an estimate of the amount of mineral materials removed, the number of acres within the Mining Area that have been cleared for mining, a summary of any complaints received, and what was done to address the complaints.
17. Review. This Amended IUP is subject to on-going review as provided in Chapter 6, Section 2 of the Ordinance.
18. Amended Permit. The Applicant shall not alter in any material way the Mining Operation or the plans submitted related to the Mining Operation without first applying for and receiving a new or amended interim use permit from the Town to allow the alteration.
19. Termination. This Amended IUP shall terminate 15 years from the date of its issuance. The Applicant may reapply for a new interim use permit prior to the termination date that would take effect upon the replacement or expiration of the current permit.
20. Revocation. The violation of any term or condition of this Amended IUP including, but not limited to, the provisions of the Operation Agreement or of any applicable federal, state, or local laws, rules, regulations, and ordinances, may result in the revocation of this Amended IUP. The Applicant shall be given written notice of any violation and reasonable time (not less than 30 days) to cure the violation before a revocation of this Amended IUP may occur.
21. Single Town Permit. This Amended IUP supersedes the 2015 IUP, which is hereby repealed, and serves as the only permit issued by the Town for this Mining Operation. The Mining Operation is required to comply with, and is limited by, the terms and conditions of this Amended IUP, the Operations Agreement, the Mining Ordinance, and all other applicable regulations.

22. Binding Effect. This Amended IUP and its conditions are binding on the parties, their successors and assigns, and shall run with the Property until the Amended IUP is terminated or revoked as provided herein.
23. Host Fees. In the event that the Minnesota Legislature approves host fees, Applicant shall pay to the Town the fees which are allowed by the legislation.
24. Legal Compliance. This Amended IUP is subject to the requirements of the Ordinance and the Applicant is required to comply with, and obtain all other permits or permission, as may be required by, all applicable federal, state and local laws, rules and ordinances.
25. Acceptance of Conditions. Utilization of the Property for any of the uses allowed by this Amended IUP shall automatically be deemed acceptance of, and agreement to, the terms and conditions of the Amended IUP without qualification, reservation, or exception.
26. No Waiver. A failure by the Town to take action with respect to any violation of any condition, covenant or term of this Amended IUP shall not be deemed to be a waiver of such condition, covenant, or term or any subsequent violation of the same or any other condition, covenant or term.
27. Town Costs. The Applicant shall pay all application fees and shall reimburse the Town for all costs it incurred related to processing and acting on the application including, but not limited to, special meetings costs and legal fees. Failure to fully reimburse the Town for its costs shall constitute a violation of this Amended IUP. The Town may also include in the Operations Agreement a requirement that the Applicant provide an escrow or otherwise reimburse the Town for the costs it incurs during the term of this Amended IUP related to inspecting the Property and to otherwise ensure compliance with the terms and conditions of this Amended IUP and the Operations Agreement.

Adopted this 20th day of August 2020.

BY THE TOWN BOARD


Doug Weber, Chairperson

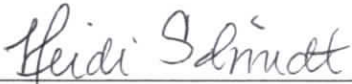
Attest: 
Heidi Schmidt, Clerk



EXHIBIT A
Legal Description of the Property

The East Half and the Northwest Quarter of the Southwest Quarter of the Section One (1), Township One Hundred Fourteen (114), Range Twenty-four (24), according to the Government Survey thereof;

And

The Northwest Quarter of the Southeast Quarter (NW1/4 of SE1/4) of Section One (1), Township One Hundred Fourteen (114), Range Twenty-four (24) West, excepting therefrom about one-half of an acre at the Southeast corner thereof deeded to one Jonas Anderson;

And

Commencing at a point on south line of Section One (1), Township One Hundred Fourteen (114), Range Twenty-four (24), 8.43 chains west of the Southeast corner of said Section; thence north 28 degrees west 12.14 chains; thence north 65 ½ degrees west 5.33 chains to center line of said Southeast Quarter; thence north 52 ½ degrees west 2.08 chains; thence north 15 and ¾ degrees west 4.08 chains; thence north 1 degree west about 2.50 chains to center line running east and west of said Southeast Quarter of Section one (1), thence west on said center line to Northwest corner of Southwest Quarter of Southeast Quarter, thence South on quarter line to Southwest corner of said Southwest Quarter (SW ¼) of Southeast Quarter (SE ¼) thence east on south line of said Section One (1) to place of beginning.

EXHIBIT B
Legal Description of the Existing Mining Area

Commencing at a point on south line of Section One (1), Township One Hundred Fourteen (114), Range Twenty-four (24), 8.43 chains west of the Southeast corner of said Section; thence north 28 degrees west 12.14 chains; thence north 65 1/2 degrees west 5.33 chains to center line of said Southeast Quarter; thence north 52 1/2 degrees west 2.08 chains; thence north 15 and 3/4 degrees west 4.08 chains; thence north 1 degree west about 2.50 chains to center line running east and west of said Southeast Quarter of Section one (1), thence west on said center line to Northwest corner of Southwest Quarter of Southeast Quarter, thence South on quarter line to Southwest corner of said Southwest Quarter (SW 1/4) of Southeast Quarter (SE 1/4) thence east on south line of said Section One (1) to place of beginning.

And

The East one-Half of the of the Southeast (SE)1/4 of the Southwest (SW) 1/4 of Section One (1), Township One Hundred Fourteen (114), Range Twenty-four (24) West.

EXHIBIT C Phasing Plan

