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**Reply to Stillwater**

March 11, 2025

Planning Commission  
City of Greenfield  
7738 Commerce Circle  
Greenfield, MN 55373

VIA EMAIL: [brad@hkgi.com](mailto:brad@hkgi.com)

Re: Opposition to Crow Pit Mine CUP

Dear Planning Commissioners:

I write to oppose the CUP application for the proposed Phase 2 of the Crow Pit Mine on behalf of my clients. This application should not be approved without imposing conditions for the protection of neighbors. However, before approval becomes an option, the applicant must provide the City with complete information and materials about the site, operations, and reclamation to show that it has met the mining and CUP requirements. Until that is done, the City should deny the current application.

The legal framework for CUP approval falls into three phases. First, the applicant must provide all the materials required by the zoning ordinance. The burden is on the applicant to provide these materials, not the City to accommodate their omission, and a failure to submit all the materials results in an incomplete application. This is important because the City cannot fully evaluate the application without all of the requisite materials, which should include a reclamation plan and identify the order in which the property will be mined. Failure to provide these materials should result in a denial.

Second, after all the required materials have been provided, the applicant must still demonstrate that the proposed CUP does not negatively impact the health, safety, and welfare of the surrounding area. Minnesota law has, *for well over 100 years, made absolutely clear that a business cannot impose negative impacts upon its neighbors even if that business existed long before the neighbors arrived.* *Brede v. Minnesota Crushed Stone Co.*, 143 Minn. 374, 381, 173 N.W. 805, 808 (1919). This is true even if similar uses exist on nearby properties. *Id.*

Moreover, the City must not allow a use that is "injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property." *Hawkins v. Talbot*, 248 Minn. 549, 555, 80 N.W.2d 863, 867 (1957). As in *Brede*, this principle is simple: do not cause injury to your neighbors, which is the crux of ensuring the protection of health, safety, and welfare.

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The applicant has the burden of demonstrating that it does not harm nearby properties. If there are negative impacts, then the application can be denied unless reasonable conditions are imposed to mitigate all the harms. *RDNT, LLC v. City of Bloomington*, 861 N.W.2d 71, 76 (Minn. 2015). The conditions are imposed on the basis of the applicant operations, the neighborhood, the land in question, and the unique characteristics of each. Testimony on the experiences of neighbors is relevant and legally sufficient. *Id.* If the negative impacts are not mitigated, then the application must be denied. If they will be mitigated through conditions, then the application can finally be approved.

The applicant readily admits in prior testimony and in these and prior submitted materials that mining is dirty, noisy, and has many inherently negative impacts that actually require conditions to be imposed. Given the context of this application, the prior Crow Pit Mine applications, the subject property, and the surrounding area, the City has strong legal support to impose these reasonable guardrails to mitigate the negative impacts that are inherently involved with gravel extraction, processing, and transportation and are necessary to address the negative impacts and ensure that the gravel pit can co-exist with the residents. With that in mind, staff has proposed a lengthy list of reasonable and lawful conditions.

While these conditions may seem severe, keep the following in mind: (i) you have the authority under the zoning ordinance to require additional and specific materials from the applicant; (ii) you are required by state and local laws to impose conditions that mitigate the harms of the operation; (iii) meaningful conditions with enforcement mechanisms will set expectations among the parties and reduce the potential for conflicts with neighbors and City involvement in investigations or enforcement matters.

Also, the City should not rely on BMPs as conditions, which are unspecific, generalized, and passive requirements that will allow an applicant to do the bare minimum rather than meet the appropriate City standard. Instead, it is important for the City to make specific conditions based on thorough consideration of the application, the operation, and its impacts on the area. Staff has done this careful analysis and the proposed conditions will help to protect the neighbors from the negative impacts of mining operations.

In some ways, however, the proposed conditions do not go far enough. Berming should be a minimum of 12 feet around the perimeter which will help inhibit dust, noise, and vibrations, and provide visual screening; operations, including loading and hauling, should not be allowed on Saturdays; crushing should be limited to the historical use of less than 20 days annually.

Remember that the gravel pit has caused a long list of daily and recurring harms to the area that negatively impact how, when, and where people in the area can use their properties and enjoy their lives. These include dust in the air and settling on property, powerful vibrations, high and low-pitched noises, heavy truck traffic, lights, unsightly equipment and storage, stockpiles, risks to the water table and Crow River watershed, degradation of roadways, and dangerous driving behavior from heavy trucks. This testimony is based on the actual experiences of people in the neighborhood, some of whom have been here for 40 years.

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Good reasons exist in the record for denying the application. In the event it is approved, the City must impose the recommended conditions and those proposed in this letter to protect the surrounding area.

Sincerely,

s/Jacob M. Saufley

Jacob M. Saufley

Cc: Dan Van Holland, Zoning Administrator  
Margaret Webb, City Administrator  
Jason Zimmerman, Consulting Planner  
John Thames, City Attorney  
Client