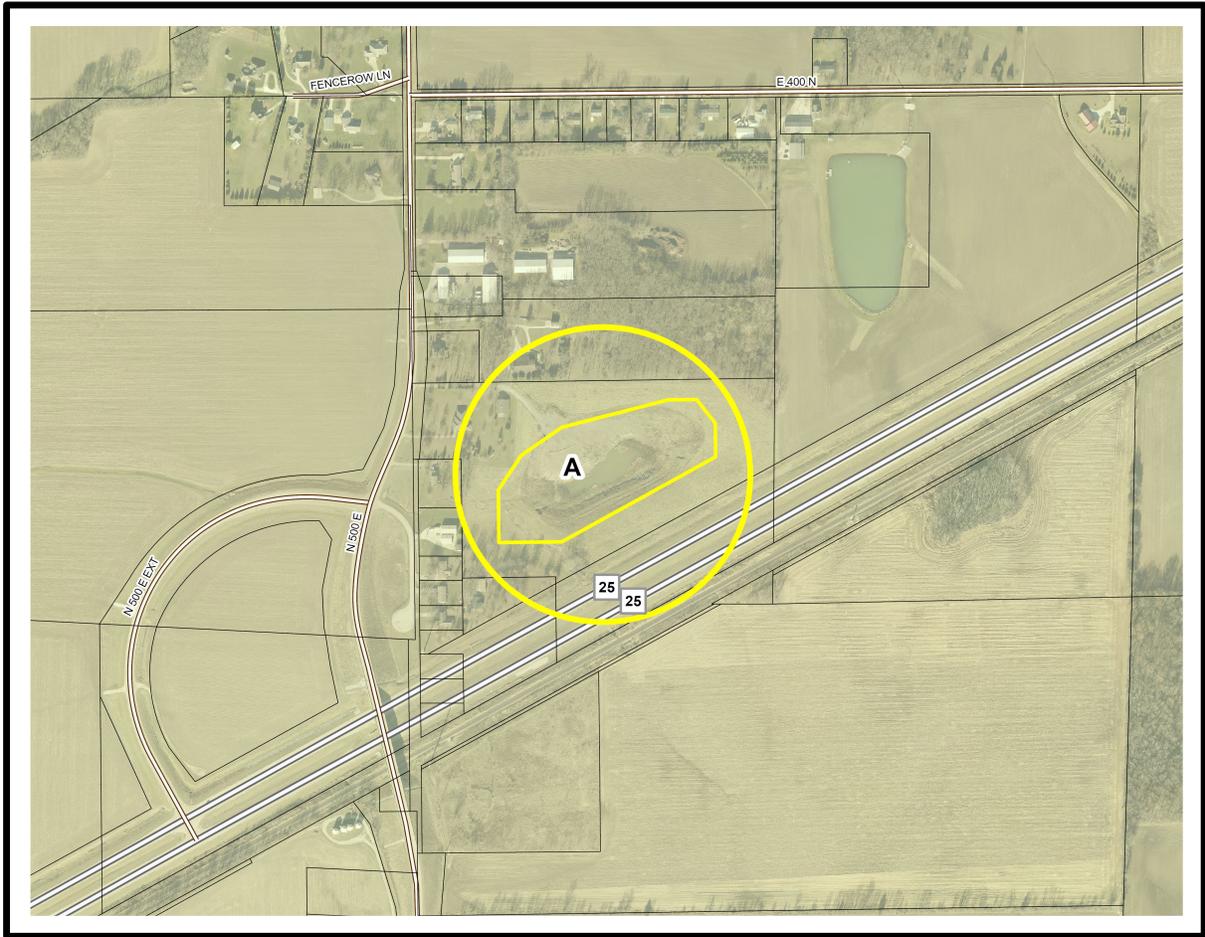

BZA-2036
HERITAGE LAND COMPANY, LLC (BZA-1778)
(special exception)

STAFF REPORT
May 21, 2020



BZA-2036 (BZA-1778)
HERITAGE LAND COMPANY, LLC
Special Exception

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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, who is the owner and represented by attorney Dan Teder, is requesting an extension and modification of a previously approved special exception for a mining operation (BZA-1778). The original approval, granted in 2009, expired in 2011 without the completion of the reclamation plan. Mining is complete and not a part of this request. The original approved reclamation design was for a pond to be created after mining was complete, however petitioners are modifying the original reclamation plan so that the land can be filled to the original grade. The project will be completed by December 31, 2025. No additional mining activity will be conducted. The 8.14-acre mined portion of the 21.85-acre tract is located north of SR 25 (Hoosier Heartland) and east of CR 500 E at 3619 N 500 E, Perry 6 (NW) 23-3.

AREA ZONING PATTERNS:

All the surrounding properties are zoned A, Agricultural. A mix of residential, industrial and business zoning is located to the southwest along the I-65 and Hoosier Heartland corridors.

The Board approved the original special exception in 2009 (BZA-1778) for construction of the Hoosier Heartland highway. Two variances were also approved to waive the required bufferyard and alter the fencing requirements (BZA-1779).

AREA LAND USE PATTERNS:

The property to the east was also granted a Special Exception in 2011, (BZA-1818) for a temporary mining pit.

This area of the county is a mix of agricultural and large-lot residential uses. Marian Dale subdivision is located about ½ mile to the south and Eastbrook subdivision is about ½ mile to the north.

The subject property, bordered on the south by the Hoosier Heartland (SR 25) and the Norfolk & Southern railroad tracks, supports a single-family dwelling and a large outbuilding. A draft of a proposed parcelization has been submitted to staff for review which would create 4 additional home sites from the larger 21.85-acre tract owned by petitioner.

TRAFFIC AND TRANSPORTATION:

The *Thoroughfare Plan* classifies CR 500 E as a rural secondary arterial. The existing

driveway from CR 500 E will be utilized to bring in fill to complete the revised reclamation plan. A note on the site plan indicates that this construction entrance and haul road will be removed, and the land restored to its previous condition. The home on-site has a driveway south of the construction driveway.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

The UZO requires all reclamation plans show slopes no steeper than 3:1, all surfaces to be grassed or landscaped, all installed bufferyards to remain and overburden removed. The original reclamation plan for the site meets all of those standards except the bufferyard and fence requirements, which were granted variances (BZA-1779). One of the variance requests eliminated the 20' Type C bufferyard that was required when a mining operation abuts a residential or agricultural use. The second variance granted was to permit a typical woven-wire farm field fence instead of the required 6' security fence.

The original reclamation plan proposed a six acre 25' deep pond; the edges of the pond were shown with the required 3:1 slope. The revised reclamation plan shows the proposed borrow pit (pond) to be filled to finished grade (as shown in the attached reclamation plan) with an application of permanent seeding.

STAFF COMMENTS:

The original special exception approval allowed mining to begin in 2009 and finish in November 2010; reclamation was to be complete no later than July 2011. The resulting pond would have been 6 acres in size and 25 feet in depth.

Last August the County Building Commissioner visited the site and observed large pieces of concrete and other construction material being placed in the pit. At the request of the Building Commissioner, the fill was removed and the contractors met with the Building Commissioner and APC staff. Staff learned that after several attempts by the contractor, the pit would not hold water and construction debris was eventually placed in the pit. The contractors were advised to stop all work and request both an extension of their mining operation and permission to alter the approved reclamation plan.

The reclamation plan includes some gaps including what material may be used for reclamation. The zoning ordinance defines "suitable fill" as fill material which is organic, stable, compacted, well graded, pervious, and generally unaffected by water and frost and is appropriate for the purpose of supporting the intended use. The Building Commissioner will also allow fill to include concrete and asphalt if it is reduced to gravel no greater than 2 inches in diameter. Daily activity logs, fencing and a secured gate will also need to be included as required by the Administrative Officer (the Building Commissioner). The log sheets must also be made available to the Administrative Officer upon request. The owner of the property, Heritage Land Trust Company, LLC, is responsible for staffing the property on days when fill will be brought to the site.

The zoning ordinance requires the reclamation plan be accompanied with a surety bond in the amount of \$3,000 per acre of land within the approved setbacks. The reclamation plan shows how the petitioner intends on restoring the property since active mining is

over (guided by UZO standards) and the bond ensures that the county has access to necessary funds to complete the reclamation if petitioner neglects to complete the plan.

After reclamation is complete, petitioner will need to submit a final reclamation plan to the ABZA indicating compliance with UZO 4-11-l-f. The final reclamation plan (as-built drawings), certified by a Registered Land Surveyor, shall show topography and landscaping.

At its meeting on May 6, 2020 the Executive Committee of The Area Plan Commission voted that granting this request would not substantially adversely affect the Comprehensive Plan.

Regarding the ballot items:

1. Section 3.1 of the Unified Zoning Ordinance **authorizes** a special exception for mining (SIC 14) in the Agricultural zone.

And it is staff's opinion that:

2. The requirements and development standards for the requested use as prescribed by the Unified Zoning Ordinance **WILL** be met. The borrow pit (pond) will be filled as shown and will exceed the required 3:1 slope or greater because the pit will be filled to grade level. The site will be seeded meeting ordinance requirements.
3. Granting the special exception **WILL NOT** subvert the general purposes served by the Ordinance. In fact, allowing this special exception extension will permit the revised reclamation to be completed as required by the ordinance.
4. Granting the special exception **WILL NOT** materially and permanently injure other property or uses in the same district and vicinity because of:
 - a. Traffic generation: The only trips generated on site would be needed to complete the revised reclamation plan; construction traffic has been entering and leaving the site since 2009 without incident. The petition states that additional vehicles on site would be "1 pickup truck, a variable number of tri-axle trucks and 1 bulldozer." Petitioner anticipates up to 50 tri-axle loads per day coming and leaving the site, however it is anticipated that most days no trucks will be entering or leaving the site. The fill operation will be conducted as suitable material is available.
 - b. Placement of outdoor lighting: No outdoor lighting is proposed;
 - c. Noise production: Noise produced by the reclamation will not be significantly more than what active mining produced; and
 - d. Hours of operation: Active mining is complete and reclamation work will be completed during daylight hours (7:00am to 7:00pm), Monday through Friday with possible random Saturday operations, which would not be intrusive to the residences nearby.

STAFF RECOMMENDATION:

Approval contingent on the conditions below.

Condition:

1. A revised reclamation plan must be submitted that adds all items in the third paragraph of staff comments;
2. The BZA-approved reclamation plan must be recorded;
3. Acquire an Improvement Location Permit/Fill Permit from the County Building Commission; and
4. Bonding in the amount of \$3,000 per acre of land within the setbacks must be submitted.

ABBREVIATIONS

Table of abbreviations for columns 1 and 2, including terms like A, A/C, AG, AASHTO, ADA, ADDL, AGGR, ALNMT, ALT, APPROX, AR, ARCH, ASTM, AWWA, B&B, BB, BC, BG, BDRY, BFS, BM, BNC, BOA, BP, BV, BVC, BVCS, BVP, C.T.O.C, C&G, CB, CFS, CHK, CHKV, CI, CJ, CLL, CMP, CO, COL, COMB, COORD, CP, CRN, CS, CTR, CTRL, CU, CU YD, D, DA, DAT, DEMO, DI, DIA, DIM, DIP, DIR, DIST, DW, E, EA, EC, EFS, EL, ELEC, ELIP, ENGR, EOA, EP, ES, ESMT, EST, EVC, EVCE, EVCS, EVP, EXST, EXST GR, FF, FH, FHWA, FIN, FIN GR, FLL, FN, FOC, FP.

ABBREVIATIONS

Table of abbreviations for column 3, including terms like FT, FTG, FUT, G, GAL, GB, GPM, GUT, HDPE, HDWL, HH, HMA, HORIZ, HP, HVAC, ID, IN, INV, INV EL, K, LP, M, MAX, MBL, MDSK, MH, MIN, MISC, MRB, MRBC, MPN, MIP, N, NTS, OC, OD, PC, PCC, PCCP, PCF, PH, PI, PIV, PRC, PSI, PT, PVC, PVI, RBR, RCP, REQD, ROW, RVL, SAN, SB, SCD, SCH, SDR, SIG, SIM, SPEC, SQ, SQ FT, SS, SSD, ST, STR, SW, TBM, TC, TDH, TEL, TEMP, TO PIPE, TOC, TOP, TOS, TOW, TRAF, TSV, TYP, UON, VAR, VCP, VERT, VOL, W, WIO, WV, WWR.

LEGEND

Legend for column 4, divided into EXISTING and PROPOSED sections. Categories include EROSION CONTROL, TRANSPORTATION & TRAFFIC, GENERAL SITE FEATURES, TOPOGRAPHY & DRAINAGE, PROPERTY & BOUNDARY, MONUMENTATION & CONTROL, and GENERAL ANNOTATION.

LEGEND

Legend for column 5, divided into EXISTING and PROPOSED sections. Categories include TRANSPORTATION & TRAFFIC, GENERAL SITE FEATURES, TOPOGRAPHY & DRAINAGE, PROPERTY & BOUNDARY, MONUMENTATION & CONTROL, and GENERAL ANNOTATION.

LEGEND

Legend for column 6, divided into EXISTING and PROPOSED sections. Categories include SANITARY SEWER, STORM SEWER & DRAINAGE, WATER, CABLE TV / COMMUNICATION, ELECTRIC, FIBER OPTIC, GAS, TELEPHONE, and COMBINATION UTILITIES.

TBIRD Design Services Corporation logo and contact information: 105 NORTH 10TH STREET, LAFAYETTE, INDIANA (765) 741-4400, www.tbirdsgp.com

CERTIFIED BY: For Review 03/12/2020 6:47:20 PM

HERITAGE LAND COMPANY LLC RECLAMATION PLAN FOR MILESTONE CONTRACTORS 3301 S 480 E LAFAYETTE, IN 47905

Table with columns MARK, DATE, and DESCRIPTION.

PROJECT NO: 19118 FILE: 19118-GENERAL.DWG DRAWN BY: MGF / MBH CHECKED BY: PEW / CSK LOCATION:

A PART OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 23 NORTH, RANGE 3 WEST, PERRY TOWNSHIP, TIPPECANOE COUNTY, INDIANA

LEGEND & ABBREVIATIONS

G002

FILE: P:\2019\19118 Heritage Group\Heritage Drawings\PLANS\FINAL PLANS\LOT19118-GENERAL.dwg - USER: JAWASHALL G. FLIBRIN - DATE: Thursday, March 12, 2020 6:37:21 PM

