



REDWOOD COUNTY ENVIRONMENTAL OFFICE

*Planning & Zoning • Parks & Trails • GIS
Aquatic Invasive Species • Septic Inspector
Drainage Inspector • Agricultural Inspector*

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TO: Redwood County Planning Commission

FROM: Nick Brozek *NB*
Land Use and Zoning Supervisor
Redwood County Environmental Office

DATE: November 16th, 2017

RE: Planning Commission Hearing on November 27th, 2017

A meeting of the Redwood County Planning Commission has been scheduled for Monday, the 27th day of November, 2017, beginning at 1:00 o'clock p.m. at the Board Room of the Redwood County Government Center located at 403 South Mill Street, Redwood Falls, MN 56283.

The meeting will involve two (2) public hearings. A brief summary of the subject matter of the hearings is set forth below.

1. Public hearing on Application for Extraction Conditional Use Permit submitted by John Labat.

In August of this year, the Environmental Office discovered an unpermitted excavation site on an agricultural property owned by Gary and Cheryl Bitker. The Bitkers were contacted and asked to apply for and obtain either a Temporary Grading and Filling Permit, or a Conditional Use Permit. John Labat, a neighbor and friend of the Bitkers, is doing the excavating and he has also been handling the permitting process on their behalf. Mr. Labat decided to apply for a Conditional Use Permit in order to have the excavation site open for longer than one year.

The site is located in the West Half of the Southwest Quarter (W1/2 SW1/4) of Section 18, Westline Township. The property is also the location of the Bitkers' residence. The site is located in the Agriculture District. Mining is a Conditional Use in the Agricultural District.

The applicant plans to mine 0.73 acres of the property. The location of the excavation site is a hill $\frac{1}{4}$ of a mile north of the Bitkers' farm building site. According to Redwood County elevation contour maps, the hill currently rises about 25 feet above the surrounding low ground. The proposed project will lower the peak of the hill an estimated five feet. Historically, the 0.73 acre site has been grass-covered and not farmed.

The topsoil will be scraped off and reserved for reclamation. Gravel and fill material will be removed as needed for local projects. The secondary goal of the excavation is to lower the existing hill for ease of farming. The hill will be sloped and graded so that it tapers down from the southwest to the northeast. The site will be reclaimed to farm land or re-seeded. The applicant estimates that 5000 to 7500 yards will be removed over the course of 3 to 5 years. However, the requested permit term is 10 years.

A 30 inch county tile main (part of the Judicial Ditch 15 system) enters the northwest corner of the Bitker property and runs to the southeast. At the closest point, the 30 inch main is about 150 feet east of the excavation site. 500 feet southeast of the excavation site, the 30 inch main becomes an open ditch (a branch of JD 15) and continues to the southeast. The 30 inch main drains a watershed stretching two miles to the northwest and one mile to the west.

Another county tile main – 24 inch – enters the Bitker property from the west and runs east to the open ditch, passing 400 feet to the south of the excavation site. This 24 inch main formerly drained a watershed stretching well over two miles to the southeast. However, it was intercepted by a new branch of the open ditch in the 1990s, which shortened the watershed to one mile.

According to the soil maps for the site, the soil type present is Amiret-Swanlake loams, 2 to 6 percent slopes.

The three closest residences to the site, aside from the Bitkers, are as follows: Henry & Sharla Smith – 1150' east of the site; Lawrence Schmidt – 3400' southwest of the site; and Derek & Kathleen Kesteloot – 4200' southeast. A farm building site owned by Bernice Christiansen – 2400' southwest, appears uninhabited.

Pursuant to Sec. 16, Subd. 5, Subp. H of Redwood County Zoning Ordinance, the applicant is required to post a bond, cash deposit, irrevocable letter of credit, or other security to Redwood County in the amount of \$2,000.00 per acre, a minimum of \$10,000.00, or 125% of the estimated/bid value to reclaim the property, whichever is greater. The Redwood County Board of Commissioners may require a higher surety amount, if in the reasonable discretion of the County, the unique characteristics of the proposed project require more substantial restoration or reclamation. Further, pursuant to Sec. 16, Subd. 5, Subp. I of Redwood County Zoning Ordinance, “[s]ureties shall be for a minimum of one year beyond the ending date of Conditional Use Permit.” This site requires a \$10,000.00 surety. Mr. Labat is in the process of obtaining the required security.

Pursuant to Sec. 16, Subd. 5, Subp. G of Redwood County Zoning Ordinance, the applicant is required to provide proof of bodily injury, property damage, and public liability insurance in the amount of at least \$1,000,000.00 per occurrence. Mr. Labat has provided a Certificate of Liability Insurance that meets the standard.

A copy of the Conditional Use Permit application, maps, plans, and proposed permit conditions are enclosed.

2. Public hearing on Application for Extraction Conditional Use Permit submitted by Mike Rasmussen.

An application for Extraction Conditional Use Permit has been filed by Mike Rasmussen to replace his existing permit, which expires on December 31, 2017. Mr. Rasmussen’s current permit is for the reclamation of the kaolin clay pit mine on his property.

Rasmussen has been working to reclaim the property since the early 2000s. He permitted the project in 2005 for two years. He re-permitted the project in 2007 and again on 2012 for five years both times. He is now seeking a 10 year permit. Since Rasmussen has been continuously working on the project, by permit, for 12 years, it may not be necessary to keep requiring him come in for a new permit every five years.

The clay pit is over 70 feet deep and the sides are prone to sloughing. Before Rasmussen started to reclaim the site, the pit walls were eroding back onto the neighboring property to the south. Rasmussen has constructed several concrete terraces along the west and south sides of the pit in order to prevent further erosion. However, due to the massive size of the pit, more concrete is needed to finish the project. Rasmussen has also used concrete to shore up the base of the hill on which he built his house, on the east side of the pit, which was outside of the original reclamation plan.

Rasmussen will need to provide a new certificate of liability insurance and a new reclamation security (irrevocable letter of credit). The security must be effective for the term of the permit plus one year. For a ten year permit expiring December 31, 2027, the security will need to be effective until December 31, 2028. Rasmussen’s current letter of credit is in the amount of \$30,000.00. Considering the size of the project and the fact that the project may take up to ten years to complete, the security should not be reduced under the new permit.

A copy of the Conditional Use Permit application, maps, plans, and proposed permit conditions are enclosed.

For additional information on Rasmussen's project, selections of the memorandum to the Planning Commission prepared in connection with his current permit are provided below.

An Application for Extraction Conditional Use Permit has been filed by Mike Rasmussen for the grading, filling, and reclamation of the kaolin clay pit on the following described real property, situated in the County of Redwood, State of Minnesota, to wit: LOT A & LOT W IN SW1/4 SW1/4 EX 3.21 A TR TO MN DOT (R/W), 22.13A, Section 35, Township 113N, Range 35W, Paxton Township. The reclamation area is located in an "A" Agricultural District. The northern part of the parcel is located in the Shoreland District. However, the reclamation area is located outside of the Shoreland District.

The reclamation plan is as follows. The pit sides will be terraced and sloped using clean concrete fill and clay. The terraces will then be covered in black dirt and seeded with an approved grass seed (see reclamation plan diagrams). Mr. Rasmussen is receiving his concrete from various sources. He provides free concrete disposal and allows people to haul concrete and dump it on the site for free. He also disposes of concrete himself from his own excavation business. He then picks out any trash, rebar, asphalt and other materials before using the material as fill. It is not clear where Mr. Rasmussen will obtain the necessary topsoil. The original overburden from the site was piled on nearby land now owned by Brent Prouty, who has a permit to extract and sell the material.

Mr. Rasmussen's dwelling is located to the east of the reclamation area. Apart from said dwelling and accessory structures, no buildings will be located on the site [NOTE: since the issuance of his current permit, Mr. Rasmussen moved in and placed an old granary building on the east side of the pond in the pit bottom, to serve as a recreational "cabin" building]. However, equipment will be stored on site, primarily in the bottom of the pit. Mr. Rasmussen will be completing the reclamation himself using his own equipment. The life expectancy of the extraction operation is five (5) years, concluding on December 31st, 2017. Mr. Rasmussen believes he can complete the reclamation within said time. However, Mr. Rasmussen has indicated that he intends to ask for a ten (10) year permit so that he doesn't have to come back in for re-permit in the event that the project runs longer than expected. The hours of operation are proposed to be from dawn till dark, all days of the week. All work will be restricted to those times.

No additional excavation of clay or other material from the site will occur.

Mr. Rasmussen's site can be accessed from US Hwy 71 or 340th St.

Pursuant to Sec. 16, Subd. 5, Subp. G of Redwood County Zoning Ordinance, the applicant is required to provide proof of bodily injury, property damage, and public liability insurance in the amount of at least \$1,000,000.00 per occurrence. However, Mr. Rasmussen is not operating a commercial extraction pit and thus the potential for liability is probably much less than that for a typical extraction CUP applicant. That said, he is allowing individuals and companies to dump concrete on his property. Therefore, requiring some amount of insurance seems appropriate. I would note that in connection with his original permit, Mr. Rasmussen was required to provide proof of liability insurance in the amount of \$300,000.00.

Pursuant to Sec. 16, Subd. 5, Subp. H of Redwood County Zoning Ordinance, the applicant is required to post a bond, cash deposit, irrevocable letter of credit, or other security to Redwood County in the amount of \$2,000.00 per acre, a minimum of \$10,000.00, or 125% of the estimated/bid value to reclaim the property, whichever is greater. The Redwood County Board of Commissioners may require a higher surety amount, if in the reasonable discretion of the County, the unique characteristics of the proposed project require more substantial restoration or reclamation. Further, pursuant to Sec. 16, Subd. 5, Subp. I of Redwood County Zoning Ordinance, "[s]ureties shall be for a minimum of one year beyond the ending date of Conditional Use Permit." Mr. Rasmussen already has a current Bond on file in connection with the expiring permit and therefore he was

not required to submit a new one with his application. However, he will have to submit a new bond prior to the old one expiring.

The nearest county ditch or tile is located nearly one mile from the proposed reclamation site.

The soils of the proposed conditional use site are classified as follows: Linder loam; Dickman sandy loam, 2 to 6 percent slopes; and Terril-Swanlake loams, 25 to 70 percent slopes.

