



EXCEPTING THE SOUTH 510.00 FEET OF THE EAST 433.00 FEET OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 14), ALL IN TOWNSHIP 43 NORTH RANGE 5 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN MCHENRY COUNTY, ILLINOIS.

Parcel Index Numbers:

- 16-10-300-004
- 16-14-100-013
- 16-15-100-002
- 16-15-200-001
- 16-15-200-002

Hereinafter referred to as "Premises".

WHEREAS, the Applicant requests a renewal of the Conditional Use Permit, Ordinance No. 02-17, to allow a renewal of the existing Conditional Use Permit in order to continue the extraction of sand and gravel and operation of a ready-mix concrete plant.

WHEREAS, Premises consists of approximately 253.16 acres, more or less. Premises is located northwest of the intersection of Grange Road and Route 23 on the west side of Route 23 in rural Marengo, Riley Township, and is commonly known as 8923 South Route 23, Marengo, Illinois 60152.

WHEREAS, a hearing on said application was held before the Zoning Board of Appeals of McHenry County, Illinois, in the manner and form prescribed by Ordinance and Statute.

WHEREAS, as a result of said hearing, the taking of evidence and the viewing of exhibits advanced thereat, the Zoning Board of Appeals of McHenry County did recommend by a vote of 6 ayes and 0 nays the granting of a renewal of the existing Conditional Use Permit within the "A-1"-Agricultural District, in order to allow for the extraction of sand and gravel and the operation of a ready-mix concrete plant with the following 25 conditions:

- 1) The time limit for the Conditional Use Permit shall be 10 years from the date of approval by the McHenry County Board.
- 2) Existing trees, shrubs and other types of woody vegetation along road frontages shall be protected and maintained. Weeds and other unsightly noxious vegetation shall be cut or trimmed as may be necessary to present a reasonably neat appearance, to prevent grass fires or the hazard of grass fires.
- 3) No earth extraction and/or mining operation(s) shall be conducted in such a manner that the groundwater table of surrounding properties is adversely impacted. In the case of mining

operations, water pumped from the site for the purpose of washing shall be retained in a pond until the silt and clay settles and then the water shall be recycled in the area affected. Groundwater quality shall be monitored and maintained on a regular basis in accordance with acceptable monitoring practices. Groundwater monitoring parameters are established and periodically updated by the McHenry County Board of Health in the *Ordinance for Groundwater Monitoring and Protection at Earth Material Extraction Sites*. Results of the monitoring shall be made available to the Code Enforcement Officer as required.

- 4) The owner/operator shall repair any section of road damaged as a result of hauling operations, but shall not be responsible for the normal wear and tear of the road. This provision shall not be construed to require the operator to purchase additional right-of-way.
- 5) All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or improvements and wells, and damage to any street by slides, sinking or collapse of supporting soil adjacent to an excavation.
- 6) The following apply to earth extraction and/or mining conditions only - **not** to reclamation conditions:
  - a. Earth extraction and/or mining operation(s) that remove and do not replace the lateral support shall not approach property lines, established right-of-way lines of any public roads, streets or highways closer than a distance equal to thirty (30) feet unless a lesser distance is mutually agreed to by the operator and adjacent property owner and submitted in writing.
  - b. The bottom of the slope of the excavated face shall not be closer to the point determined per 508.13.5.A of the *2000 McHenry County Zoning Ordinance*, than a distance equal to one and one-half (1.5) times the depth of the excavation.
  - c. If consolidated materials occur in the excavated face, the slope of the face may be steeper than 1.5 to 1 slope per Article Five, Section 508.13.5.B of the *2000 McHenry County Zoning Ordinance* for the depth(s) of those materials, however all other excavated slopes of unconsolidated materials shall be no steeper.
  - d. In the case that the right-of-way has not been recently surveyed by a registered land surveyor and clearly marked, the right-of-way line shall be assumed to be, for the purpose of this section, a minimum of forty (40) feet from the center line of the existing road.
- 7) All active operations shall be contained by an earthen berm of not less than six (6) feet in height and/or a farm fence of not less than fifty-four (54) inches in height, of such a design so as to allow the free flow of wild animals, but to discourage trespassing by humans and farm animals. Berms that will remain in place for one (1) year or longer shall be planted with

grass, shrubs and trees and maintained as a visual and acoustical screen. They shall be designed so that they do not erode into the road or highway right-of-way or onto the adjoining property. A gate shall be placed at the main entrance that will be kept locked whenever the Owner, Operator or their agent is not on site.

- 8) The processing and stockpiling of aggregate resources shall not be conducted within three hundred (300) feet of any adjoining residentially zoned property line.
- 9) The hours of operation for all activities other than maintenance functions shall be from 5 a.m. to 9 p.m. from April 1st until October 31st. The rest of the year the hours of operation shall be restricted to 6 a.m. to 6 p.m. In emergency situations, operations shall be permitted at times otherwise prohibited. (An emergency situation, for the purpose of this section, is any operation necessary to provide repairs to roadways or provide other materials and assistance which if delayed until normally permitted hours, would cause injury or loss of life or property.) Any operation or activity under this section shall immediately be reported to the McHenry County Sheriff's Department and shall be reported to the Code Enforcement Officer the next business day.
- 10) Operations shall be conducted so that noise levels and air and water standards comply with federal and State of Illinois requirements.
- 11) Access ways and on-site roads shall be maintained in a dust-free condition.
- 12) The premises shall be neat and orderly, free from junk, trash or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance. Salvageable equipment stored in a non-operating condition shall be suitably screened or garaged.
- 13) Enough topsoil must be stockpiled to meet the finished conditions of Article Five, Section 508.13 OPERATION AND RECLAMATION REQUIREMENTS of the 2000 McHenry County Zoning Ordinance.
- 14) No operations may occur on the property pursuant to this ordinance without the issuance of an *Annual Operations Permit* issued by the Code Enforcement Officer. The operations permit may be for less than the total area proposed. Note: The construction of access or haul roads, building and landscaping of required berms, and other site improvements required for site preparation shall **not** require the issuance of an *Annual Operations Permit*.
- 15) The Code Enforcement Officer shall issue said Operations Permit upon receipt from the owner or operator of the following items:
  - a. An Operations Plan (submitted as petitioner's exhibit #3, dated 7/21/10) in compliance with this Ordinance and other applicable County ordinances; and

- b. A Reclamation Plan (submitted as petitioner's exhibit #4, dated 7/21/10) in compliance with this Ordinance and other applicable County ordinances; and
  - c. A Ground Water Monitoring and Protection Plan in compliance with the 2000 McHenry County Zoning Ordinance, the adopted Ground Water Monitoring Ordinance, and other applicable County Ordinances; and
  - d. A surety as provided in Article 508.9 of the 2000 McHenry County Zoning Ordinance; and
  - e. A copy of all applicable County, State and Federal permits or statements of exemption therefrom.
- 16) The Owner or Operator shall take adequate measures within the site to insure that trucks, exiting the site on roadways, shall not discharge earth materials or debris on the roadway.
- 17) The Code Enforcement Officer, or a duly authorized representative, shall have the free right of access to the subject property for the purpose of inspections, making water level measurements, obtaining water or material samples and for gathering other information necessary for the proper discharge of his/her responsibilities.
- 18) The owner or operator shall be assessed an annual fee to pay for compliance monitoring based on costs.
- 19) Prior to the termination of this Conditional Use upon completion of extraction and reclamation and acceptance of the completion of these items by the Zoning Enforcement Officer, the Owner shall cause to be filed with the Recorder of Deeds, a temporary easement which will expire one year after the expiration of the conditional use permit approved by the Zoning Enforcement Officer after review by the State's Attorney's Office, which shall provide access to the Premises for the purpose of monitoring and sampling of the wells.
- 20) The Owner and Operator shall provide groundwater level reports quarterly using data from monitoring wells and staff gauges upon forms and dates provided by the Code Enforcement Officer.
- 21) The Owner or Operator shall provide annual groundwater quality reports at times and on forms provided by the Code Enforcement Officer using samples from the monitoring wells. These reports will meet the requirements, if any, of the McHenry County Health Department.
- 22) To the extent lawfully permitted by the Illinois Department of Revenue, the point of sale of excavated materials shall be deemed to originate in Unincorporated McHenry County.

- 23) All operations, reclamation and on-going uses shall comply with the terms and conditions of the *2000 McHenry County Zoning Ordinance* and the *McHenry County Stormwater Management Ordinance*.
- 24) Decisions of the Zoning Enforcement Officer subsequent to the adoption of this Ordinance are subject to the normal appeals procedure set forth in the Zoning ordinance and/or State Statute.
- 25) At all times the Owner or Operator shall take adequate measures to insure that contaminated surface water run-off shall not enter ponds or other areas of open standing water.

WHEREAS, the McHenry County Board has considered the recommendation as submitted by the Zoning Board of McHenry County.

WHEREAS, the McHenry County Board has determined that the standards for renewal of the existing Conditional Use Permit as set forth in the McHenry County Zoning Ordinance and the Illinois Compiled Statutes have been met.

NOW, THEREFORE, BE IT ORDAINED, that the Zoning Ordinance and the Zoning Maps of McHenry County, and such Ordinances and such maps as amended, be and the same are hereby amended to allow the issuance of a renewal of Conditional Use Permit #02-17 within the "A-1" - Agricultural District, in order to allow the extraction of sand and gravel and the operation of a ready-mix concrete plant with the following 25 conditions:

- 1) The time limit for the Conditional Use Permit shall be 10 years from the date of approval by the McHenry County Board.
- 2) Existing trees, shrubs and other types of woody vegetation along road frontages shall be protected and maintained. Weeds and other unsightly noxious vegetation shall be cut or trimmed as may be necessary to present a reasonably neat appearance, to prevent grass fires or the hazard of grass fires.
- 3) No earth extraction and/or mining operation(s) shall be conducted in such a manner that the groundwater table of surrounding properties is adversely impacted. In the case of mining operations, water pumped from the site for the purpose of washing shall be retained in a pond until the silt and clay settles and then the water shall be recycled in the area affected. Groundwater quality shall be monitored and maintained on a regular basis in accordance with acceptable monitoring practices. Groundwater monitoring parameters are established and periodically updated by the McHenry County Board of Health in the *Ordinance for Groundwater Monitoring and Protection at Earth Material Extraction Sites*. Results of the monitoring shall be made available to the Code Enforcement Officer as required.

- 4) The owner/operator shall repair any section of road damaged as a result of hauling operations, but shall not be responsible for the normal wear and tear of the road. This provision shall not be construed to require the operator to purchase additional right-of-way.
- 5) All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or improvements and wells, and damage to any street by slides, sinking or collapse of supporting soil adjacent to an excavation.
- 6) The following apply to earth extraction and/or mining conditions only - **not** to reclamation conditions:
  - a. Earth extraction and/or mining operation(s) that remove and do not replace the lateral support shall not approach property lines, established right-of-way lines of any public roads, streets or highways closer than a distance equal to thirty (30) feet unless a lesser distance is mutually agreed to by the operator and adjacent property owner and submitted in writing.
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  - c. If consolidated materials occur in the excavated face, the slope of the face may be steeper than 1.5 to 1 slope per Article Five, Section 508.13.5.B of the *2000 McHenry County Zoning Ordinance* for the depth(s) of those materials, however all other excavated slopes of unconsolidated materials shall be no steeper.
  - d. In the case that the right-of-way has not been recently surveyed by a registered land surveyor and clearly marked, the right-of-way line shall be assumed to be, for the purpose of this section, a minimum of forty (40) feet from the center line of the existing road.
- 7) All active operations shall be contained by an earthen berm of not less than six (6) feet in height and/or a farm fence of not less than fifty-four (54) inches in height, of such a design so as to allow the free flow of wild animals, but to discourage trespassing by humans and farm animals. Berms that will remain in place for one (1) year or longer shall be planted with grass, shrubs and trees and maintained as a visual and acoustical screen. They shall be designed so that they do not erode into the road or highway right-of-way or onto the adjoining property. A gate shall be placed at the main entrance that will be kept locked whenever the Owner, Operator or their agent is not on site.
- 8) The processing and stockpiling of aggregate resources shall not be conducted within three hundred (300) feet of any adjoining residentially zoned property line.

- 9) The hours of operation for all activities other than maintenance functions shall be from 5 a.m. to 9 p.m. from April 1st until October 31st. The rest of the year the hours of operation shall be restricted to 6 a.m. to 6 p.m. In emergency situations, operations shall be permitted at times otherwise prohibited. (An emergency situation, for the purpose of this section, is any operation necessary to provide repairs to roadways or provide other materials and assistance which if delayed until normally permitted hours, would cause injury or loss of life or property.) Any operation or activity under this section shall immediately be reported to the McHenry County Sheriff's Department and shall be reported to the Code Enforcement Officer the next business day.
- 10) Operations shall be conducted so that noise levels and air and water standards comply with federal and State of Illinois requirements.
- 11) Access ways and on-site roads shall be maintained in a dust-free condition.
- 12) The premises shall be neat and orderly, free from junk, trash or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance. Salvageable equipment stored in a non-operating condition shall be suitably screened or garaged.
- 13) Enough topsoil must be stockpiled to meet the finished conditions of Article Five, Section 508.13 OPERATION AND RECLAMATION REQUIREMENTS of the *2000 McHenry County Zoning Ordinance*.
- 14) No operations may occur on the property pursuant to this ordinance without the issuance of an *Annual Operations Permit* issued by the Code Enforcement Officer. The operations permit may be for less than the total area proposed. Note: The construction of access or haul roads, building and landscaping of required berms, and other site improvements required for site preparation shall **not** require the issuance of an *Annual Operations Permit*.
- 15) The Code Enforcement Officer shall issue said Operations Permit upon receipt from the owner or operator of the following items:
  - a. An Operations Plan (submitted as petitioner's exhibit #3, dated 7/21/10) in compliance with this Ordinance and other applicable County ordinances; and
  - b. A Reclamation Plan (submitted as petitioner's exhibit #4, dated 7/21/10) in compliance with this Ordinance and other applicable County ordinances; and
  - c. A Ground Water Monitoring and Protection Plan in compliance with the *2000 McHenry County Zoning Ordinance*, the adopted Ground Water Monitoring Ordinance, and other applicable County Ordinances; and



- d. A surety as provided in Article 508.9 of the *2000 McHenry County Zoning Ordinance*; and
  - e. A copy of all applicable County, State and Federal permits or statements of exemption therefrom.
- 16) The Owner or Operator shall take adequate measures within the site to insure that trucks, exiting the site on roadways, shall not discharge earth materials or debris on the roadway.
  - 17) The Code Enforcement Officer, or a duly authorized representative, shall have the free right of access to the subject property for the purpose of inspections, making water level measurements, obtaining water or material samples and for gathering other information necessary for the proper discharge of his/her responsibilities.
  - 18) The owner or operator shall be assessed an annual fee to pay for compliance monitoring based on costs.
  - 19) Prior to the termination of this Conditional Use upon completion of extraction and reclamation and acceptance of the completion of these items by the Zoning Enforcement Officer, the Owner shall cause to be filed with the Recorder of Deeds, a temporary easement which will expire one year after the expiration of the conditional use permit approved by the Zoning Enforcement Officer after review by the State's Attorney's Office, which shall provide access to the Premises for the purpose of monitoring and sampling of the wells.
  - 20) The Owner and Operator shall provide groundwater level reports quarterly using data from monitoring wells and staff gauges upon forms and dates provided by the Code Enforcement Officer.
  - 21) The Owner or Operator shall provide annual groundwater quality reports at times and on forms provided by the Code Enforcement Officer using samples from the monitoring wells. These reports will meet the requirements, if any, of the McHenry County Health Department.
  - 22) To the extent lawfully permitted by the Illinois Department of Revenue, the point of sale of excavated materials shall be deemed to originate in Unincorporated McHenry County.
  - 23) All operations, reclamation and on-going uses shall comply with the terms and conditions of the *2000 McHenry County Zoning Ordinance* and the *McHenry County Stormwater Management Ordinance*.
  - 24) Decisions of the Zoning Enforcement Officer subsequent to the adoption of this Ordinance are subject to the normal appeals procedure set forth in the Zoning ordinance and/or State Statute.


25) At all times the Owner or Operator shall take adequate measures to insure that contaminated surface water run-off shall not enter ponds or other areas of open standing water.

If any part, sentence, clause or provision of this Ordinance is adjudged to be unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.

This Ordinance shall be in full force and effect from and after its passage as by law provided.

DATED: This 21 day of December, 2010.

By:   
Chairperson, McHenry County Board  
McHenry County, Illinois

ATTEST:  
  
County Clerk

Number Voting Aye: 24

Number Voting Nay: 0

Number Abstaining: 0

Number Absent: 0

STATE OF ILLINOIS            )  
  SS  
COUNTY OF MCHENRY        )

I, Katherine C. Schultz, County Clerk within and for said County and State aforesaid, do hereby certify the attached to be a true and complete copy of Ordinance No. O-201012-ZBA-062 Petition #10-34; VCNA Prairie Aggregates. WHEREOF I have hereunto subscribed my hand and affixed the official seal of said County, at my office in Woodstock, Illinois this 22 day of December A.D, 2010.

Katherine C Schultz  
McHenry County Clerk