

Shelby County Plan Commission

December 27, 2022 at 7:00 PM

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MEETING AGENDA

Shelby County Plan Commission
December 27, 2022, at 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the October 25, 2022, meeting.

OLD BUSINESS

RZ 22-19 – HERITAGE AGGREGATES LLC REZONING: Rezoning of 243.04-acres from the A1 (Conservation Agricultural) District and R1 (Single-Family Residential) District to the HI (High Impact) District to allow for expansion of aggregate mining operations. Located generally, north of CR 1200 S, south of Old SR 252, east of CR 100 W, and west of SR 9, Flat Rock, Washington Township.

NEW BUSINESS

NORTHWEST SHELBY COUNTY ECONOMIC DEVELOPMENT AREA RESOLUTION: Resolution approving amendments to the Declaratory Resolution of the Shelby County Redevelopment Commission that established the Northwest Shelby County Economic Development Area.

APPROVAL OF 2023 MEETING CALENDAR

DISCUSSION

None.

ADJOURNMENT

The next regular meeting of the Shelby County Plan Commission is scheduled for Tuesday, **January 24, 2023 at 7:00 PM.**

Property Details

Location: Generally, north of CR 1200 S, south of Old SR 252, east of CR 100 W, and west of SR 9, Flat Rock, Washington Township.

Property Size: 243.04-acres.

Current Land Use: Cropland/Single-Family Residential.

Current Zoning Classification

A1 (Conservation Agricultural)
This district is established for the protection of agricultural areas and buildings associated with agriculture.

R1 (Single-Family Residential)
This district is established for single-family detached, medium to large sized homes on medium to large sized lots.

Proposed Zoning Classification

HI (High Impact)
This district is established for specific uses that can have a particularly high impact on adjacent areas.

**see attached district intent, permitted uses, special exception uses, and development standards.*

Future Land Use per Comp Plan

Agriculture

The purpose of this category is to provide for traditional agricultural practices (such as crop production and livestock grazing) and modern agricultural practices (such as agricultural research facilities and CAFOs). Rural home sites may also occur within this category; however, the emphasis should remain on agriculture. New residential subdivisions that remove prime farmland from production should be discouraged. The residential density of this category should be one lot for every five acres.

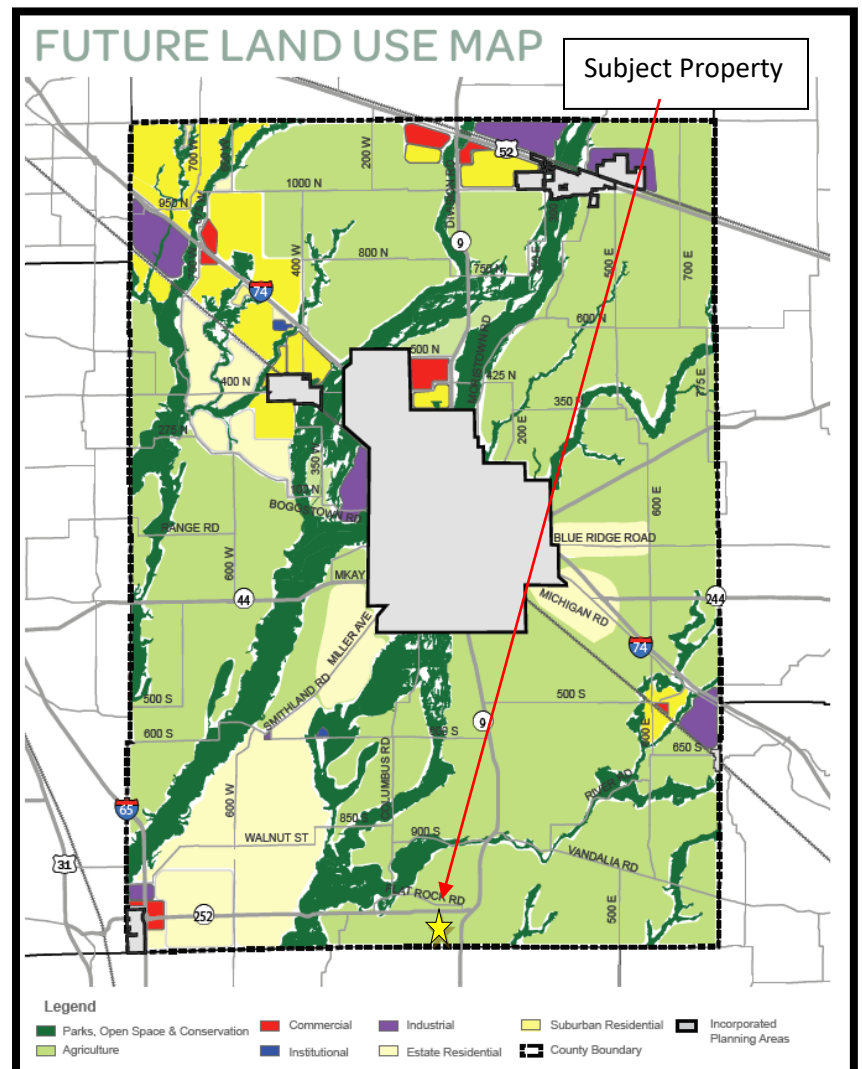
Staff Report

Case Number: RZ 22-19
Case Name: Heritage Aggregates LLC Rezoning - A1 (Conservation Agricultural) & R1 (Single-Family Residential) to HI (High Impact)

Request

Rezoning of 243.04-acres from the A1 (Conservation Agricultural) District and R1 (Single-Family Residential) District to the HI (High Impact) District to allow for expansion of aggregate mining operations.

Future Land Use Map



Property Details

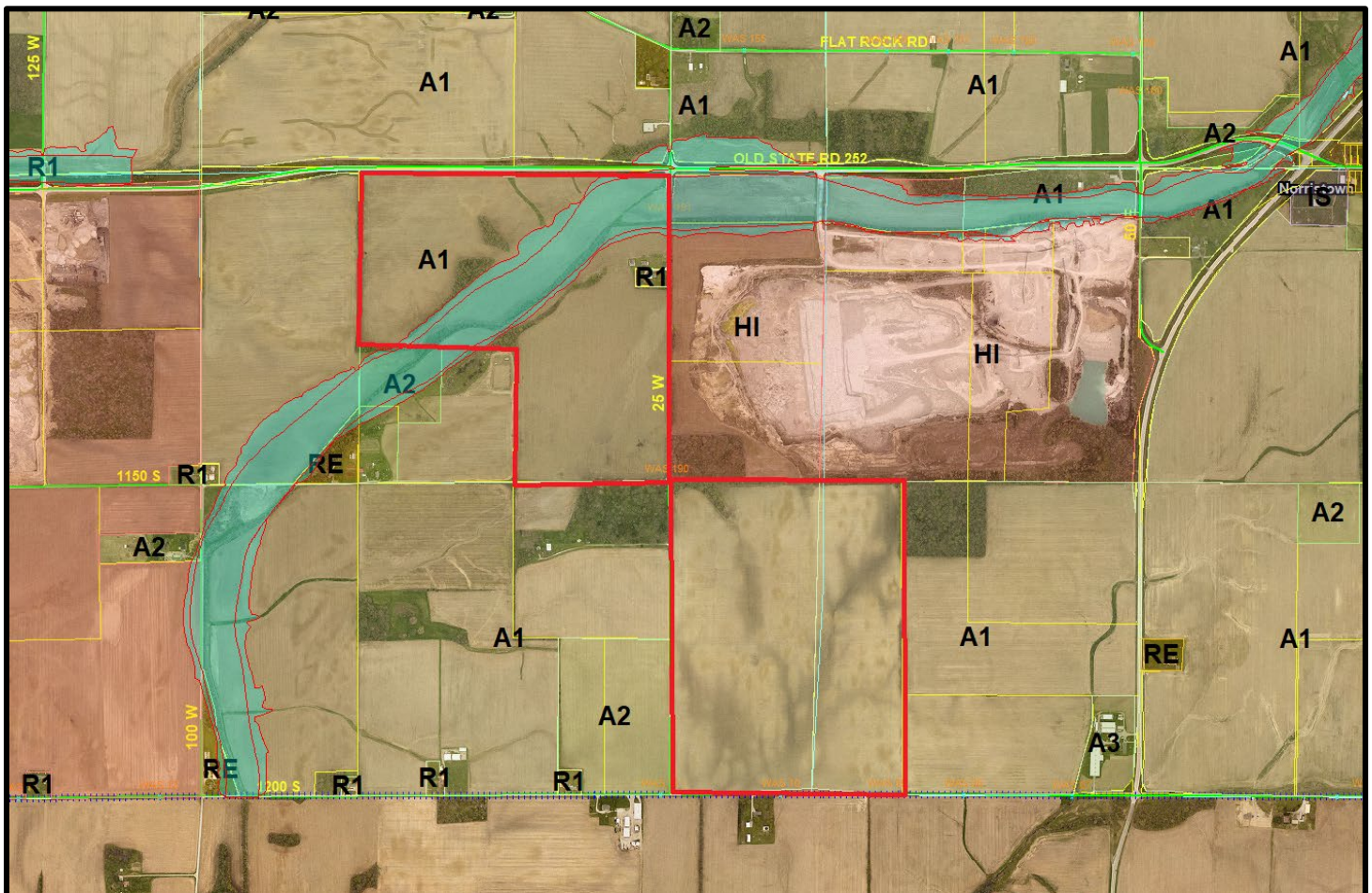
Parks, Open Space, & Conservation

The purpose of this category is to provide for passive and active recreational activities, permanent preservation of significant natural areas, and preservation of natural features within clustered developments. This category applies to public and private lands.

Surrounding Development

	Zoning	Land Use
North	A1/Hi	Cropland/ Aggregate Mining
South	A1/A2/AP (Bartholomew County)	Cropland / Woodland / Single-Family Residential
East	A1	Cropland / Woodland
West	A1/A2	Cropland

Property Map



Case Description

- Heritage Aggregates intends to expand its stone quarry currently located near the intersection of SR 9 and Old SR 252 onto the subject property.
- The petitioner has provided a summary of proposed operations, including:
 - Progressive mining of the property starting at the existing stone quarry and expanding gradually south and west over a fifty-year timeframe.
 - Blasting and crushing of aggregate would occur on site, however all processing and sale of product would occur on the adjacent property which includes the existing stone quarry.
 - Temporary safety berms placed between all mining areas and adjacent property.
 - Hours of Operation: Mon – Sat, 5 AM – 8 PM expect during peak season which would be Mon – Sat, dawn to dusk. Exceptions allowed to operate outside of hours of operation.
 - Possible temporary asphalt batch plant located at the northwest corner of the property.
- Historical aerial photography indicates that mining operations began at the northeast corner of the existing quarry around 1950 and have expanded south and west. The existing quarry currently has the HI zoning designation, likely assigned to the property by the County when the County updated the County-wide zoning maps in 2008. The previous agricultural zoning of the property permitted stone quarries as a special use with BZA approval.
- Existing development adjoining the property includes a single-family residence on 40-acres located on CR 25 W and a single-family residence located south of the Bartholomew County line. All other adjoining property is used for agricultural production. Another mining operation currently operating west of the property owns the adjoining property to the west. Approximately ten residential properties are located within a mile of the subject property
- The USDA Soil Survey Classifies approximately 10% of the property as Prime Farmland, approximately 70% of the property as Prime Farmland if Drained, and approximately 10 % of the property as Not Prime Farmland.
- The Unified Development Ordinance (UDO) only permits mining operations in the HI District due to the potentially high impact that the use can have on adjacent areas. A few potential impacts of mining operations include alteration to the aesthetic character of the area, noise from mining operations and trucks, truck traffic, impacts to groundwater if property owner improperly stores or disposes of materials, impacts to air quality, and impacts to wildlife.
- Per the County Assessor, residential properties within the immediate blasting radius of stone quarries have a reduced assessed value. Blasting closer to priorities located on CR 1200 S and CR 100 W would likely reduce the assessed values of these properties, however, would likely not change the assessed value of the property located on CR 25 W already located within a blasting radius. Assessed value does not always reflect market value or perceived value of property.

- Staff and the petitioner have agreed upon a proposed set of commitments regarding use and development of the site. The commitments would prohibit any use of the site not consistent with the proposed quarry expansion. If the proposed commitments are approved as part of the rezoning, Shelby County would have the authority to enforce these commitments per the Enforcement and Penalty processes identified in the UDO. In summary, the commitments address the following:
 - Operation and development of the site consistent with the Operations Plan submitted with the rezoning application (commitments 1, 17)
 - Site security and safety (commitments 2, 22)
 - Restoration of the property after completion of mining operations (commitment 3)
 - Compliance with federal, state, and local codes and required permits (commitments 4, 5, 6, 7, 8, 12, 15, 16, 23, 24, 25, 26)
 - Hours of operation (commitment 9)
 - Site lighting (commitment 10)
 - Dust control (commitment 11)
 - Setbacks (commitment 13, 14)
 - Wildlife impacts (commitment 16)
 - Landscape buffers (commitment 18, 20, 21)
 - Stormwater (commitments 24)
 - Environmental impacts (commitment 23, 24, 25)
 - Floodplain (commitment 26)
- The UDO does not designate the zoning districts adjoining the property as appropriate adjacent districts to the HI District. Proposed commitments regarding setbacks and landscaping would further mitigate impacts to surrounding properties in these agricultural and residential zoning districts. The commitments require:
 - Road and property line setbacks of two-times the required setback for properties in the HI District per the UDO (300-feet from the proposed right-of-way of the road and 200-feet from property lines).
 - Additional setbacks for aggregate stockpiles and any asphalt batch plant.
 - Mounding and vegetative cover along all property lines and roadways when mining activities commence within proximity of property lines and roadways. The UDO does not require mounding or landscaping for properties in the HI District that do not include structural development.

Staff Analysis Findings of Fact

In accordance with IC 36-7-4-603 and the UDO, when considering a rezoning, the Plan Commission shall pay reasonable regard to:

- 1. Current Conditions and the Character of Current Structures and Uses in Each District**
- 2. The Most Desirable Use for Which the Land in Each District Is Adapted**
- 3. The Conservation of Property Values throughout the Jurisdiction**

4. Responsible Development and Growth

5. The Comprehensive Plan

Considerations Contradicting Rezoning:

- The Comprehensive Plan
 - Community Character Goal 2: Protect and promote our rural heritage and agricultural assets.
 - Strategy 1: Promote the county's agricultural heritage, natural resources, and quiet rural lifestyle as unique assets to attract new businesses and residents to Shelby County.
 - Natural Resources Goal 2: Protect and enhance local water-based resources, such as surface water, groundwater, and wetland.
 - Land Use Goal 1: Welcome and promote future development in appropriate areas of the County.
 - Future Land Use Recommendation: Agriculture
 - Strategy 3: Identify and promote development areas for all major land use types identified on the Future Land Use Map.
 - Land Use Goal 2: Ensure future development decisions enhance and don't detract from the County's rural character and agricultural function.
 - Strategy 1: Preserve prime farmland and agricultural road frontage in rural areas of the county.
 - Strategy 2: Conserve agricultural land.
- The UDO does not designate the zoning districts adjoining the property as appropriate adjacent districts to the HI District.
- Per the County Assessor, residential properties within the immediate blasting radius of stone quarries have a reduced assessed value.
- The subject property adjoins two residential properties and approximately ten residential properties are located within a mile of the subject property. A few potential impacts of mining operations to residential properties include noise from mining operations and trucks, truck traffic, impacts to groundwater if the property owner improperly stores or disposes of materials, and impacts to air quality.
- The USDA soil surveys classifies approximately 80% of the subject property as Prime Farmland or Prime Farmland if Drained. The mining operation would remove prime farmland from production in an area designated for agricultural use by the Comprehensive Plan.

Considerations Supporting Rezoning:

- The Comprehensive Plan

- Land Use Goal 1: Welcome and promote future development in appropriate areas of the County.
 - Strategy 1: Balance development patterns and character with available transportation and utility resources and *existing character context*.
- Natural Resources Goal 2: Protect and enhance local water-based resources, such as surface water, groundwater, and wetland.
- Economic Development Goal 2: Encourage diversity in business and industry throughout the County.
- Relatively few residential properties are located within a mile of the site. Any blasting near residential structures not already impacted by mining operations would occur near the end of the life of the mining operation in approximately fifty years.
- Proposed commitments address safety, nuisance, and environmental impacts.
- Proposed commitments regarding setbacks and landscaping would further mitigate impacts to properties in zoning districts not identified as appropriate adjacent zoning districts to the HI District.
- Mining began at the northeast corner of the adjacent existing quarry around 1950 and has expanded south and west. Further expansion of the quarry south and west onto the subject property represents a typical progression of mining operations as aggregate resources are depleted.
- Approximately 350-acres in the immediate area includes mining operations and approximately 600-acres in the immediate area lies within the HI District. Therefore, the rezoning would be consistent with the character of the area.
- The USDA Soil Survey Classifies only 10% of the subject property as Prime Farmland. However, the property includes adequate aggregate resources for expansion of the mining operation.
- The proposed commitments include a Reclamation Plan. The reclaimed site would provide a water-based amenity to the community.

Staff Recommendation

Staff recommends **Commitments** as part of any approval of the rezoning to mitigate impacts to adjacent property, mitigate environmental impacts, and to maintain the aesthetic character of the Old SR 252 corridor.

Applicant/Owner Information

Applicant/Owner: Heritage Aggregates LLC – Chad Roots, Director of Land
5400 W 86th St.
Indianapolis, IN 46286

2.37 HI District Intent, Permitted Uses, and Special Exception Uses

District Intent	Permitted Uses	Special Exception Uses
<p>The HI (High Impact) District is intended to be used as follows:</p> <p>Use, Type and Intensity</p> <ul style="list-style-type: none"> • All intensities of high impact uses <p>Application of District</p> <ul style="list-style-type: none"> • Existing and new development <p>Development Standards</p> <ul style="list-style-type: none"> • Enact quality time, place, and manner development standards to minimize impacts on adjacent properties while encouraging economic vitality • Minimize light, noise, water, and air pollution <p>Appropriate Adjacent Districts</p> <ul style="list-style-type: none"> • OP, A3, I1, I2, and HI <p>County Commissioners</p> <ul style="list-style-type: none"> • As a condition of rezoning, allow only the use petitioned for and presented <p>Plan Commission</p> <ul style="list-style-type: none"> • Use this zoning district for existing high impact developments and carefully for new high impact development • Be sensitive to environmental protection <p>Board of Zoning Appeals</p> <ul style="list-style-type: none"> • Allow a special exception use only when it is compatible with the surrounding areas • Be sensitive to the potential for light pollution, noise pollution, loading berth placement, pedestrian safety, and vehicular safety 	<p>Commercial Permitted Uses</p> <ul style="list-style-type: none"> • amusement park • casino • race track-horses • race track-automobile • retail (type 6), special handling • shooting range <p>Industrial Permitted Uses</p> <ul style="list-style-type: none"> • biofuels production (e.g. ethanol plant) • electrical generation plant • gravel/sand mining • incinerator • junk yard • rendering plant • scrap metal yard • telecommunication facility • transfer station <p>Institutional Permitted Uses</p> <ul style="list-style-type: none"> • government operation (non-office) • jail • juvenile detention facility 	<p>Industrial Special Exception Uses</p> <ul style="list-style-type: none"> • construction materials landfill • sanitary landfill/refuse dump • storage tanks (hazardous) <p>Institutional Special Exception Uses</p> <ul style="list-style-type: none"> • prison

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE
IN CONNECTION WITH A REZONING**

In accordance with I.C. 36-7-4-1015, the owner (“Owner”) of the real estate located in Shelby County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the parcel of real estate:

Legal Description: See Exhibit A attached hereto and incorporated herein by reference (the “Real Estate”).

Statement of COMMITMENTS:

1. Owner shall operate all mineral extraction activities on the Real Estate consistent with the Operations Plan prepared by US Aggregates, Inc. (“USAgg”) dated as of October 25, 2022, attached hereto as Exhibit B (the “Site Plan”), and the Proposed Operations Area Improvement Details prepared by USAgg, attached hereto as Exhibit C (jointly, with the Site Plan, the “Operation Plans”).
2. Owner shall comply with the Security Plan attached hereto as Exhibit D and incorporated herein by reference at all times mineral extraction activities occur on the Real Estate.
3. Owner shall restore and reclaim the Real Estate upon cessation of mineral extraction activities on the Real Estate in accordance with the Reclamation Plan attached hereto as Exhibit E and incorporated herein by reference (the “Reclamation Plan”). All required perimeter landscaping and mounding shall remain in place until removal is approved by Shelby County Plan Commission (the “Plan Commission”) or such other governmental agency that has zoning jurisdiction over the Real Estate.
4. Owner shall only use explosives on the Real Estate for blasting to remove stone or other material from the Real Estate in accordance with the Mine Safety and Health Administration (“MSHA”) rules and regulations.
5. Prior to conducting mineral extraction activities on the Real Estate, Owner shall (i) obtain all necessary and required permits and approvals from all applicable local, state and federal governmental agencies (collectively, the “Required Permits”), and (ii) submit copies of all Required Permits to the Plan Commission.
6. Specific state and federal permits that shall be obtained include the following:
 - a. A "Rule 5 Storm Water Run-Off Associated with Construction Activity Permit" pursuant to 327 IAC 15-5, which will include an erosion control plan, submission of an NOI letter to the Indiana Department of Environmental Management (“IDEM”) and compliance with all requirements of the general permit rule.
 - b. A Source Specific Operating Agreement (“SSOA”) permit pursuant to 326 IAC 2-9-7 regarding the emission of particulate matter, including dust. The SSOA is administered by IDEM, and requires annual compliance certification.
 - c. A Mine Safety and Health Administration (“MSHA”) mine ID number. Acquisition of the ID number results in not less than one inspection per year by MSHA for compliance with permissible noise exposure limits and noise levels and other safety issues involving employees on site.
7. Owner shall at all times during mineral extraction activities on the Real Estate maintain in good standing, as applicable, all operational permits required by all applicable local, state and federal governmental agencies.
8. The removal of minerals will require dewatering on the Real Estate. Any dewatering shall only be permitted after amendment of all existing permits, as needed, and the acquisition of any additional

permits from IDEM, IDNR or the United States Army Corps of Engineers, as applicable.

9. Hours of operation will be from 5:00 a.m. to 8:00 p.m. Monday through Saturday, except during the construction season, during which hours of operation may commence at dawn and end at dusk. No operations shall occur on Sunday. Notwithstanding the forgoing to the contrary, mineral extraction operations may be conducted outside these hours only (i) to supply materials for inclusion in a public (state, federal or municipal) project; (ii) to respond to an emergency involving a matter of public interest that requires the immediate use of USAgg's materials, such as by way of illustration, flooding or emergency road or structural repair; or (iii) to meet exceptional demands caused by special projects requiring work outside normal hours. Owner shall make a good faith effort to provide the Plan Commission or such other governmental agency that has zoning jurisdiction over the Real Estate with notice of operations outside the stated hours.
10. Illumination levels at the property line of the Real Estate shall not exceed 30 lux, and all lighting shall be designed and installed to minimize spillage of light onto surrounding property
11. Owner shall minimize dust and airborne particulate by water and water products, and shall keep a water truck on site during mineral extraction operations.
12. Owner shall submit detailed site plans to the Indiana Mineral Aggregates Association's Technical Advisory Committee ("TAC") for its approval prior to the commencement of mineral extraction operations on the site.
13. No aggregate stockpile shall be located within 300-feet of the edge of pavement of any public road, within 200-feet of any adjoining property in a lower intensity zoning district, or within 500-feet of any residential structure in the County not otherwise owned by USAgg.
14. Any asphalt batch plant to be operated on site shall be located northwest of the designated flood hazard area and setback at least 200-feet from any property line and setback at least 600-feet from the edge of pavement of Old SR 252.
15. Any deed conveying any portion of the Real Estate shall cross-reference these Commitments.
16. Prior to commencement of mineral extraction operations on the Real Estate, Owner shall review the IDNR's Database to determine if there are any species or habitats in the area that are of interest. If the review identifies threatened and/or endangered species on the Real Estate, the Owner shall comply with guidelines from IDNR on the Real Estate.
17. All mining extraction activities, structural development, outdoor storage areas, and parking, loading, and maneuvering areas (excluding access drives) shall be setback in accordance with Exhibit C. Required Landscaping and mounding may be installed within the setback.
18. Prior to commencement of mineral extraction operations within 400-feet of the edge of pavement of any public road, Owner shall install a landscaping buffer yard within the setback area. The buffer yard shall include:
 - a. Mound: A mound shall be installed roughly parallel to the property lines. Mounding shall be at least 10-feet in height from existing land grade.
 - b. Vegetation: A diverse, effective, and permanent vegetation cover capable of self-regeneration and plant succession.
19. Prior to commencement of mineral extraction operations within 300-feet of any adjoining property in a lower-intensity zoning district, Owner shall install a landscaping buffer yard within the setback area. The buffer yard shall be installed within 800 feet site distance of any residential structure not owned by USAgg and shall include:
 - a. Mound: A mound shall be installed roughly parallel to the property lines along any lot including a residential structure not owned by USAgg. Mounding shall be at least 10-feet

in height from existing land grade.

- b. Vegetation: A diverse, effective, and permanent vegetation cover capable of self-regeneration and plant succession.
20. All other landscape requirements from the Unified Development Ordinance are not applicable.
21. Safety mounds shall be installed progressively around the perimeter of any active mining areas
22. All areas designated for the storage of hazardous materials or objectionable substances shall be constructed in a manner to prevent a release from the storage area.
23. Sediment shall be held in a containment area. The containment area shall comply with the IDEM requirements for clean water discharge.
24. Any area used for the bulk delivery, fueling of vehicles, or transfer of liquids shall be within a containment area. All containment areas shall comply with the hazardous material storage under IDEM and/or MSHA regulations as appropriate.
25. Mining activities and containment areas shall be prohibited in any area designated as a Flood Hazard Area by the Federal Emergency Management Agency (FEMA) or Indiana Department of Natural Resources (IDNR). Applicable Floodplain Development Permits shall be obtained from IDNR and/or Shelby County prior to any other development activities in a designated Flood Hazard Area.

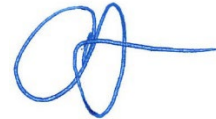
These COMMITMENTS shall be binding on the owner, subsequent owners, and other persons acquiring an interest in the Real Estate. These COMMITMENTS may be modified or terminated by a decision of the Plan Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of rezoning petition by the Shelby County Commissioners.

These COMMITMENTS may be enforced jointly and severally by the Board of Commissioners of Shelby County or the Shelby County Plan Commission.

The undersigned hereby authorizes the Plan Commission to record this Commitment in the office of the Recorder of Shelby County, Indiana, upon final approval of petition #_____.

**HERITAGE AGGREGATES, LLC
d/b/a US AGGREGATES, INC.**

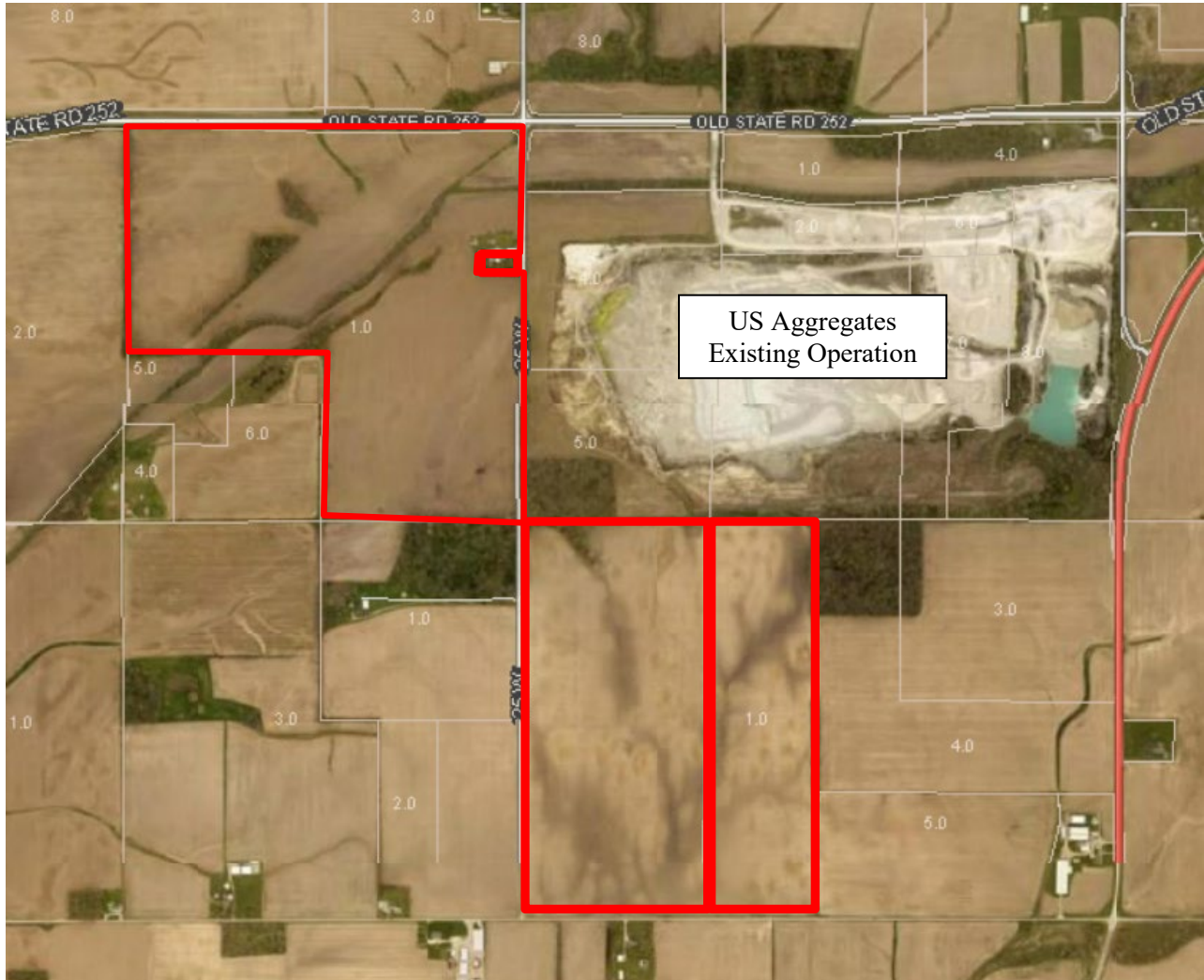


By: _____

Chad Roots, Director of Land

Exhibit A
Legal Description

**LEGAL DESCRIPTION OF US AGGREGATES, INC.
OPERATION OF FLAT ROCK QUARRY EXPANSION**



*Rezoning requests noted in red outline; legal descriptions follow.

TRACT: 73-15-31-200-001.000-021

The West Half of the Northeast Quarter of Section 31 in Township 11 North of Range 7 East, Washington Township, Shelby County, Indiana, containing 80 acres, more or less.

ALSO, a strip of land 93 rods long off of the entire North end of the East Half of the Northwest Quarter of Section 31 in Township 11 North of Range 7 East, containing 46 acres, more or less, and containing in both tracts hereby described 126 acres, more or less.

EXCEPT THEREFROM:

A part of the West Half of the Northeast Quarter of Section 31, Township 11 North, Range 7 East, Shelby County, Indiana, described as follows:

Commencing at a stone that marks the Northeast corner of the above described Half Quarter Section; thence South along the East line thereof 863.0 feet to a railroad spike and the true point of beginning; thence South with said East line 145.0 feet to a railroad spike; thence South 90°00' West 301.6 feet to an iron stake; thence North 00°00' East 145.0 feet to an iron stake; thence North 90°00' East 301.6 feet to the point of beginning, containing 1.00 acre more or less.

ALSO EXCEPT:

A part of the Northeast Quarter and the East Half of the Northwest Quarter of Section 31 and a part of the East Half of the Southeast Quarter of Section 30, all in Township 11 North, Range 7 East, Shelby County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner of said Section 31; thence South 00°08'56" West 15.118 meters (49.60 feet) along the East line of said Section 31; thence South 51°30'39" West 2.929 meters (9.61 feet); thence North 89°49'46" West 5.000 meters (16.40 feet); thence North 51°10'11" West 6.403 meters (21.01 feet); thence North 89°49'46" West 380.000 meters (1,246.72 feet); thence South 8°45'48" West 60.688 meters (199.11 feet) to the East boundary of County Road 25 West; thence North 89°47'47" West 5.029 meters (16.50 feet) to the West line of the East Half of the Northeast Quarter of said Section 31; thence South 0°12'13" West 69.990 meters (229.63 feet) along said West line; thence North 89°47'47" West 5.029 meters (16.50 feet) to the West boundary of said County Road 25 West; thence North 35°24'50" West 6.155 meters (20.19 feet); thence North 0°15'31" East 80.000 meters (262.47 feet); thence North 8°16'20" West 20.224 meters (66.35 feet); thence North 0°15'31" East 15.000 meters (49.21 feet); thence North 55°09'21" West 17.545 meters (57.56 feet); thence North 89°49'46" West 75.000 meters (246.06 feet); thence South 85°24'25" West 60.208 meters (197.53 feet); thence North 89°49'46" West 260.000 meters (853.02 feet); thence North 85°03'57" West 60.208 meters (197.53 feet); thence North 89°49'46" West 336.792 meters (1,104.96 feet) to the West line of the East Half of the Northwest Quarter of said Section 31; thence North 0°03'50" East 9.089 meters (29.82 feet) along said West line to the Northwest corner of the East Half of the Northwest Quarter of said Section 31; thence North 89°43'59" East 411.888 meters (1,351.34 feet) along the North line of said Half-Quarter Section to the Northeast corner of the East Half of the Northwest Quarter of said Section 31; thence South 89°56'07" East 40.5,879 meters (1,331.62 feet) along the North line of the West Half of the Northeast Quarter of said Section 31 to the Northeast corner of the West Half of the Northeast Quarter of said Section 31; thence North 0°12'13" East 50.011 meters (164.08 feet) along the West line of the East Half of the Southeast Quarter of said Section 30; thence South 89°47'47" East 5.029 meters (16.50 feet) to the East boundary of County Road 25 West; thence South 26°52'39" East 3.371 meters (11.06 feet); thence South 11°18'11" East 22.439 meters (73.62 feet); thence South 79°42'17" East 28.443 meters (93.32 feet); thence South 89°49'46" East 320.000 meters (1,049.87 feet); thence North 86°21'23" East 47.466 meters (155.73 feet) to the East line of said Section 30; thence South 0°22'07" West 23.210 meters (76.15 feet) along said East line to the point of beginning and containing 0.8552 hectares (2.113 acres), more or less, in said Section 30, and containing 1.8268 hectares (4.514 acres), more or less, in said Section 31, and containing in all 2.6820 hectares (6.627 acres), more or less. The portion of the above-described real estate which is not already embraced within public rights of way contains 0.8300 hectares (2.051 acres), more or less, in said Section 30, and containing 1.7182 hectares (4.246 acres), more or less, in said Section 31, and containing in all 2.5482 hectares (6.297 acres), more or less.

TRACT: 73-15-31-400-005.000-021
&
TRACT: 73-15-32-300-001.000-021

The East half of the Southeast Quarter of Section 31, Township 11 North, Range 7 East, containing 80 acres, more or less.

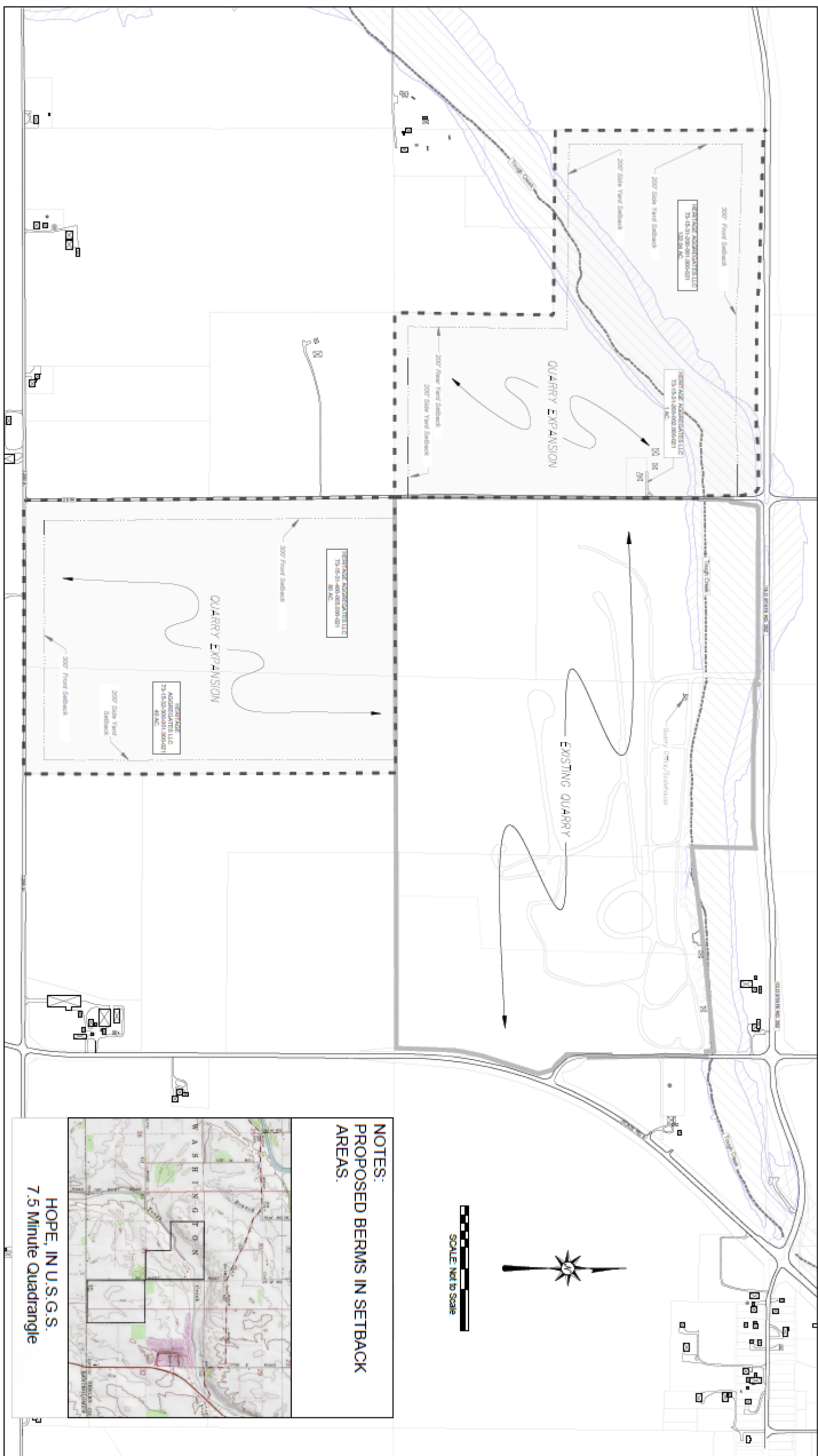
ALSO: The West 1/2 of the West 1/2 of the Southwest Quarter of Section 32, Township 11 North, Range 7 East, containing 40 acres, more or less.

TRACT: 73-15-31-200-002.000-021

A part of the West half of the Northeast quarter of Section 31, Township 11 North, Range 7 East, Shelby County, Indiana; described as follows:

Commencing at the stone that marks the Northeast corner of the above described half quarter section; thence South along the East line thereof 863.0 feet to a railroad spike and the true point of beginning; thence South with said East line 145.0 feet to a railroad spike; thence South 90 degrees no minutes West 301.6 feet to an iron stake; thence North no degrees no minutes East 145.0 feet to an iron stake; thence North 90 degrees no minutes East 301.6 feet to the Point of Beginning; subject to the right of way of the public highway on the East side of the Tract.

Exhibit B - Site Plan



<p>LEGEND</p> <p>HI ZONED PROPERTY PROPOSED HI ZONED PROPERTY PROPERTY SETBACKS DRAINAGE DITCH/CREEK INDR - FLOOD PLAN INDR - FRINGE FLOOD PLAN</p> <p>IN MAP 2021 PARCELS IN MAP 2021 CENTERLINES DRIVENWAYS ROADWAYS STRUCTURES PROPOSED HI ZONED PROPERTY</p>		<p>SCALE: Not to Scale</p> <p>DATE: 12-22-2022</p> <p>DRAWN BY: RDT, modified by CER</p> <p>ACAD FILE: Flat Rock 2022_Zoning Change Map.dwg</p>	<p>US AGGREGATES</p> <p>US AGGREGATES, INC 5400 W. 86th St. INDIANAPOLIS, IN 46268</p>	<p>PROJECT TITLE: REZONING MAP FOR US AGGREGATES FLAT ROCK QUARRY WASHINGTON TWP. SHELBY COUNTY, IN</p>
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Exhibit C

PROPOSED OPERATIONS AREA IMPROVEMENT DETAILS FOR US AGGREGATES, INC. OPERATION OF FLAT ROCK QUARRY EXPANSION

US Aggregates, Inc. (“USAgg”) seeks to rezone approximately 243.04 acres immediately adjacent to our existing mine operation located at 15 E. State Road 252, Flat Rock, IN 47234 in Washington Township in southeastern Shelby County.

The lands proposed for rezone include Parcel Numbers: 73-15-31-200-001.000-021 (122.04 AC); 73-15-31-200-002.000-021 (1.0 AC); 73-15-31-400-005.000-021 (80.0 AC); and 73-15-32-300-001.000-021 (40.0 AC); collectively, the “Property”.

The Property contains a significant quantity of mineral aggregates (“Aggregates”) and was acquired by USAgg as part of its long term business plan for its Aggregates operation. Aggregates will be extracted from the Property and sold from our adjoining existing operation at 15 E. State Road 252, Flat Rock, IN 47234.

Prior to the extraction of Aggregates, the mining area will be prepared by removing overburden that is on top of the Aggregates. A minimum front setback of one hundred and three hundred feet (300’) from the Property to public roadways will be utilized and a minimum side setback of two hundred feet (200’) will be utilized to property lines. The overburden will be excavated using construction equipment typical on most construction sites, such as excavators, haul trucks, and dozers. The overburden will likely be stored on the Property and utilized for construction of berms and future reclamation purposes. Once the mining area is prepared, equipment will be utilized to extract the in-situ Aggregate. The Aggregate will be crushed and hauled to the existing, adjoining mine operation for processing and sale.

Blasting and/or explosives will be used as part of the operation and will be within the existing and routine operation as currently utilized and in accordance with the Mine Safety and Health Administration (“MSHA”) rules and regulations. Hours of operation will be from 5:00 a.m. to 8:00 p.m., Monday through Saturday, except during peak season, where the operations will operate from dawn until dusk. No operations shall occur on Sundays. Notwithstanding the forgoing to the contrary, mineral extraction operations may be conducted outside these hours only (i) to supply materials for inclusion in a public (municipal, county, state, or federal) project; (ii) to respond to an emergency involving a matter of public interest that requires immediate use of USAgg’s materials; or (iii) to meet exceptional demands caused by special projects requiring work outside normal hours. Except in the case of emergencies, USAgg will make a good faith effort to notify the Shelby County Plan Commission in advance of all operations outside the stated hours.

Any lighting used in the project shall be focused downward towards the mining areas. The mining operations will be conducted behind berms which will help mitigate light and noise impact on adjoining properties.

Exhibit D

Security Plan

SECURITY PLAN FOR US AGGREGATES, INC. OPERATION OF FLAT ROCK QUARRY EXPANSION

1. Safety mounds shall be installed progressively around the perimeter of any active mining areas.
2. Entrances to the Real Estate will be gated and locked to prevent the passage of vehicular traffic at all times, except during operating hours when employees of the operator of the operation are present.
3. “No Trespassing” signs will be prominently posted along all boundaries of the Real Estate.
4. All equipment used on the Real Estate will have keys removed while not in use and keys secured during those times outside of operational hours.
5. Owner shall arrange for regular patrols of the site if requested by any governmental agency.

Exhibit E

Reclamation Plan

RECLAMATION PLAN FOR US AGGREGATES, INC. OPERATION OF FLAT ROCK QUARRY EXPANSION

This Reclamation Plan (the "Plan") provides the guidelines for the reclamation and beautification of the Real Estate upon the conclusion of mining operations. To the extent possible, time frames for implementation of the guidelines are included. The guidelines, however, may be implemented during mining if feasible.

These guidelines are based on the Guiding Principles (the "Principles") of the Environmental Stewardship Council (the "ESC") of the Indiana Mineral Aggregates Association, published on June 1, 2000. The Principles were drafted after ESC contacted several consulting firms and two universities. The Principles were drafted over a period of six months, after which they were adopted through a series of hearings and meeting over approximately a one year period.

1. Reclamation Principles. The following reclamation principles and guidelines will be adhered to with respect to the reclamation and restoration of the Real Estate upon the conclusion of mining operations.
 - 1.1. Stabilization of Soil and Loose Rock.
 - 1.2. Slope Materials. Sufficient volumes of overburden will be maintained on the Real Estate to ensure the reclamation plan can be completed. All overburden placed on the real estate will be placed graded and stabilized to minimize soil erosion, surface disturbance, and stream or river contamination. Sufficient water-retarding siltation control structures and diversion ditches will be utilized, if necessary, to control runoff.
 - 1.3. Grading Slopes. Upon completion of reclamation, no vertical or near vertical high walls will remain in unconsolidated deposits. Any ridges, peaks or slopes created by excavation, overburden removal or replacement will be graded to a slope that provides for stability, prevents erosion, and supports vegetation. The grading of any slopes will be compatible with the surrounding topography.
 - 1.4. Depending on the mineral produced and the topography and the geology of the site, it may be necessary to retain bedrock highwalls as permanent features at the completion of mining and reclamation. Final mined faces will be designed and configured to minimize the possibility of rock falls and slope failure.
 - 1.5. Post Mining Vegetation.
 - 1.5.1. A vegetative cover will be established on all portions of the affected Real Estate that is not covered by water or existing vegetation. The re-vegetation will provide a diverse, effective and permanent vegetation cover capable of self-regeneration and plant succession.

- 1.5.2. Ground Cover. Soil stabilizers and or mulch will be applied, as necessary, to promote seed germination and prevent washing away of seeds. Soil materials will be prepared utilizing appropriate standard agricultural methods. Seedbed preparation will be accomplished along the contour of all slopes and the soil material loosened to a depth sufficient to promote proper seed germination.
 - 1.5.3. Vegetative Material. Quick germinating, rapid-growing vegetative species capable of stabilizing the surface soil and preventing erosion will be sown. Vegetative materials will consist of grasses, legumes, herbaceous or woody plants, shrubs and trees. Specific material will be chosen based on soil test results, post-mining land use, long-term erosion control, growth rates, ability to provide permanent vegetative cover, self-regeneration and plant succession capabilities, potential soil rebuilding abilities, and potential benefits to wildlife.
2. Site Specific Guidelines. The following guidelines are specific to the Real Estate. The Reclamation Principles contained above shall be utilized when complying with the site specific guidelines.
 - 2.1 Use of Reclaimed Property. Since the anticipated time horizon for cessation of mining operations is greater than fifty years, specific uses for the reclaimed area have not yet been identified. The goal with respect to the reclamation of the areas is to make such areas suitable for potential recreational use and/or development that may be consistent with the surrounding area and the local Comprehensive Plan.
 - 2.2 A final Site Specific Reclamation Plan will be submitted to the County for approval prior to the reclamation of the site.

Shelby County Plan Commission

Memo

To: Shelby County Plan Commission

From: Desiree Calderella, Planning Director

Northwest Shelby County Economic Development Area Resolution – Amendment to Declaratory Resolution

Background

The Shelby County Redevelopment Commission has passed a Resolution Amending its Declaratory Resolution which established an Economic Development Area (EDA) and Tax Increment Financing District (TIF) in northwest Shelby County. *The amendment splits the allocation area into two allocation areas for the purposes of tracking tax funds from two separate areas within the EDA.*

State redevelopment statute requires that the Plan Commission pass a resolution approving the amendment. The Plan Commission must determine that the Amended Resolution conforms to the Shelby County Comprehensive Plan. The Plan Commission adopted a resolution determining that the original resolution conformed to the Comprehensive Plan in January of 2021.

Staff Analysis

The Amended Resolution does not change the boundaries or intent of the Economic Development Area. The Plan Commission previously determined that establishment of the Economic Development Area conforms to the Comprehensive Plan.

Staff recommends that the Plan Commission adopt the Resolution approving amendments to the Declaratory Resolution of the Shelby County Redevelopment Commission that established the Northwest Shelby County Economic Development Area.

RESOLUTION NO. _____

**RESOLUTION OF THE SHELBY COUNTY REDEVELOPMENT COMMISSION
AMENDING THE DECLARATORY RESOLUTION AND THE
DEVELOPMENT PLAN FOR THE NORTHWEST SHELBY COUNTY
ECONOMIC DEVELOPMENT AREA**

WHEREAS, the Shelby County Redevelopment Commission (the “Commission”) pursuant to IC 36-7-14 (the “Act”) serves as the governing body of the Shelby County Redevelopment District (the “District”); and

WHEREAS, the Commission has previously adopted and confirmed resolutions (collectively, the “Declaratory Resolution”) which established and amended an economic development area known as the Northwest Shelby County Economic Development Area (the “Economic Development Area”), designated all of such area as an allocation area pursuant to Section 39 of the Act, known as the Northwest Shelby County Allocation Area (the “Northwest Shelby County Allocation Area”) and approved a development plan for the Economic Development Area (the “Plan”) pursuant to the Act; and

WHEREAS, the Commission now desires to amend the Declaratory Resolution and Plan (i) to remove the area described on Exhibit A attached hereto from the Northwest Shelby County Allocation Area, (ii) to designate the area described on Exhibit A attached hereto as a separate allocation area pursuant to Section 39 of the Act to be known as the 2022 Allocation Area (the “2022 Allocation Area”), and (iii) to adopt a supplement to the Plan attached hereto as Exhibit B (the “2022 Plan Supplement”) (clauses (i), (ii) and (iii), collectively, the “2022 Amendments”); and

WHEREAS, the 2022 Amendments and supporting data were reviewed and considered at this meeting; and

WHEREAS, Section 39 of the Act has been created and amended to permit the creation and expansion of “allocation areas” to provide for the allocation and distribution of property taxes for the purposes and in the manner provided in said Section; and

WHEREAS, this Commission deems it advisable to apply the provisions of said Section 39 of the Act to the 2022 Amendments; and

WHEREAS, the Commission now desires to approve the 2022 Amendments.

NOW, THEREFORE, BE IT RESOLVED by the Shelby County Redevelopment Commission, governing body of the Shelby County Redevelopment District, as follows:

1. The 2022 Amendments promote significant opportunities for the gainful employment of its citizens, attraction of major new business enterprises to Shelby County, Indiana (the “County”), retention and expansion of significant business enterprises existing in the boundaries of the County, and meet other purposes of Sections 2.5, 41 and 43 of the Act, including

without limitation benefiting public health, safety and welfare, increasing the economic well-being of the County and the State of Indiana (the “State”), and serving to protect and increase property values in the County and the State.

2. The 2022 Plan Supplement for the 2022 Allocation Area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under Sections 2.5, 41 and 43 of the Act because of lack of development, cessation of growth, deteriorating improvements and age.

3. The public health and welfare will be benefited by the 2022 Amendments.

4. It will be of public utility and benefit to amend the Declaratory Resolution and the Plan for the Economic Development Area as provided in the 2022 Amendments and to continue to develop the Economic Development Area, including the 2022 Allocation Area, as under the Act.

5. The accomplishment of the 2022 Plan Supplement for the 2022 Allocation Area will be a public utility and benefit as measured by the attraction or retention of permanent jobs, an increase in the property tax base, improved diversity of the economic base and other similar public benefits.

6. The Declaratory Resolution and the Plan, as amended by this Resolution and the 2022 Plan Supplement, conform to the comprehensive plan of development for the County.

7. The 2022 Amendments are reasonable and appropriate when considered in relation to the Declaratory Resolution and Plan and the purposes of the Act.

8. The findings and determinations set forth in the Declaratory Resolution and the Plan are hereby reaffirmed.

9. In support of the findings and determinations set forth in Sections 1 through 7 above, the Commission hereby adopts the specific findings set forth in the 2022 Plan Supplement.

10. The Commission does not at this time propose to acquire any specific parcel of land or interests in land within the boundaries of the 2022 Allocation Area. If at any time the Commission proposes to acquire specific parcels of land, the required procedures for amending the Plan, as amended by the 2022 Plan Supplement, under the Act will be followed, including notice by publication to affected property owners and a public hearing.

11. The Commission finds that no residents of the Economic Development Area will be displaced by any project resulting from the 2022 Plan Supplement, and therefore finds that it does not need to give consideration to transitional and permanent provision for adequate housing for the residents.

12. The 2022 Amendments are hereby in all respects approved.

13. The area described in Exhibit A is hereby removed from the Northwest Shelby County Allocation Area, and is hereby designated as a separate “allocation area” pursuant to Section 39 of the Act to be known as the “2022 Allocation Area,” for purposes of the allocation and distribution of property taxes for the purposes and in the manner provided by said Section. Any taxes imposed under I.C. 6-1.1 on real property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in said allocation area shall be allocated and distributed as follows:

Except as otherwise provided in said Section 39, the proceeds of taxes attributable to the lesser of the assessed value of the property for the assessment date with respect to which the allocation and distribution is made, or the base assessed value, shall be allocated to and when collected paid into the funds of the respective taxing units. Except as otherwise provided in said Section 39, property tax proceeds in excess of those described in the previous sentence shall be allocated to the redevelopment district and when collected paid into an allocation fund for the 2022 Allocation Area hereby designated as the “2022 Allocation Fund” and may be used by the redevelopment district to do one or more of the things specified in Section 39(b)(3) of the Act, as the same may be amended from time to time. Said allocation fund may not be used for operating expenses of the Commission. Except as otherwise provided in the Act, before June 15 of each year, the Commission shall take the actions set forth in Section 39(b)(4) of the Act.

14. The foregoing allocation provision shall apply to the 2022 Allocation Area. The Commission hereby finds that the adoption of this allocation provision will result in new property taxes in the 2022 Allocation Area that would not have been generated but for the adoption of the allocation provision, as specifically evidenced by the findings set forth in Exhibit B. The base assessment date for the 2022 Allocation Area is January 1, 2022.

15. The provisions of this Resolution shall be subject in all respects to the Act and any amendments thereto, and the allocation provisions herein relating to the 2022 Allocation Area shall expire on the date that is twenty-five (25) years after the date on which the first obligation is incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues derived from the 2022 Allocation Area.

16. This Resolution, together with any supporting data, shall be submitted to the Shelby County Plan Commission (the “Plan Commission”) and the Board of Commissioners of the County (the “Board”) as provided in the Act, and if approved by the Plan Commission and the Board, shall be submitted to a public hearing and remonstrance as provided by the Act, after public notice as required by the Act.

17. The officers of the Commission are hereby authorized to make all filings necessary or desirable to carry out the purposes and intent of this Resolution.

18. The provisions of this Resolution shall be subject in all respects to the Act and any amendments thereto.

Adopted the 28th day of November, 2022.

SHELBY COUNTY REDEVELOPMENT
COMMISSION

President

Vice President

Secretary

Member

Member

EXHIBIT A

Description of the 2022 Allocation Area

The 2022 Allocation Area consists of the following parcels:

PARCEL ID NUMBERS:

73-01-14-300-001.000-013

73-01-23-100-001.000-013

73-01-23-200-001.000-013

73-01-14-300-018.000-013

73-01-14-300-002.000-013

EXHIBIT B

2022 Plan Supplement

The Plan is hereby supplemented by adding the following projects to the Plan:

All or any portion of the design and construction of infrastructure improvements, including without limitation, utility improvements and/or streetscape development, in or directly serving and benefiting the 2022 Allocation Area, which will support a development project by Sunbeam Development Corporation (the “Developer”). The estimated cost of these improvements is \$7,000,000.

Based on representations of the Developer, the Commission has determined that the development will not proceed as planned without the contribution of tax increment revenues to be derived from the 2022 Allocation Area to the projects described above.

RESOLUTION NO. _____

**RESOLUTION OF THE SHELBY COUNTY PLAN COMMISSION
APPROVING AMENDMENTS TO THE DECLARATORY RESOLUTION
AND DEVELOPMENT PLAN FOR THE NORTHWEST SHELBY COUNTY
ECONOMIC DEVELOPMENT AREA**

WHEREAS, the Shelby County Plan Commission (the “Plan Commission”) is the body charged with the duty of developing a general plan of development for Shelby County, Indiana (the “County”); and

WHEREAS, the Shelby County Redevelopment Commission (the “Redevelopment Commission”) on November 28, 2022, approved and adopted a resolution (the “Resolution”) approving certain amendments to the declaratory resolution and development plan for the Northwest Shelby County Economic Development Area (the “Plan Supplement”); and

WHEREAS, the Redevelopment Commission has submitted the Resolution and the Plan Supplement to this Plan Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE SHELBY COUNTY PLAN COMMISSION, THAT:

1. The Resolution and the Plan Supplement conform to the plan of development for the County.
2. This Plan Commission hereby approves the Resolution and the Plan Supplement. This resolution hereby constitutes the written order of the Plan Commission approving the Resolution and the Plan Supplement pursuant to I.C. § 36-7-14-16.
3. The Secretary of this Plan Commission is hereby directed to file a copy of the Resolution and the Plan Supplement with the minutes of this meeting.

SO RESOLVED BY THE SHELBY COUNTY PLAN COMMISSION this 27th day of December, 2022.

SHELBY COUNTY PLAN COMMISSION

President

ATTEST:

Secretary

Shelby County Plan Commission

25 West Polk Street, Room 201

Shelbyville, Indiana 46176

(317) 392-6338

Planning Director

Desiree Calderella

The following are the meeting dates for the Shelby County Plan Commission (SCPC) and the Shelby County Board of Zoning Appeals (BZA) for 2023. All Plan Commission and BZA meetings begin at 7:00 p.m. unless noted/announced otherwise.

Shelby County Plan Commission

<u>SCPC Scheduled Meetings</u>	<u>SCPC Application Deadline</u>	<u>SCPC Legal Notice Deadline*</u>
January 24, 2023	January 3, 2023	January 14, 2023
February 28, 2023	February 7, 2023	February 18, 2023
March 28, 2023	March 7, 2023	March 18, 2023
April 25, 2023	April 4, 2023	April 15, 2023
May 23, 2023	May 2, 2023	May 13, 2023
June 27, 2023	June 6, 2023	June 17, 2023
July 25, 2023	July 4, 2023	July 15, 2023
August 22, 2023	August 1, 2023	August 12, 2023
September 26, 2023	September 5, 2023	September 16, 2023
October 24, 2023	October 3, 2023	October 14, 2023
November 28, 2023	November 7, 2023	November 18, 2023
December 26, 2023	December 5, 2023	December 16, 2023

*Completed Preliminary Plats are due by the Notice Deadline