

FINDINGS OF FACT AND RECOMMENDATION
OF THE McLEAN COUNTY ZONING BOARD OF APPEALS

This is the findings of fact and the recommendation of the McLean County Zoning Board of Appeals to the McLean County Board concerning an application of the Odle Family Management Group, LLC, in case SU-15-09 on parcels 34-11-400-001 and 34-11-300-002. They are requesting a special use to allow a sand and gravel mining operation in the Agriculture District; on a 160 acre property located in the South ½ of Section 11, TWP 21N, Range 1E of the 3rd PM, and located in Funks Grove Township immediately southeast of the intersection of 1025 East Road and 50 North Road.

After due notice, as required by law, the Zoning Board of Appeals held a public hearing in this case on May 3, 2016 and May 11, 2016 in Room 400, Government Center, 115 East Washington Street, Bloomington, Illinois and hereby report their findings of fact and their recommendation as follows:

PHYSICAL LAYOUT – The proposed gravel mining operation covers 240 acres of which 160 acres are in McLean County and 80 acres are in DeWitt County. The property is relatively flat and drains to the Kickapoo Creek that runs southwest through the property. Approximately ¾ of the 160 acres in McLean County are in the flood plain. Approximately half of the 160 acres in McLean County are in crop production, the remainder is wooded or part of the Kickapoo Creek Floodway. The property has approximately 2,640 feet of frontage on the south side of 50 North Road, an oil and chip road 16 feet in width and approximately 1,320 feet of frontage on the west side of 1075 East Road.

SURROUNDING ZONING AND LAND USES – The property is in the Agriculture District. The property to the north, east and west is also in the Agriculture District. The property to the south is in the Agriculture District in DeWitt County. The surrounding property is in crop production.

LAND EVALUATION AND SITE ASSESSMENT (LESA) - A LESA analysis was completed for the site. The soils score was 91.1 out of 100 points. The site assessment score was 180 out of 200 points. The total LESA score was 271.1 points out of 300. A score of above 230 means the property is of very high value for agricultural land protection.

ANALYSIS OF STANDARDS - After considering all the evidence and testimony presented at the hearing, this Board makes the following analysis of the standards contained in the McLean County Code regarding the recommendation by the Zoning Board of Appeals as to whether the County Board should grant or deny the proposed special use.

STANDARDS FOR RECOMMENDING:

1. **The proposed special use will not be detrimental to or endanger the health, safety, morals, comfort, or welfare of the public.** This standard is met. The site covers approximately 240 acres of which 160 acres are in McLean County and 80 acres are in DeWitt County. The applicant's engineer indicated that they will submit an application to DeWitt County for a sand and gravel mining special use after the special use process is completed in McLean County. Farmland and gravel are both limited resources. The proposed gravel extraction facility is partially located on good farm land that has a

relatively high LESA score. Generally such land should be preserved for agricultural production. However, preserving access to and mining gravel resources for future development is necessary for growth of the community. If the proposed facility is approved, since it cannot be returned to crop production, reclamation of the site for a non-agricultural use is important. Approximately half of the 160 acres are in crop production, the remainder is wooded or part of the Kickapoo Creek Floodway and approximately $\frac{3}{4}$ of it is in the flood plain and subject to flooding.

The proposed sand and gravel mining operation is appropriate for the area provided the area is properly reclaimed with adequate seeding, grading with finished slopes above water level that do not exceed 3 feet horizontal to 1 foot vertical, and erosion is properly controlled for the life of the facility. The applicant proposes to reclaim the facility in a continuous manner. The applicant is proposing to perform continuous shoreline reclamation during the duration of dredging operations. This shoreline reclamation process will allow portions of the shoreline to be seeded and become established with vegetation during on-going mining operations, rather than at the end of mining operations. Off-site drainage will be diverted to Kickapoo Creek through a temporary diversion channel so that water within the dredge pond is isolated from the Kickapoo Creek.

The proposed mining area is located south and east of Kickapoo Creek. A temporary overburden stockpile and topsoil stockpile will be created in the southern portion of the project area. An aggregate processing plant approximately 12 acres in area will be constructed in the northwest corner of the project area, which is outside the flood plain. The plant will include an office, scale, client entrance, stockpiles and processing areas. Kickapoo Creek is located between the proposed mine and plant areas. When mining activities are complete, an approximate 60 acre lake will be created.

The applicant developed a Wetland and Waters of the United States Mitigation Plan for the proposed sand and gravel mine that will result in the creation of a 300 foot wide buffer adjacent to Kickapoo Creek. The applicant is also proposing in the mitigation plan to create on-site wetlands to replace wetlands damaged by the mining operation.

Following final closure of mining operations, the applicant will remove all plant equipment from the site, including the elevated pipelines above Kickapoo Creek and all material storage piles. The applicant will complete the shoreline restoration seeding and will seed the pipe maintenance area with native grasses. The applicant will perform quarterly inspections from at least one year after closure and will be required to repair erosion or seeding issues within the project area. Following final restoration, the lake will be used for recreational purposes.

The McLean County Regional Planning Commission working with staff, has reviewed the proposal for consistency with local and regional Comprehensive Plans and has given the proposal a projected score of 'C' which means that the application provides minimal features to be consistent with the Comprehensive Plan.

- 2. The proposed special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted or substantially**

diminish property values in the immediate area. This standard is met. The surrounding property currently used for crop production will continue to be desirable for such use. A gravel mine is located approximately 1,500 feet to the northeast of this property. A farm dwelling is located approximately 1,200 feet from the edge of the proposed mine area. The applicant may need to apply dust inhibiting surface treatments to the gravel surface area where truck traffic circulates on the site, where trucks are loaded and where material is sorted and classified. The applicant has submitted an application to the US Army Corps of Engineers for a Section 404 permit that has not yet been issued. The Section 404 permit refers to Section 404 of the Clean Water Act and is a joint application to the Illinois Department of Natural Resources, the Illinois Environmental Protection Agency and the US Army Corps of Engineers. The Section 404 permit addresses impact to water quality, historical/archaeological impacts and impacts to endangered species. The applicant has obtained Water Pollution Control Permit No. 2015-MA-60537 for the proposed mine from the Illinois Environmental Protection Agency. According to this permit, all stormwater runoff from the areas affected by mining remains within the pit. According to this permit, there is not to be a discharge from this site to waters of the state (Kickapoo Creek).

Testimony was presented by a homeowner, whose home is approximately $\frac{3}{4}$ mile north of the proposed facility along 1025 East Road, that the value of this dwelling with frontage on 1025 East Road would be decreased by the increased truck traffic. The Board discussed how this standard is difficult to evaluate in this case, but found that this standard is met.

An estimated cost of \$366,000 for reclamation of the property was prepared by the applicant's engineer. The Acting County Engineer reviewed this estimate and recommended that this should be increased to \$400,000.

3. **The proposed special use will not impede the orderly development of the surrounding property for uses permitted in the district.** This standard is met. An operating sand and gravel extraction facility is located approximately 1,500 feet to the northeast of the subject property. The use of the properties to the east, west, north and south for crop production will not be significantly affected by the proposed facility. Nearby land that is suitable for crop production will continue to be suitable for such use. The applicant indicates in the application that reclamation will be completed within one year of the conclusion of active mining activities; and that it is estimated that the facility will operate as a mine for 20 - 30 years before closure.
4. **Adequate utilities, access roads, drainage and/or other necessary facilities have been or will be provided.** This standard is met. The applicant will upgrade 1025 East Road to IDOT Class III Truck Route Standards from the subject property at 50 North Road to U.S Route 136 approximately 1.5 miles to the north. The applicant will need to provide the Department of Building and Zoning with a road use agreement with the Funks Grove Township Road Commissioner that mitigates the negative impact to township roads by trucks hauling gravel from the subject property.
5. **Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.** This standard is met.

It appears that safe sight distance can be obtained at the proposed entrance to the subject property. The applicant will need to obtain an entrance permit from the Funks Grove Township Road Commissioner.

6. **The establishment, maintenance and operation of the special use will be in conformance with the intent of the district in which the special use is proposed to be located.** This standard is met. The intent of the Agriculture District states: "Conserve and protect open space, wooded areas, streams, mineral deposits, and other natural resources from incompatible land uses and provide for their timely utilization." Gravel is a limited resource in McLean County. The utilization of the gravel at this site is appropriate.
7. **The proposed special use, in all other respects, conforms to the applicable regulations of the district in which it is located.** This standard is met. The applicant's site plan, narrative, Wetland and Waters of the US Mitigation Plan conform to the applicable regulations of the Agriculture District and the Use Standard in the County Code for Mining and Quarrying Operations.

After considering all the evidence and testimony presented, this Board finds that the application meets all the standards as found in the McLean County Zoning Ordinance provided compliance with the stipulations listed below.

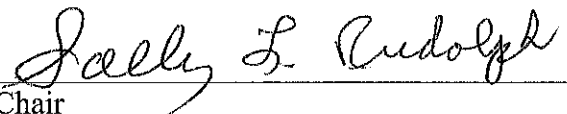
Therefore this Board recommends approval to allow a sand and gravel mining operation in the Agriculture District, provided development follows the plans and specifications as presented with such minor changes as the Director of Building and Zoning may determine to be in general compliance with such plans, specifications, with zoning regulations and with the following stipulations:

1. The applicant shall obtain a road use agreement with the Funks Grove Township Road Commissioner that mitigates the negative impact to township roads by trucks hauling gravel from the subject property, and shall obtain an entrance permit from the Funks Grove Township Road Commissioner before a permit is issued for the mining operation;
2. The applicant shall upgrade 1025 East Road to IDOT Class III Truck Route Standards from the subject property at 50 North Road to U.S Route 136 approximately 1.5 miles to the north at a time consistent with the Road Use agreement with the Funks Grove Township Road Commissioner;
3. When necessary or when requested by the Director of Building and Zoning, dust inhibiting surface treatments shall be applied to the gravel surface area where truck traffic circulates on the site, where trucks are loaded and where material is sorted and classified;
4. The applicant shall provide a site reclamation irrevocable letter of credit or escrow in the amount of \$400,000 before a permit is issued for the mining operation;
5. The 404 permit from the US Army Corps of Engineers shall be submitted to the Department of Building and Zoning before a permit is issued for the mining operation;

6. Reclamation of the site shall be accomplished continuously during the mining operation as indicated in the application and shall be completed within one year of the conclusion of active mining activities;
7. The area shall be properly reclaimed with adequate seeding, grading with finished slopes above water level that do not exceed 3 feet horizontal to 1 foot vertical, and erosion shall be properly controlled for the life of the facility;
8. The hours of operation are limited to daytime hours since a residence is located within 2,000 feet of the mining operation;
9. The applicant shall comply with all township, county, state and federal requirements; and
10. Development shall follow the plans and documents submitted with the application.

ROLL CALL VOTE - The roll call vote was six members for the motion to recommend granting, none opposed and Member Zimmerman recused himself.

Respectfully submitted by the McLean County Zoning Board of Appeals


Chair

5-24-16
Date

Sally Rudolph, Chair
Drake Zimmerman
Julia Turner
Brian Bangert
Michael Kuritz
Chris Carlton, Alternate Member
Rick Dean, Alternate Member

7