

Applicant

Robert Weerts
PO Box 897
Winnebago, MN 56098

Operator

Erosion Control Plus Inc.
PO Box 897
Winnebago, MN 56098

Request and Location

Request for review and approval of a Conditional Use Permit to open a two-acre clay borrow site. The property is zoned Agricultural and is located in the Northwest Quarter of the Southeast Quarter of Section 33, Medo Township.

Legal Description

Northwest corner of the Northwest Quarter of the Southeast Quarter of Section 33, Medo Township.

Zoning

The property is zoned Agricultural.

General Site Description and Project Proposal

The parcel includes 73 acres and is primarily cropland. In addition to the cropland, the property includes a 1.2-acre knoll that is not farmed. This knoll and some surrounding cropland contain a supply of clay material that is desirable for area construction projects. The total borrow area will include approximately two acres.

The need for the clay material is a function of the demand by area construction projects, but the supply of clay is anticipated to last for three years. There will be no stockpiles of product or structures placed on the site. The haul route on-site will consist of a dirt road leading to and from an existing field access point. If soil conditions are wet or tacky, the surface layer of the dirt road will be stripped to a dry surface. A rock tracking pad will be provided if necessary to keep dirt from being deposited onto the roadway. At peak production, as many as 130 trips per day in and out of the site may occur. However, the actual number of trips will likely be much less than the peak amount. Once adequate clay has been mined from the borrow, the site will be graded to four-feet horizontal to one-foot vertical or flatter. Topsoil will be placed over the site and converted to cropland.

Typical hours of operation are from 7:00 a.m. to 7:00 p.m., Monday through Friday on an as-needed basis during the typical construction season of April through November.

Land Use Plan

The Blue Earth County Land Use Plan does not specifically address mineral extraction. However, the Planning Commission and County Board reviewed all permitted and conditional uses as part of the 2012 amendment to the Zoning Ordinance and left mineral extraction as a conditional use in the Agricultural District.

Existing Land Use within ¼ Mile

North: One single-family dwelling, cropland, and a wooded hillside

South: Cropland

East: Cropland, and wetlands

West: 613th Ave (a Township Road), and cropland

NATURAL RESOURCES INFORMATION

Topography

The topography of the site to be excavated drops off quickly to the east where it then levels off. See Attachment A-2

Floodplain

There is no mapped FEMA Floodplain within the area of the proposed borrow site. The nearest mapped FEMA Floodplain is approximately 1,950 feet west of the proposed structure. See Attachment A-3

Shoreland

The borrow site is not within the shoreland district. The nearest shoreland area is approximately 1,950 feet west of the borrow site. See Attachment A-3

Township Review

The applicant met with Medo Township officials at their April 16th meeting. The Township Board had no issue with the request provided the applicant follows all regulations and specifications set forth by Blue Earth County Environmental Services, as well as maintain the existing condition of the Township Road (clearing off any soil/debris, providing dust control as needed, and repairing any damages).

Environmental Health Review

See Attachment A-4

APPLICABLE SECTIONS OF THE CODE OF ORDINANCES

Sec. 24-47 Planning Commission

(f) *Findings required.*

Enumeration. The Planning Commission shall not forward a recommendation of approval for a conditional use permit unless they find the following facts at the hearing where the applicant shall present a statement and evidence in such form as the Planning Agency may require:

- a. That the proposed use conforms with the county land use plan.
- b. The demonstrated need for the proposed use.
- c. That the proposed use will not degrade the water quality of the county.
- d. That the proposed use will not adversely increase the quantity of water runoff.

- e. That soil conditions are adequate to accommodate the proposed use.
- f. That the proposed use does not create a potential pollution hazard.
- g. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
- h. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
- i. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.
- j. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
- k. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.
- l. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- m. That the density of proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable zoning district.
- n. That the intensity of proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable zoning district.
- o. That site-specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals and general welfare.

DIVISION 2. AGRICULTURAL DISTRICT

Sec. 24-112 Uses.

- (b) *Conditional uses.* The following uses may be allowed in the A district as a conditional use and subject to the provisions of article II of this chapter:
 - (10) Extraction of minerals, associated mining and processing activities as regulated in Sec. 24-329.

Sec. 24-329 Mineral Extraction, Associated Mining and Processing Activities

(e) *Mining operation standards.*

- (1) *General requirements.* Each person to whom a mining operation permit is issued may engage in mining upon lands described in the permit, subject to the following regulations:
 - a. The mining operations shall be conducted in compliance with the laws of the state and the federal government, especially as related to safety standards, and ordinances and resolutions of the County, as amended, and in compliance with and furtherance of the approved reclamation plan for the affected land.
 - b. Clearing of the mining site shall conform to the development and reclamation plan whenever possible. Existing trees and shrubs shall remain in their natural state and not prematurely stripped.
 - c. Adequate planting, fencing or berming shall be provided along all public roads adjacent to the property involved, sufficient to screen the operation from view.
 - d. Ingress and egress access points from or onto any road or highway shall be clearly signed, and only those signed access points shall be utilized. All access points must be approved by the highway agency having jurisdiction, and shall preferably be located along a secondary road. All access points shall be located so as to avoid the routing of vehicles to and from the mining operation over streets that primarily serve abutting residential development. Precautions must be taken to minimize the deposit of dirt and mined material from trucks onto the public roads.
 - e. Trucks used in hauling materials from the site of excavation shall be loaded in such manner as to minimize spillage onto public highways. Any spillage resulting from overloading or from truck tires shall be removed daily or as needed.
 - f. The amount of overburden to be removed shall not be in excess of that required to undertake operations in an economically feasible manner. Less than 10 acres shall be considered economically feasible unless different classes of material are available for extraction and approved by the County Board of Commissioners. Development toward the final plan shall be carried on as excavation progresses. Where ground cover or other planting is indicated on approved plan, such planting shall be made in areas where excavation is completed and land is not being used for material storage.
 - g. Existing trees and ground cover along public road frontage shall be preserved, maintained and supplemented for the depth of the required roadside setback.

- h. When explosives are used, the operator shall take all necessary precautions not to endanger life and damage or destroy property. The method of storing and handling explosives shall conform with all laws and regulations relating thereto.
- i. Proposed graded or backfilled areas or banks as conforming to the approved reclamation plan shall be covered with sufficient topsoil, based on the availability of existing topsoil, to provide for re-vegetation. When backsloping is proposed on the reclamation plan, the rate of slope shall not be less than three (3) feet horizontal to one (1) foot vertical. Proposed banks shall be covered with topsoil and seeded, except where such banks provide a beach area to a proposed recreational lake as indicated on the approved reclamation plan.
- j. Upon replacement of the topsoil, trees, shrubs, legumes, grasses or other ground cover shall be planted upon the area in order to avoid erosion, in accordance with approved reclamation plan.
- k. Upon completion of excavation, all buildings, hot-mix or concrete plants, stockpiled materials and equipment shall be removed within six (6) months, unless such buildings, hot-mix or concrete plants and equipment will be used in the reclamation process.
- l. Operating procedures will be utilized to control dust and noise so as not to be in conflict with adjoining property.

Proposed Findings of Facts

(The proposed findings below are directly related to the above standards, labeled, items a-o)

After careful review of the project and all associated documents, staff has developed the following suggested findings for this project:

- a. That the proposed use conforms with the county land use plan.
 - *The Blue Earth County Land Use Plan does not specifically address mineral extraction. However, the Planning Commission and County Board reviewed all permitted and conditional uses as part of the 2012 amendment to the Zoning Ordinance and left mineral extraction as a conditional use in the Agricultural District.*
- b. The demonstrated need for the proposed use.
 - *Clay can provide an important base for construction projects. Therefore, a need for the use has been demonstrated.*

- c. That the proposed use will not degrade the water quality of the county.
 - *There are no surface waters downstream within 800 feet of this project. Between the project and the surface water feature is 800 feet of flat cropland. Therefore, it seems unlikely that the proposed use will degrade the water quality of the county.*
- d. That the proposed use will not adversely increase the quantity of water runoff.
 - *No impervious surface area will be added with this project. The adjacent land use is a farm field. Runoff from the site moves toward the farm field. Therefore, it seems unlikely that the project would adversely increase the quantity of water runoff.*
- e. That soil conditions are adequate to accommodate the proposed use.
 - *The types of soil on site will accommodate the proposed use.*
- f. That the proposed use does not create a potential pollution hazard.
 - *No hazardous products or materials will be stored on-site and the mining activities on the site should not present a pollution hazard. In addition, there does not appear to be any sensitive land features nearby. Therefore, the proposed use does not appear likely to create a pollution hazard.*
- g. That adequate utility, access roads, drainage and other necessary facilities have been or are being provided.
 - *Access to and from the site will be provided by an existing field approach. Drainage will continue toward the east. It appears likely that the proposed use meets this required standard.*
- h. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
 - *All aspects of the project can accommodate off-street parking. Therefore, off-street parking is not an issue.*
- i. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.
 - *The nearby haul routes are not heavily traveled roads. Therefore, traffic congestion should not be an issue.*
- j. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
 - *The nearest residential structures in the area is approximately 450 feet away from the borrow site. The intermittent use of the borrow site should not be injurious to the use and enjoyment of other property in the immediate vicinity.*

- k. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.
- *The intermittent use of the borrow site and the setback available to neighboring properties make it unlikely that this project would impede the development of surrounding vacant property.*
- l. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- *Odor, fumes and vibration should not be an issue with this project and due to the moisture content of the clay, dust should not be an issue. Hours of operation should not create the need for any lighting and adhering to the proposed hours of operation the proposed use should not create an offensive noise level.*
- m. That the density of proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable zoning district.
- *This standard does not apply to this request.*
- n. That the intensity of proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable zoning district.
- *This standard does not apply to this request.*
- o. That site-specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals and general welfare.
- *The protection of the public's health, safety, morals and general welfare are addressed in the conditions recommended below.*

Recommendations

Staff recommends **APPROVAL** of the proposal to open a two-acre clay borrow site, contingent upon the following:

1. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the MPCA and an NPDES Permit obtained prior to commencement of mining activities.
2. Proper erosion control measures shall be maintained to keep sediment from leaving the mining areas, and access routes in accordance with the Storm Water Pollution Prevention Plan (SWPPP).

3. This conditional use permit shall remain in full force and effective until such time as a major change in operation is proposed that is not currently covered by this expansion proposal.
4. The proposed excavation of clay shall be conducted in compliance with the laws of the State of Minnesota, the Federal Government, and Blue Earth County.
5. All required MPCA permits shall be obtained/maintained.
6. All mining setbacks shall be met. No mining activities shall occur closer than 50 feet from any property line and no mining activities shall occur any closer than 50 feet to any delineated wetland.
7. Hours of operation shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday and from 7:00 a.m. to 12:00 p.m. on Saturdays.
8. The applicant shall obtain a Department of Natural Resources water appropriation permit if the applicant will be pumping more than 10,000 gallons per day or 1 million gallons per year to dewater the pit area.
9. No additional topsoil may be removed from the site. All available topsoil will be used for reclamation purposes.
10. Reclamation of exhausted clay borrow areas shall be completed within three months of ceasing operations. Said final reclamation shall conform to the submitted plan to backslope the mining area to a four-foot horizontal to one-foot vertical slope or flatter and covered with the original topsoil making the site available for crop production.
11. That prior to any future expansion, an application for an updated conditional use permit shall be submitted and approved by the County Board.

Attachments

- A-1 General Location Map
- A-2 Application and Site Plan
- A-3 Shoreland & Floodplain Map
- A-4 Environmental Health Comments

EROSION CONTROL PLUS INC.

P.O. Box 897, 524 Main Street South

Winnebago, MN 56098

(507)893-3313

Fax 893-4656

April 6, 2018

Blue Earth County Environmental Services
Attn: George Leary
410 South 5th Street
Mankato, MN 56001

RE: Borrow Pit Application

Dear Mr. Leary,

We would like to apply to have a borrow pit site for our property located in Section 33 of Medo Township.

The property legal description is:

SW4 of NE4 & NW4 of SE4 Ex Beg 2582' N of SE Cor of SW4 N753' E465.03' SW 769.79' W310" TO Beg
033 10625 73.30 A
Section 33, Township 106, Range 25

Robert Weerts, President of Erosion Control Plus, Inc. is the owner of the aforementioned property.

Reason for Request:

Erosion Control Plus Inc. is requesting to operate a borrow pit site be used for construction projects in the surrounding area. The anticipated disturbed area will not exceed 2 acres total.

We anticipate operations will take place for 3 years. We would operate from approximately 7am-7pm, Monday-Friday on an as needed basis during the construction season which typically goes from April-November.

We will provide dust control on 613th Avenue as needed during the usage period. The haul route will be from Blue Earth County Road 21, going north on 613th Avenue to borrow site. The work area will be as marked on the enclosed map.

Prior to commencing work, we will obtain a NPDES permit if necessary.

We will strip the existing topsoil for the borrow site and remove the clay borrow. Topsoil will be pushed to the east and placed in a berm along the east end. No borrow stock piles. Product will be excavated and hauled out. Access will be provided by an existing field driveway. No gravel will be added to the access route. If ground conditions are tacky, the wet topsoil will be stripped off to create a dry road. We are estimating 130 trips per day Upon completion, the site will be leveled to a farmable plain and the topsoil will be replaced. It will be leveled to less than 4:1 slope.

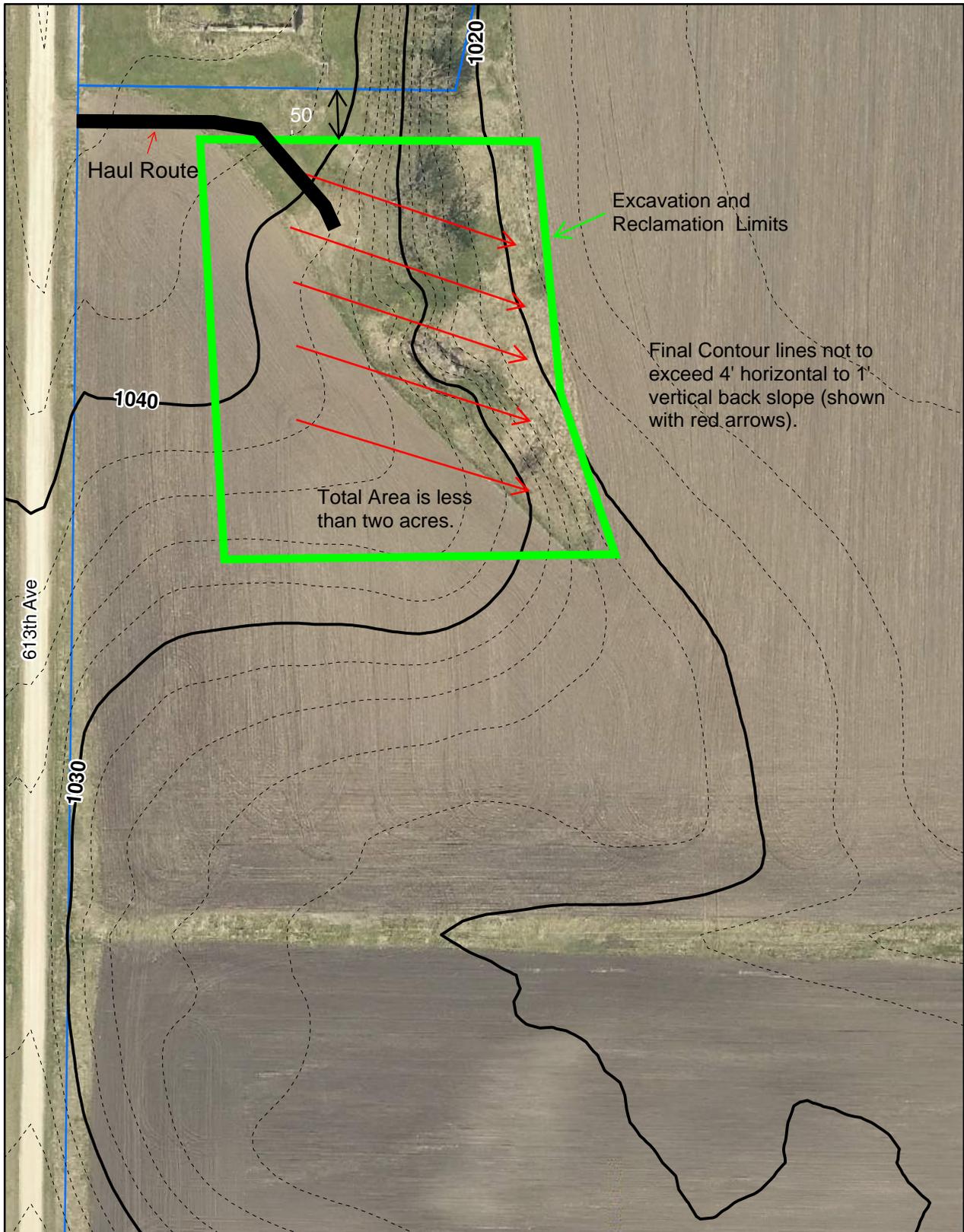
Please advise if you have any questions or need more information.

Sincerely,



Jonathan Weerts
Vice President
JRW/djb

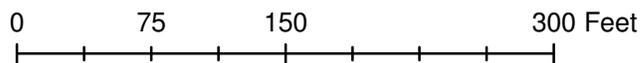
Mining and Reclamation Plan



Elevation Contour

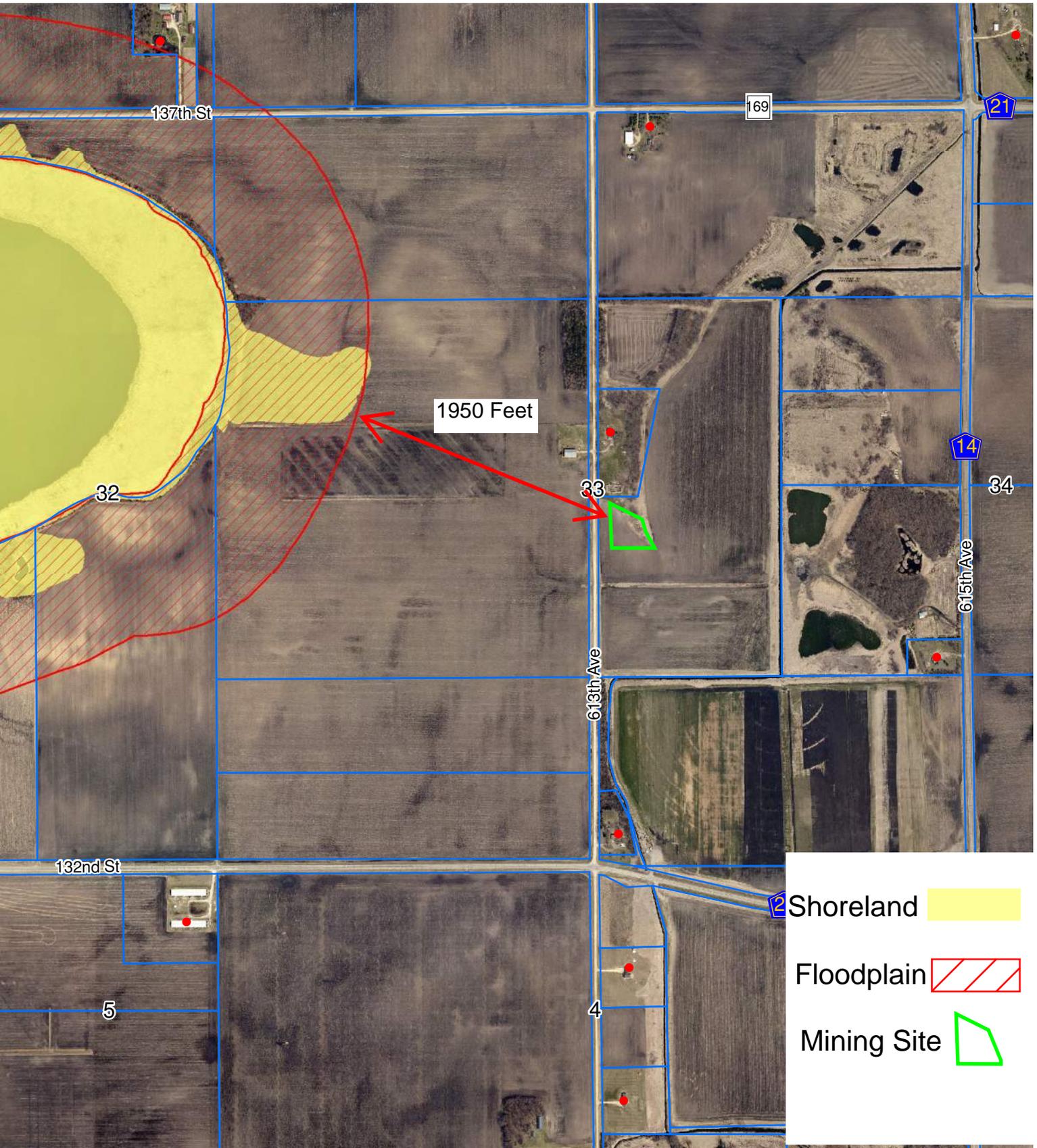
~ Index (10 Ft)

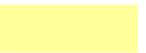
- - - Intermediate (2 Ft)



Source: Contours - MN LiDAR 2012

A-3 Shoreland and Floodplain Map



- 2 Shoreland 
- Floodplain 
- Mining Site 

A-4
**BLUE EARTH COUNTY
ENVIRONMENTAL SERVICES**

*Government Center, 410 South Fifth Street
P.O. Box 3566, Mankato, Minnesota 56002-3566
Phone: (507) 304-4381 Fax: (507) 304-4431*

Environmental Health Section - Planning Application Reviews

Date Printed:	April 26, 2018	Permit Number:	PL2018032
Property Owner:	WEERTS ROBERT D	Applicant:	WEERTS ROBERT D
Parcel Number:	R46.20.33.400.010	File ID:	PC 12-18

Application Description: Request for review and approval of a conditional use permit to open a two-acre clay borrow site. The property is zoned agricultural and is located in the northwest quarter of the southeast quarter of Section 33, Medo Township.

Septic Review

Status: Complete - Comments Received

Comments: No septic system currently or proposed on parcel. If there are any bathrooms, laundry, shower/sink waste, or any culinary activities, the sewage from these must go into a code compliant septic system designed for the use. No additional information needed at this time.
Anderson, Jesse 04/16/2018 9:21 AM

Well Review

Status: Complete - Comments Received

Comments: County records have no well information on this property. If during the site preparation or excavation clay there is any indication of an abandoned well, it shall be reviewed by a licensed well contractor and properly sealed. gleary for tgrant 04/25/2018 4:56 PM

Wetland Review

Status: Complete - Comments Received

Comments: The proposed plan to open and mine a two-acre clay borrow site should not negatively impact any wetlands that may exist on the site. The soils are determined to be non-hydric and there are no NWI identified wetlands in the proposed area. Topographic contours also do not indicate concern for wetlands. Altrichter Kristine 04/23/2018 4:10 PM
