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Madison County Zoning Department

C.J. (Jeff) Nicholl, Zoning Administrator

CONDITIONAL USE PERMIT

PERMIT NO: 076-21
DATE ISSUED: June 1, 2021
EXPIRATION DATE: July 31, 2046

After a properly held Public Hearing on June 1, 2021, the Madison County Board of Adjustment hereby grants a Conditional Use Permit on the following parcels identified by numbers:

280050542000000, 280050524000000, 280050522000000, 280050548000000,
280050526000000, 280050528000000, 280050584000000, 280050582000000

All located in Jackson Township, Section 5 - T76N R29W and as shown on attached exhibit 1.

The Conditional Use permit is granted after review as required by the Madison County Zoning Ordinance under Section 14 (E) (7) a through l and (8) a through e, for the mining, extraction, removal processing and selling of coal, gypsum, limestone, stone, sand, gravel, slate or other materials.

C.J. Nicholl, Zoning Administrator
Secretary to the Madison County Board of Adjustment

CONDITIONAL USE PERMIT

PERMIT NO: 076-21
DATE: June 1, 2021
EXPIRATION DATE: July 31, 2046

EXHIBIT 1



MADISON COUNTY IOWA BOARD OF ADJUSTMENT

Application for Conditional Use Permit
Midwest Rock Products/Schildberg Construction
Date: June 1, 2021

FINDINGS OF FACT

This matter pertains to the application for a conditional use permit submitted by Midwest Rock Products/Schildberg Construction where the Board heard a request to open a mineral extraction operation in Jackson Township Section 5, Madison County Iowa. The Board reviewed the report submitted by the Madison County Zoning Administrator, received and filed all applicable oral and written comments and reviewed the applicable Madison County Zoning Ordinances noted below:

SECTION 14–E, EXCEPTIONS, MODIFICATIONS, INTERPRETATIONS AND CONDITIONAL USES:

E. Conditional Uses.

The development and administration of a comprehensive zoning ordinance is based upon the division of the County into zoning districts with uniform regulations defining permitted uses of land and structures within each district. It is recognized, however, that there are occasions when in addition to the principal permitted uses, conditional uses may be allowed after careful consideration of the impact of the particular uses upon the neighborhood and public facilities therein. The following uses may be authorized by a conditional use permit granted by the Board of Adjustment Under no conditions shall the sum or any part thereof be refunded for failure of said application to be approved.

Subsection 14 (E) (7)-a through l and (8)-a through e

Mineral Extraction.

- a. "Mineral Extraction" means, for purposes of this Ordinance, the mining, extraction, removal processing and selling of coal, gypsum, limestone, stone, sand, gravel, slate or other materials. Each application for a conditional use permit for mineral extraction shall identify the material to be extracted.*
 - b. Mineral extraction shall be allowed only in "A" Districts.*
 - c. No portion of the mineral extraction operation shall be carried on within six hundred (600) feet of any commercial or industrial district or any residence except that of parking of passenger vehicles. The restrictions of this paragraph shall not apply to property for which the permit is requested.*
 - d. Except as authorized under the terms and conditions of a conditional use permit granted hereunder, no material, other than excavated for which a conditional use permit has been issued, shall be removed from the tract that is being excavated.*
 - e. All conditional use permits granted for mineral extraction shall be granted by the Board for a defined period of time. All such permits shall contain the condition that the operational rights granted under the permit automatically shall expire at such time as the mining operations on the subject tract have terminated.*
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- f. *The terms of the permit shall require that the operator shall be obligated to rehabilitate the tract immediately upon termination of the mining operations on the tract. The permit application shall contain a plan for a rehabilitation of the tract after completion of mineral extraction. The operator shall certify in the rehabilitation plan that the operator shall fully rehabilitate the tract to the standards and requirements of the rehabilitation plan and the state of Iowa. The rehabilitation plan shall provide that the operator shall file a bond with the state of Iowa and that the bond shall not be released until inspection and approval of the rehabilitation of the tract by the state of Iowa and after notification to the Board of Adjustment. The rehabilitation plan shall provide a detailed showing of the manner in which the tract will be graded and furnished with replacement topsoil that will support vegetation. The rehabilitation plan shall set forth detailed measures to be taken to assure that the tract after rehabilitation will have at least the same agricultural productivity and capacity as before the commencement of the mining operations and excavations. As part of the rehabilitation plan, the operator may designate a portion of the tract to be exempt from rehabilitation and to be used as a water storage area, and such water storage area may be permitted by the Board of Adjustment if the Board determines that the water storage area would serve the best interests of the tract, the surrounding area and Madison County. All rehabilitation work and other actions taken to rehabilitate the tract shall be undertaken by the operator, at the operator's expense and at no cost to Madison County. The rehabilitation plan and all of its standards and requirements shall be incorporated as a part of the conditional use permit, and the standards and requirements of the rehabilitation plan shall be enforceable to the full extent of all other conditions imposed by the Board in granting the permit.*
- g. *In lieu of the requirement for inclusion of a rehabilitation plan as part of the permit application, the operator and Madison County may enter an agreement for the County to accept an irrevocable offer of dedication of fee simple title to the tract to the County immediately upon the termination of the mining operations on the tract. In the event that the operator enters such an agreement with the County, the County shall assume all responsibility and costs of rehabilitation of the tract after termination of the mining operations and transfer of title to the tract to the County.*
- h. *No conditional use permit shall be granted for mineral extraction on any tract that contains any prime productive agricultural land. For purposes of this requirement, "prime productive agricultural land" is defined as agricultural land having a CSR rating of seventy percent (70%) or greater.*
- i. *An applicant for a conditional use permit for mineral extraction shall submit a plan containing a vicinity sketch, contour lines, rilles, amount of material deposits, depth of overburden and plan for drainage of the area of the affected tract. In determining whether to allow or deny a conditional use permit for mineral extraction, the Board shall consider and take into consideration all of this information.*
- j. *In determining whether to allow or deny a conditional use permit for mineral extraction, the Board shall consider and take into consideration the distance of the affected tract from the corporate limits of any city or town and the effects on the neighboring city's or town's plans for growth and development. If the proposed operation is located, at its nearest point, within two (2) miles of the boundaries of a city or town, and if the city's or town's comprehensive plan includes the property on which the proposed operation is located, then the Board shall review and consider the city's comprehensive plan in making its determination regarding the granting of the conditional use permit and the conditions to be imposed.*

- k. *If rock crushing or material recycling is to be conducted on the subject site, the applicant must include in the permit application a complete description of the proposed rock crushing or material recycling use, including a description of the equipment to be used, anticipated noise levels, times of operation and any other relevant information required by the Board or its staff. The Board shall determine whether rock crushing or material recycling is to be allowed on the site under a conditional use permit, and, if allowed, the Board shall impose appropriate conditions and limitations as a part of the permit.*
 - l. *The Board of Adjustment shall not consider any new application for a conditional use permit for mineral extraction, if the applicant has an existing conditional use permit for mineral extraction in Madison County, if the permit was granted more than ten (10) years prior to the Board hearing on the new application, and if the applicant has not completed mining operations and completed rehabilitation of the subject tract.*
8. *Temporary concrete and/or asphalt batch plants may be permitted only in "A" and "M" Districts, subject to all of the following requirements:*
- a. *Such batch plants shall be erected and used only to supply material for use in one identified city, county, state or federal highway or road construction or improvement project.*
 - b. *A conditional use permit for such a batch plant shall be granted only for the period of eighteen (18) months after the date of issuance of the permit, or until completion of the identified highway or road project, whichever time period expires first.*
 - c. *No such batch plant shall be permitted within 1,000 feet from any residential dwelling.*
 - d. *Access to such batch plant shall be allowed only from arterial or collector streets, roads or highways. Access from local residential streets or roads or collector streets or roads serving residential areas shall be prohibited.*
 - e. *The applicant shall submit a plan for routing of trucks to and from the proposed batch plant as part of the permit application, and approval of such plan by the Board is a condition to approval of the permit application.*
 - a. *The batch plant shall be removed immediately after the completion of the identified highway or road project or projects, and the batch plant site shall be rehabilitated and restored by the operator to its original state prior to erection of the batch plant.*

F. General Requirements and Conditions Applicable to All Special Use Permits.

In granting any special use permit, the Board of Adjustment may prescribe such restrictions and conditions with respect to the permitted use as the Board deems reasonable to further the objectives of this Ordinance. The following general requirements are applicable to all special use permits that may be granted by the Board:

- a. *Required Findings. No special use permit shall be granted by the Board of Adjustment unless the Board first finds that all of the following conditions exist:*
 - i. *Surrounding Area. The value and qualities of the area (or neighborhood) surrounding the conditional use are not substantially injured, and the establishment of a special use will not impede the normal and orderly development and improvement of surrounding undeveloped property for uses predominant in the area. In reviewing and acting upon each application for a special use permit, the Board shall each give due consideration to the proximity of the proposed use to public parks, schools, licensed day care facilities, dwellings and residential districts.*
 - ii. *Infrastructure. Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.*
 - iii. *Intent of Ordinance. The special use is consistent with the intent and purpose of this Ordinance to promote public health, safety, and general welfare.*

- iv. *Nuisance Factors. 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.*
- v. *Comprehensive Plan. The special use is not inconsistent with the comprehensive plan and land use policies of the County.*
- vi. *Cumulative Impact. The Board shall make a determination that the proposed use would not cause a significant adverse cumulative impact when considered together with other uses previously permitted by special use permit. While the impact of a single use permitted by conditional use permit may be deemed acceptable by the Board, the location of more than one conditional use in close proximity to another conditional use may have the potential of causing a significant adverse cumulative impact in the neighborhood.*

SECTION 17 – BOARD OF ADJUSTMENT

D. Jurisdiction and Powers of the Board of Adjustment.

- 1. *The Board of Adjustment shall have the following powers and duties.*
 - b. *To hear and decide applications for conditional use permits and exceptions upon which the Board is required to address by other sections of this Ordinance.*

After careful consideration of the information provided by the zoning administrator, the evidence presented at the public hearing, review of the Madison County Zoning Ordinance and jurisdiction and powers of the Board of Adjustment, the Board finds and concludes the following:

- The Madison County Board of Adjustment has jurisdiction over this matter.
- Notice of the date, time, place and nature of the hearing was timely given as required.
- The applicant is Midwest Rock Products/Schildberg Construction and the location of the operation is in section 5, Jackson Township, Madison County IA.
- The property is located between Creamery Road and Cottonwood Ave. between 160th St. and 170th St. and encompasses approximately 440 acres.
- Applicants are requesting the Board of Adjustment to grant a CUP to mine, extract, process and sell lime and limestone products on the parcels identified in the maps above and as required by Section 14-E (7) of the Madison County Zoning Ordinance.
- The site is zoned “A” agricultural.
- Applicants have open permits on two quarries at this time, the Winterset Quarry since 1993 and the Daggett Quarry since 2001.
- Applicants have testified the Daggett Quarry located east of this proposed site has ended mining operations and is in the process of final sales and reclamation.
- Applicants have testified the Winterset Quarry located east of Winterset on State Highway 92 has been partially reclaimed and will be ending mining operations in the near future.
- Applicants report that the Daggett Quarry provided on average 33,000 tons of roadstone per year.
- Applicants will continue to conduct vibration monitoring with seismograph equipment during any blasting activity and will follow all rules and regulations that pertain.
- Access to the subject property will be from 160th street West of Pitzer Road.
- A public hearing was held on June 1, 2021, the applicant was present and also represented by Lee Chamberlin Consultant Engineers.
- Written reports, oral testimony and public comment were received and filed by the Board.
- The BOA finds the request is consistent with the Madison County Comprehensive Plan, no conflicts were identified.
- The BOA finds the request meets all the requirements of the Madison County Comprehensive Plan and Madison County Zoning Ordinance for approval and issuance of the Conditional Use Permit.

CONCLUSION

After careful consideration of all the information, evidence and testimony presented to the Madison County Board of Adjustment, the Board finds and concludes that the request is consistent with the stated purpose and goals and objectives of the Madison County Comprehensive Plan:

Purpose

The Madison County Comprehensive Plan is a statement of goals and objectives that are used to guide land use decisions. These goals and objectives are developed and established by considering future growth and development, and by identifying future needs resulting from projected growth and development, changing population, demographics, economy and infrastructure, as well as considering the desires of the citizens of Madison County. The Zoning Ordinance and Subdivision Ordinances are a set of regulations that are designed to achieve the goals and objectives outlined by the Comprehensive Plan.

The Madison County Comprehensive Plan illustrates the recommended development pattern in the following ways:

- *Provides a means of guiding future development of land leading to a safer, more pleasant and economical environment for agricultural residential, commercial, industrial and public activities.*
- *Provides a means of guiding the future development of land, which should best promote public health, safety, and the general welfare of the residents of Madison County*
- *Anticipates and prepares for changes as a cost saving measure for both public and private expenditures.*
- *Enables agencies, associations, corporations, institutions, and residents to plan for growth and development in conjunction with the plans of Madison County.*
- *Provides assistance in the development of land in an attempt to serve the county more effectively.*
- *Provides a direction to achieve a more secure tax base.*

Goals and Objectives

At the base of this Comprehensive Plan is a set of goals and objectives that express the desires and aspirations of the citizens of Madison County as to what the future land use in the county should be. The goals set forth are broad and general. They represent the overall philosophy of the county and provide guidelines for its future growth and development. The objectives are to provide a course of action for attaining the desired goals. The goals and objectives will be used in the formulation of the Zoning and Subdivision Ordinances and any future related ordinances.

Goals

- *To ensure orderly and efficient growth and development in order to prevent future conditions of distress, preserving natural human and economic resources, and conserving land resources*
- *To ensure a suitable living environment for all families, present and future, living in Madison County by promoting economic, industrial, and agricultural development*
- *To encourage communication among other units of government and the general public.*
- *To recognize the rural character and the high quality of life in Madison County, and to encourage the preservation of that desired status.*
- *To maintain an ongoing planning process in which public input is considered an important element.*
- *To maintain the existing air, water, and land quality through thoughtful consideration of various land use impacts and appropriate control measures to minimize effects upon the environment.*
- *To encourage the development standards for residential acreage developments and other non-farm developments.*
- *Discourage development within flood plains and other environmentally sensitive areas such as, wetlands, native prairies, severe slopes and heavily forested areas.*

Objectives

1. Agricultural Land Use

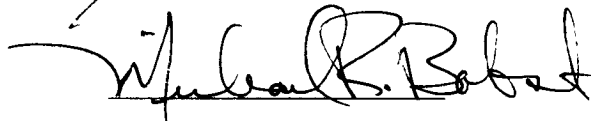
- a. *Preserve and protect prime productive agricultural land (CSR 70 and above) from development and utilize less productive land first.*
- b. *Insure that the Comprehensive Plan is considered whenever major alterations or improvements are proposed.*

The Board further finds and concludes the request does not conflict with the intent to promote the public health, safety and general welfare of the citizens of Madison County.

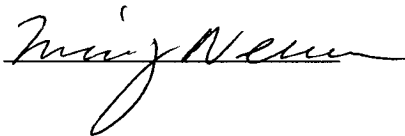
After consideration of all these factors incorporated by reference herein, the Board of Adjustment hereby finds and concludes:

The Applicant, Midwest Rock Products/Schildberg Construction has demonstrated the request complies with the purpose and goals and objectives of the Madison County Comprehensive Plan as well as all requirements listed in the Madison County Zoning Ordinance, therefore the Madison County Board of Adjustment authorizes the issuance of a Conditional Use Permit for the mining, extraction, removal processing and selling of coal, gypsum, limestone, stone, sand, gravel, slate or other materials at the requested location in Jackson Township Section 5.

Fred Howell 


Mike Bobst 

Carrie Larsen 

Mindy Nelson 

William Manning _____

Original Filed with the Secretary of the Board of Adjustment on June 1, 2021.


Secretary to the Board

MADISON COUNTY BOARD OF ADJUSTMENT

Application for Conditional Use Permit
Midwest Rock Products-Schildberg Construction
Date: 06-01-2021

DECISION

On June 1, 2021 at 7:00 p.m., pursuant to the rules of procedure of the Madison County Board of Adjustment, a public hearing was held and conducted on the Application for a Conditional Use Permit to open a mineral extraction operation in Jackson Township Section 5 in Madison County Iowa. The request is to extract, process and sell limestone and limestone products pursuant to the rules and regulations stated in the Madison County Zoning Ordinance. At the hearing the Board of Adjustment, reviewed the completed application form(s), relevant provisions of the Madison County Ordinances, all documents constituting the record from the Zoning Administrator, documents received from the applicant, heard the statements, remarks and comments by the Zoning Administrator, the applicant, Midwest Rock Products-Schildberg Construction, as well as statements, remarks and comments by others in attendance. After all the information was received and all interest parties were heard by the Board of Adjustment, the hearing was closed pursuant to the rules of procedure of the Board of Adjustment.

Following the close of the hearing a motion was made by Fred to approve deny the application with a second by Mindy. With 25 yr expiration

A roll call vote was conducted on the motion:

Mike Bobst	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay
Fred Howell	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay
Carrie Larson	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay
Mindy Nelson	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay
William Manning	<input type="checkbox"/> Aye	<input type="checkbox"/> Nay Absent

The motion was therefore Passed Denied


Accordingly, the "Board of Adjustment Findings of Fact and Legal Principles Upon Which the Board Acts" has been approved as written and approved and adopted by the Board of Adjustment.

DECISION:

The Application for Conditional Use Permit is hereby Approved – Denied

Dated this 15th day of June 2021

Acknowledged as to Accuracy:



Chair



Secretary

Original Filed with the Secretary of the Board of Adjustment on June 15th, 2021.

Written Notification of Decision sent to:

Midwest Rock Products-Schildberg Construction