

## Agenda Item #2

<b>Case Number</b>	BZNA 000031-2024	<b>Property Size</b>	2.91 acres
<b>Address</b>	7810 East 160 <sup>th</sup> Street	<b>Zoning</b>	R1 (Low Density Single Family Residential)
<b>Owner</b>	BG Real Estate LLC	<b>Reviewer</b>	Denise Aschleman
<b>Applicant</b>	Nelson & Frankenberger	<b>BZA Meeting</b>	May 6, 2024

**Requested Action:**

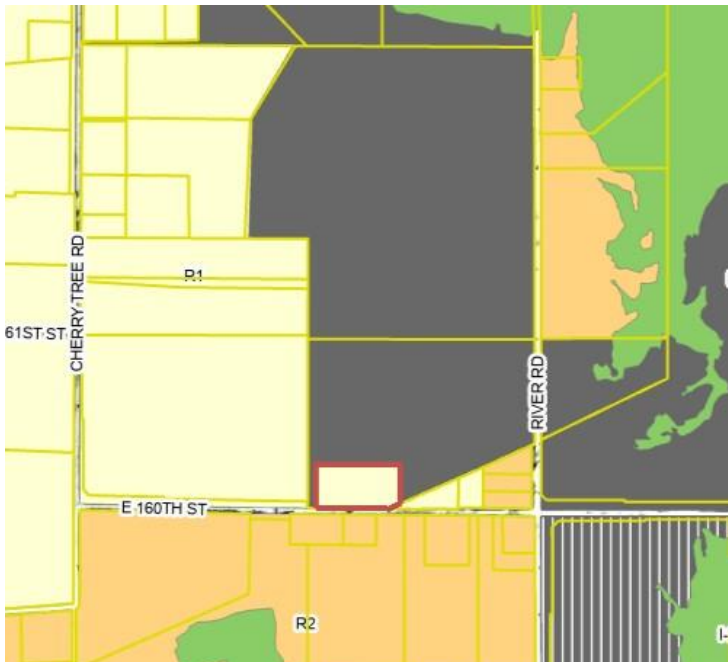
UDO § Table 8.B.2.B and Appendix C – Board to consider a Variance of Use application to allow sand, gravel, and mineral extraction on a property within the R1 (Low Density Single Family Residential) zoning district.

**Recommendation:**

Neutral. See Findings of Facts on page 2 and Conditions of Approval on page 5.

**Exhibits:**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. Application</li> <li>2. Aerial Photo</li> <li>3. Site Plan</li> <li>4. Intera Hydrologic Assessment</li> </ol> | <ol style="list-style-type: none"> <li>5. Aerial Photographs and Maps</li> <li>6. IDEM Construction and Demolition Waste Guidance</li> <li>7. Petitioner’s Brochure</li> <li>8. Remonstrance</li> </ol> |
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## **ANALYSIS**

The subject site is located outside of the City Boundaries but within the City's planning jurisdiction pursuant to IC 36-7-4-205 and more specifically located on the north side of 160<sup>th</sup> Street and approximately 800 feet west of River Road. The site consists of a single parcel approximately 2.91 acres in size. The property to the north, east, and west are existing gravel extraction operations owned by Beaver Gravel and Martin Marietta and to the south and further east are a number of single family homes and a mix of non-residential uses. The property is currently zoned R1 (Low Density Single Family Residential). In addition to the directly adjacent land uses, there are also a number of active mining and excavation sites located in the area. The area to the west and south of this property is part of the underground mining operation owned by Martin Marietta. Martin Marietta also has surface excavation sites and their main plant on the south side of 160<sup>th</sup> Street and along River Road.

In December 2023, the Department of Planning was made aware of operations on this site because of an email to our department email account asking about the zoning of the property. According to our research, the property in question was (and is) zoned residential. Based on satellite imagery, however, it appeared that excavation work was occurring on the property. Further review also indicated that a residence on the property was demolished late last year. However, the Department had not received or approved a demolition permit. The Department promptly notified the owner of the violations on the property and informed the property owner that they must stop operations on the property until the violations were resolved. The owner complied by stopping work, completing a demolition permit, paying the applicable fine, and seeking this variance. The owner informed the Department that that they had mistakenly believed that the property was zoned I2 (Heavy Industrial) like their parcels directly adjacent to the property and that is why they began excavating the property. Once the Department received the fine and paperwork for the demolition permit, it approved the demolition permit. However, the Department can not and has not approved any excavation work. In order to be able to complete the excavation work, the owner needs to obtain a variance, which is what they have applied for in this matter.

The petitioner is requesting a land use variance to allow them to conduct sand and gravel excavation on the subject site. Because the property is zoned residential the sand and gravel excavation on the site had to cease unless and until a variance or other zoning action is taken on the property. The owner/petitioner has informed the Department that it has mined approximately two thirds of the material on this parcel, meaning approximately one third of the material remains. The submitted request would be to allow for the complete excavation of the site, and the applicant has proposed the installation of mounding/berming and landscaping along 160<sup>th</sup> Street.

If approved, the applicant will complete reclamation efforts on this site. They are proposing to accept construction and demolition waste in compliance with the IDEM guidance document requiring the acceptance of clean waste only. Upon the completion of this excavation, the site will be placed back into a natural condition. The expectation would be a relatively level site.

The Department is submitted a neutral recommendation on this project. The Department believes there are facts both for and against granting the variance. The Board will need to consider the evidence submitted by the petitioner and any remonstrator, weigh the evidence, and then make the appropriate findings. To aid the Board, the Department has submitted favorable and unfavorable findings. The Board could use these findings, or you could craft your own or modify the below as the Board sees appropriate based on the evidence and record submitted at the hearing.

## **VARIANCE OF USE FINDINGS**

### **AGENDA ITEM #2:**

If the Board should decide to APPROVE the requested variance, please use the following findings of fact:

The Noblesville Board of Zoning Appeals is authorized to approve or deny variances of use from the terms of the zoning ordinance. The UDO asks that the Board consider the following factors: Hardship, Unique Physical Condition, Not Self-Created, Denied Substantial Rights, Not Merely Special Privilege, Ordinance and Plan Purposes, No Other Remedy, and the Minimum Required. **The BZA may impose reasonable conditions as part of its approval. A variance of use may be approved only upon a determination in writing that the following five (5) conditions are met (see Indiana Code § 36-7-4-918.4):**

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

**It is likely that the proposed variance will not be injurious to public health, safety, and general welfare of the community. Construction dust can be controlled in order to mitigate any escape of such dust. Construction dust control will need to be used on site, and a water truck will need to be present to prevent fugitive dust. The proposed excavation is a continuation of an activity that is ongoing on a number of properties in the direct area. The site is located within Zone 1 according to our wellhead protection maps. The petitioner has to follow the regulations in the wellhead protection ordinance regarding excavation techniques which they are familiar with because their existing operations are also in this zone. The conditions will ensure that these items are covered and that there will not be injury to the public health, safety, morals, and general welfare of the community.**

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

**The use and value of real estate adjacent to the subject site will NOT be affected in a substantially adverse manner by allowing the requested variance. Neighboring properties which are already adjacent to mining operations will not be impacted by additional mining in this area. A map presented by the petitioner shows that the vast majority of property in and around the proposed location area already subject to mining. Based upon the information available at the time of staff report, there is no evidence that the use and value of the area will be affected in a substantially adverse manner, and the evidence presented shows this use is consistent with how other properties in the area are already used.**

3. The need for the proposed variance arises from some condition peculiar to the property involved:

**The need for the variance does arise from a condition peculiar to the property involved. There are sand and gravel deposits on the property that do not occur on all property within the county. The providers of these materials must go to the areas where the deposits exist and extract the material for processing. These materials are an important component to the continued road and building construction that has been occurring in this area for at least the last 20 years.**

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought:

**The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought. While there are a number of single family residential properties on the south side of 160<sup>th</sup> Street and on the north side of the road at River Road, the majority of the parcels touching this parcel and in the general area have or are being used for some type of mining, quarrying, or gravel/sand extraction. The properties to the west and southwest are part of the underground mine being operated by Martin Marietta. On the east side of Cherry Tree Road there are a few residences, but east of them along both sides of River Road there are numerous sites that have been mined. The first signs of mining/excavation appear on the 1956 aerial photographs and the area east and to the south have shown mining operations since. There are also several non-residential users intermingled with the residential properties including landscape contractors, mulch companies, and various other industrial users. In addition, the property in question, which is zoned residential directly adjacent to property zoned I2 which has already been mined, requiring the**

excavation to stop at the property line would pose a hardship on the continued excavation of the materials.

5. The approval of this variance does not interfere substantially with the provisions of the Comprehensive Master Plan for the City of Noblesville, Indiana:

**The approval does not interfere substantially with the comprehensive plan. The property is shown on the future land use map as a residential area surrounded by preservation/natural area. This is the same future land use designation that appears on all the property along River Road and Cherry Tree Road that at this time include mining or mineral extraction. The petitioner's proposed use would still leave the site open to development or use as shown on in the future land use map following the completion of the excavation.**

If the Board should decide to DENY the requested variance, please use the following findings of fact:

The Noblesville Board of Zoning Appeals is authorized to approve or deny variances of use from the terms of the zoning ordinance. The UDO asks that the Board consider the following factors: Hardship, Unique Physical Condition, Not Self-Created, Denied Substantial Rights, Not Merely Special Privilege, Ordinance and Plan Purposes, No Other Remedy, and the Minimum Required. **The BZA may impose reasonable conditions as part of its approval. A variance of use may be approved only upon a determination in writing that the following five (5) conditions are met (see Indiana Code § 36-7-4-918.4):**

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

**It is likely that the proposed variance will not be injurious to public health, safety, and general welfare of the community. Construction dust can be controlled in order to mitigate any escape of such dust. Construction dust control will need to be used on site, and a water truck will need to be present to prevent fugitive dust. The proposed excavation is a continuation of an activity that is ongoing on a number of properties in the direct area. The site is located within Zone 1 according to our wellhead protection maps. The petitioner has to follow the regulations in the wellhead protection ordinance regarding excavation techniques which they are familiar with because their existing operations are also in this zone. The conditions will ensure that these items are covered and that there will not be injury to the public health, safety, morals, and general welfare of the community.**

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

**The use and value of real estate adjacent to the subject site will NOT be affected in a substantially adverse manner by allowing the requested variance. Neighboring properties which are already adjacent to mining operations will not be impacted by additional mining in this area. A map presented by the petitioner shows that the vast majority of property in and around the proposed location area already subject to mining. Based upon the information available at the time of staff report, there is no evidence that the use and value of the area will be affected in a substantially adverse manner, and the evidence presented shows this use is consistent with how other properties in the area are already used.**

3. The need for the proposed variance arises from some condition peculiar to the property involved:

**The need for the variance does arise from a condition peculiar to the property involved. There are sand and gravel deposits on the property that do not occur on all property within the county. The providers of these materials must go to the areas where the deposits exist and extract the material for processing. These materials are an important component to the continued road and building construction that has been occurring in this area for at least the last 20 years.**



4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought:

**The strict application of the terms of the zoning ordinance will NOT constitute an unnecessary hardship if applied to the property for which the variance is sought. The petitioner has already extracted approximately two thirds of the material available onsite before seeking approval of the use. The property previously had a residential structure on it that would have allowed the petitioner to continue to derive income from the property. The property previously created a buffer of the adjacent land use from the residential properties on the south side of 160<sup>th</sup> Street. The proposed excavation would allow the use to get 200 feet closer to these uses while only providing a 75 foot separation of the uses through the mounding.**

5. The approval of this variance does not interfere substantially with the provisions of the Comprehensive Master Plan for the City of Noblesville, Indiana:

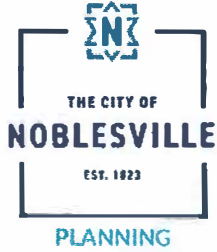
**The approval does not interfere substantially with the comprehensive plan. The property is shown on the future land use map as a residential area surrounded by preservation/natural area. This is the same future land use designation that appears on all the property along River Road and Cherry Tree Road that at this time include mining or mineral extraction. The petitioner's proposed use would still leave the site open to development or use as shown on in the future land use map following the completion of the excavation.**

## **RECOMMENDATIONS**

**AGENDA ITEM #2: Staff is NEUTRAL on the variance of use.**

**If the Board should choose to approve the requested variance, staff asks that it include the following specific conditions:**

1. The Applicant shall install perimeter landscaping and buffer treatments along the 160<sup>th</sup> Street frontage. This shall comply with the plan shown in Exhibit 3.
2. No gravel processing – blasting, crushing, or wet processing – shall occur on the subject site (Parcel #10-10-11-00-00-017.001).
3. All clean fill accepted on the site shall comply with the IDEM guidance document contained within Exhibit 6.
4. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
5. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.



CITY OF NOBLESVILLE  
BOARD OF ZONING APPEALS  
VARIANCE OF LAND USE APPLICATION

Application Number: \_\_\_\_\_ BZNA 0031-2024

The undersigned requests a Variance of Land Use as specified below. Should this variance request be approved, such approval shall only authorize the particular use described in this application and as further limited by reasonable conditions imposed upon such approval by the Board of Zoning Appeals.

Project Name or Occupant Name: \_\_\_\_\_

Common Address: 7810 E. 160th Street

Applicant Name: Beaver Gravel Corporation dba Beaver Materials

Applicant Address: See Ex. A

Applicant City/State/Zip: See Ex. A E-mail: See Ex. A

Applicant Phone #1: \_\_\_\_\_ Phone #2: \_\_\_\_\_ Fax: \_\_\_\_\_

Owner Name: BG Real Estate LLC

Owner Address: See Ex. A

Owner City/State/Zip: See Ex. A E-mail: See Ex. A

Owner Phone #1: \_\_\_\_\_ Phone #2: \_\_\_\_\_ Fax: \_\_\_\_\_

Property Location:  Not located in a recorded subdivision, see legal description attached.

Subdivision Name: NA

Subdivision Section: NA Lot Number: NA Last Deed of Record Number: 2018-58489

Existing Land Use: undeveloped

Common Description of Request: See Ex. D

Zoning District of Property: R-1 Code Section(s) Appealed: UD0 § See Ex. D

Date: \_\_\_\_\_ Applicant's Signature: See Ex. B and C - Consents

## EXHIBIT “E”

### Proposed Findings of Fact – Variance of Land Use

#### City of Noblesville Board of Zoning Appeals

Docket No.: \_\_\_\_\_

Petitioner: Beaver Gravel Corporation dba Beaver Materials

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:

Currently, mining and extraction activities occur on numerous parcels adjacent to, and in the vicinity of, the subject Real Estate, including parcels generally located on the north and south side of 160<sup>th</sup> Street. The Applicant’s Request is to allow it to finish mining and extraction activities on the remaining approximately 1/3 portion of the Real Estate, as similar extraction activities are already occurring on numerous parcels that generally surround the subject Real Estate. Further, as the Applicant is proposing certain “Conditions of Approval” that the Applicant would be required to adhere to, approval of the Request would not be injurious to the public health, safety, morals, and general welfare of the community.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner by the approval of this variance request because:

As stated in Paragraph #1 above, similar mining and extraction activities are already occurring on numerous adjacent and nearby parcels that are in the general vicinity of the subject Real Estate. Further, based on the Applicant’s proposed “Conditions of Approval”, that the Applicant would be required to adhere to, the use and value of the area adjacent to the property included in the variance should not be affected in a substantially adverse manner.

3. The need for the proposed variance arises from some condition peculiar to the property involved because:

Based on the mining that has already occurred on approximately 2/3 of the Real Estate to date, the Applicant has determined that the geological characteristics of the subject Real Estate are comparable and consistent to the geological characteristics of the numerous parcels that surround the subject Real Estate upon which mining and extraction activities are already occurring. The subject Real Estate contains important sand and gravel materials which are a natural resource that cannot be manufactured and must be mined where available. Approving the Request will allow for important mining and extraction activities to occur in an area that already has such operations currently existing. Further, the demand in Hamilton County and the central Indianapolis area for such aggregate materials continues to be strong and providing these resources to the construction and building industry is vitally important to the growing Hamilton County area and surrounding areas.

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which this variance is sought because:

For the reasons set out in Paragraph #3 above, providing appropriate levels of aggregate materials to the construction and building industry is vitally important to the growing Hamilton County area and surrounding areas. Further, allowing the Applicant to complete the extraction activities on the remaining 1/3 portion of the Real Estate can assist in providing the needed and necessary aggregate materials to the building and construction industry.

5. The approval of this variance does not interfere substantially with the provisions of the Comprehensive Master Plan for the City of Noblesville, Indiana because:

The Future Land Use Map of the 2020 Noblesville Comprehensive Plan designates the Real Estate as a “Residential”. However, it should be noted that surrounding the Real Estate on almost all sides (other than to the on the south and north sides of 160<sup>th</sup> Street moving east toward River Road where some individual residential parcels exist) there are numerous former and current extraction and mining activities that have occurred for numerous years and these other parcels are shown on the Future Land Use Map as either “Residential” or “Preservation/Natural Area”.

Based on Applicant’s planned reclamation efforts, after extraction activities have been completed on the Real Estate, the Real Estate will be placed back in a more natural conditon. Further, if the Applicant is permitted to finish mining the remaining 1/3 of the Real Estate, as most all other real estate on the northside of 160<sup>th</sup> Street and the general vicinity is mined, it will allow the Applicant to continue providing its services and products to its clients that have a continued demand for the same, which in turn will allow Noblesville and Hamilton County to continue to appropriately grow and prosper.

Additionally, as set forth above, in order to mitigate any potential impacts from any extraction activities that would occur on the subject Real Estate, the Applicant is willing to offer Conditions of Approval, including: (i) installing perimeter landscaping and buffering treatment along the 160<sup>th</sup> Street frontage per the landscape buffer yards plan; and, (ii) strictly prohibiting gravel processing (i.e., blasting, crushing or wet processing) on the Real Estate.

## Exhibit “D”

### Description of Project Proposal

#### **I. General Information:**

The applicant, Beaver Gravel Corporation, dba Beaver Materials, (“Beaver”) is a long-standing Noblesville business that provides aggregate services and has been an integral part of the growth of the City of Noblesville and Hamilton County over numerous years by providing its services and products to various businesses and industries that need aggregate material for their construction, building and development activities. The Beaver family began its operations in 1949 and is now a 5<sup>th</sup> Generation Noblesville business. Beaver’s current extraction activities and business operations occur on various parcels generally located south of 171<sup>st</sup> Street and north of 160<sup>th</sup> Street, on the east and west sides of River Road, as well as on areas on the east side of Cherry Tree Road, north of 161<sup>st</sup> Street.

Beaver is seeking Variance of Land Use approval for a single parcel of real estate that consists of approximately 2.91 acres, which parcel is located north of and adjacent to E. 160<sup>th</sup> Street and west of River Road and the parcel is identified by the Hamilton County, Indiana Auditor as Tax Identification Parcel Number 10-10-11-00-00-017.001 (the “Real Estate”).

The Real Estate is currently zoned R-1 Residential District and is situated between Martin Marietta’s mining operations on the north side of 160<sup>th</sup> Street and Beaver’s existing mining operations to the immediate north, east and west. Included with this submittal are various aerial maps that show locations of numerous other parcels within the general vicinity of the Real Estate that have current and past mining and aggregate operations.

By way of general background, while the other Beaver owned parcels that surround the Real Estate to the immediate north, east and west are zoned I-2 Industrial and permit mining and excavation activities, the subject Real Estate is zoned R-1 Residential. Beaver inadvertently began mining operations on the subject Real Estate because it mistakenly believed that the Real Estate was zoned I-2 Industrial. After mining approximately 2/3 of the Real Estate, Beaver was notified by City’s personnel that the Real Estate was actually zoned R-1 and not I-2 and that Beaver would need to cease any further mining and obtain a Variance of Land Use in order for Beaver to be permitted to finish the mining activities on the remaining 1/3 of the Real Estate.

As a result of the foregoing, Beaver has filed this Variance of Land Use to finish mining the remaining 1/3 of the Real Estate and, once the mining efforts are finished, to take the Real Estate through the post-mining reclamation process and return the Real Estate back to a more natural, pre-mining condition.

As part of Beaver’s proposal for the Real Estate, Beaver is willing to offer Conditions of Approval consisting of: (i) installing perimeter landscaping and buffering treatment (via mounding and landscape plantings) along the 160<sup>th</sup> Street frontage, as depicted on the enclosed landscape buffer plan exhibit; and, (ii) committing that gravel processing (i.e., blasting, crushing or wet processing) is strictly prohibited on the Real Estate. Further, Beaver is willing to consider adopting other reasonable Conditions of Approval that the Planning Staff and/or BZA may desire to impose on the Real Estate in order to allow Beaver to finish mining the remaining 1/3 of the Real Estate.

Included with this submittal are: (i) aerial exhibit maps; (ii) site plan; (iii) landscape buffer plan; (iv) IDEM Guidance Directive on Disposal Criteria for Construction and Demolition of Waste; and, (v) a Hydrologic Assessment Memo from Intera Incorporated.

## **II. Comprehensive Plan Statement:**

The Future Land Use Map of the 2020 Noblesville Comprehensive Plan designates the Real Estate as a “Residential”. However, it should be noted that surrounding the Real Estate on almost all sides (other than to the on the south and north sides of 160<sup>th</sup> Street moving east toward River Road where some individual residential parcels exist) there are numerous former and current extraction and mining activities that have occurred for numerous years and these other parcels are shown on the Future Land Use Map as either “Residential” or “Preservation/Natural Area”.

Based on Beaver’s planned reclamation efforts, after extraction activities have been completed on the Real Estate, the Real Estate will be placed back in a more natural condition. Further, if Beaver is permitted to finish mining the remaining 1/3 of the Real Estate, as most all other real estate on the northside of 160<sup>th</sup> Street is mined, it will allow Beaver to continue providing its services and products to its clients that have a continued demand for the same, which in turn will allow Noblesville and Hamilton County to continue to appropriately grow and prosper.


Additionally, as set forth above, in order to mitigate any potential impacts from any extraction activities that would occur on the subject Real Estate, Beaver is willing to offer Conditions of Approval, including: (i) installing perimeter landscaping and buffering treatment along the 160<sup>th</sup> Street frontage per the landscape buffer yards plan; and, (ii) strictly prohibiting gravel processing (i.e., blasting, crushing or wet processing) on the Real Estate.

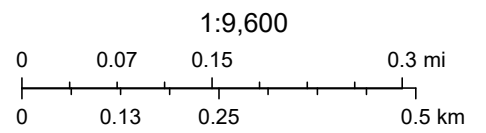


# Exhibit 2 Aerial Photograph



4/30/2024, 11:44:57 AM

centerlines  
 Parcels







MARTIN MARIETTA MATERIALS REAL ESTATE INVESTMENTS INC. INST. #

BEAVER GRAVEL CORPORATION INST. #1987010695

BG REAL ESTATE, LLC INST. #2018058489

BG REAL ESTATE, LLC INST. #2023020676

CITIZENS WATER OF WESTFIELD, LLC INST. #2014010631

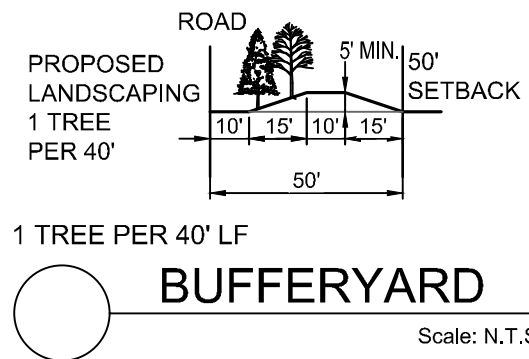
RIVER ROAD STONE INST. #2013003608

DIAZ, MARIA A INST. #2022056712

DAVIDSON, KYLE INST. #2016041711

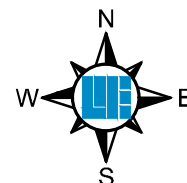
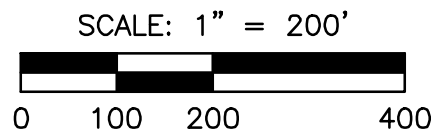
KIRSCH, WILLIAM A INST. #2018023810

KIRSCH, WILLIAM A INST. #2018023810



CANOPY DECIDUOUS TREES		
GINKGO BILOBA 'AUTUMN GOLD'	AUTUMN GOLD GINKGO	45'T x 30'W
ULMUS x 'PATRIOT'	PATRIOT HYBRID ELM	50'T x 40'W
EVERGREEN TREES		
ABIES CONCOLOR	WHITE FIR	40'T x 15'W
PICEA OMORIKA	SERBIAN SPRUCE	20'T x 15'W

- NOTE:
- 1 TREE PER 40' LF
  - LANDSCAPE PLANT QUANTITY TO BE 25% OF EACH SPECIES PLANTED AND MIXED EVENLY
  - CANOPY TREES: 2.5" CAL. MIN. EVERGREEN TREES 6' HT. MIN.



**LEGEND**

- SUBJECT PARCEL
- PROPOSED BERM





1/31/2024

Chris Beaver  
Beaver Gravel Corporation  
16101 River Avenue  
Noblesville, IN 46062

**RE: 160th St. Gravel Pit Hydrologic Assessment**

Beaver Gravel Corporation (Beaver) has been extracting sand and gravel from 7810 E 160th St. (Parcel No. 10-10-11-00-00-017.001) in Hamilton County, Indiana since 2022. This parcel is approximately 2.91 acres and is located adjacent to other active Beaver and Martin Marietta gravel pits, as shown in Figure 1. Currently, Beaver has excavated material from approximately 2/3 of the surface area of this parcel.

This parcel is located within 1,000 feet of about 10 residences that utilize private domestic wells for their water supply. The parcel also falls within Citizens Water's Wellhead Protection Area (WPA), as they have multiple high-capacity public supply wells within a quarter mile from the parcel (Indiana SWWF Database). The land in area surrounding the parcel (west of the White River, East of Cherry Tree Rd., and north of E 146th St.) has been utilized as a source of sand and gravel since the late 1950's.

The parcel is located within the White River Outwash system, where glacial meltwater deposited high volumes of permeable sand and gravel that now surround the lowland areas near the White River. These sand and gravel deposits are utilized as two important resources within the immediate area of the parcel, sand and gravel aggregate for construction needs, and as highly productive aquifer material utilized for public water consumption. The sand and gravel operations, public utilities, and private water sources have been collectively operating in this area for decades. Impacts to water quality and quantity should always be considered at parcels with sand and gravel within a WPA. However, the joint use of this resource has not historically shown any direct negative impacts to the water system.

Water Quantity

The excavation techniques that Beaver utilizes do not require de-watering or any other means of moving water within the system, so there should be no direct impacts to water quantity. Currently, the depth of excavation has not encountered the water table, so there are no evaporative losses of water to the atmosphere. Even if the excavation encounters the water table with increasing depth and a gravel pit lake is formed, losses to evaporation would be minimal within the 2.91 acre parcel.

Water Quality

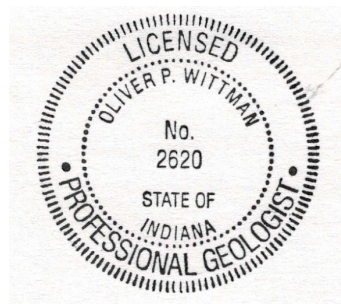
Gravel pits operators remove the top layer of soil/clay to access the sand and gravel aggregate below. The soil/clay layer can act as a protective barrier that slows the movement of any accidental contaminant in the case of a spill. The removal of this layer opens part of the aquifer system to surface sources of contamination. In the case of this parcel, the relatively small size and proximity to much larger active pits minimize the overall risks to water quality associated with excavating this pit. Figure 1 shows the parcel

in comparison to the surrounding area, where open pits are already widespread and put groundwater in direct connection to the surface water. Beaver has operated in this area for decades, within the WHP and side-by-side with the public water supply and have shown no history of water contamination. Also, the increased risk caused by removal of the surface soil/clay will be temporary, as future plans call for the excavated pit to be filled in with low-permeability “clean-fill”.

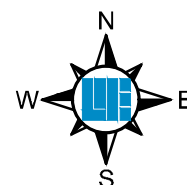
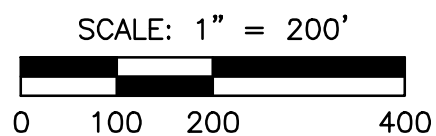


Figure 1: Location of 160th St. Parcel (red)

Oliver Wittman, P.G.  
Geologist





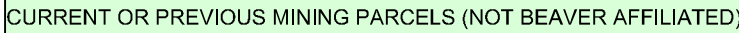

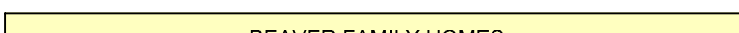
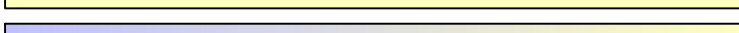
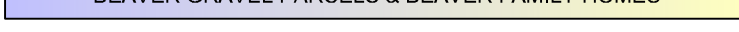


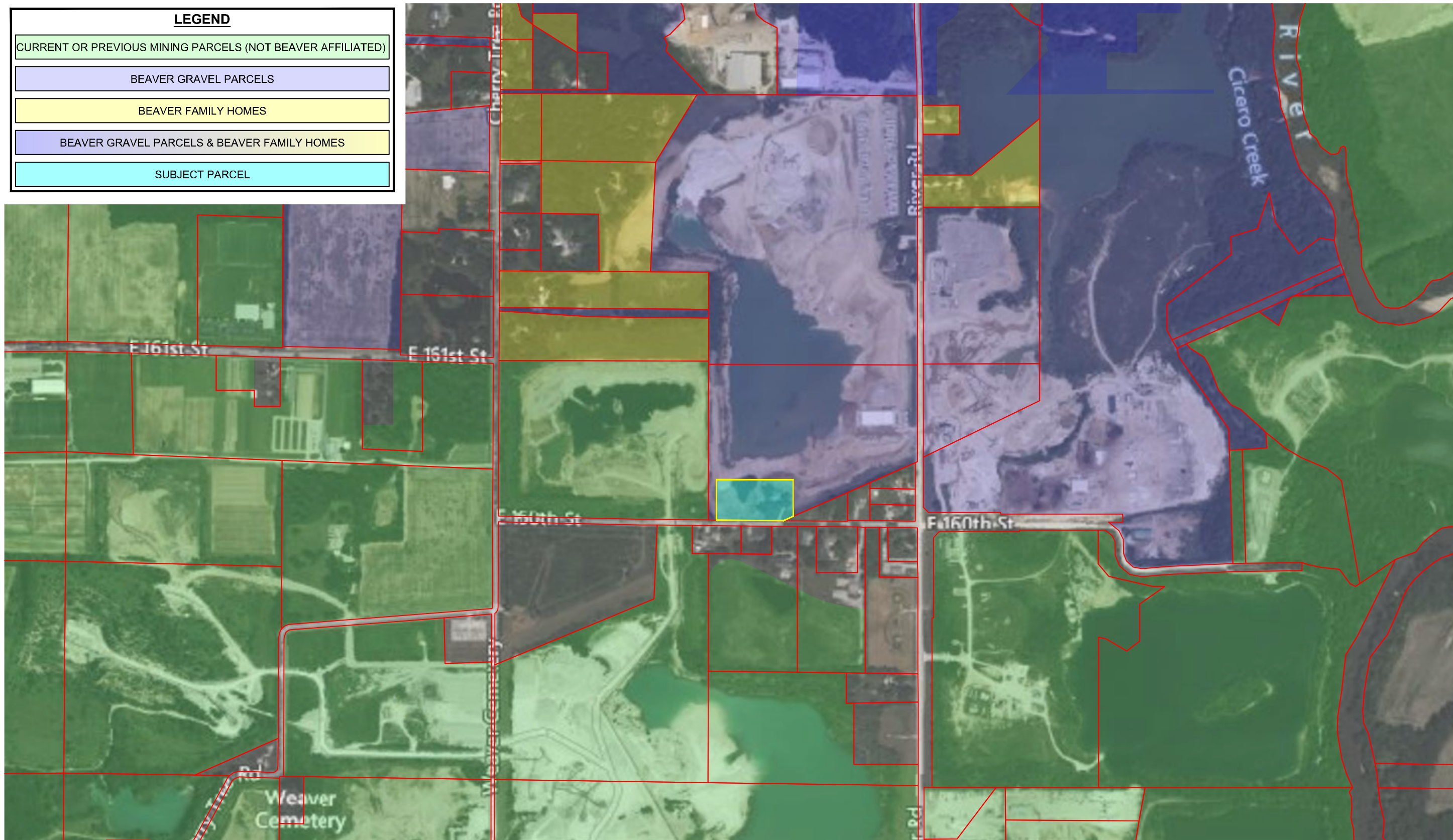
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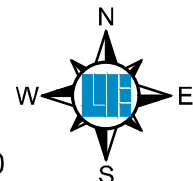
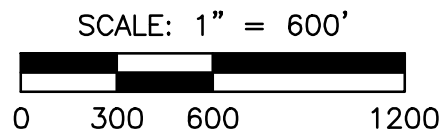


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	BEAVER GRAVEL PARCELS
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7810 E 160TH ST

PAGE 3

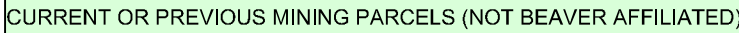

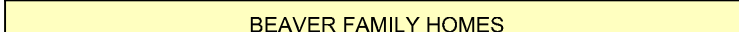

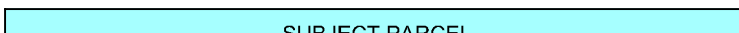


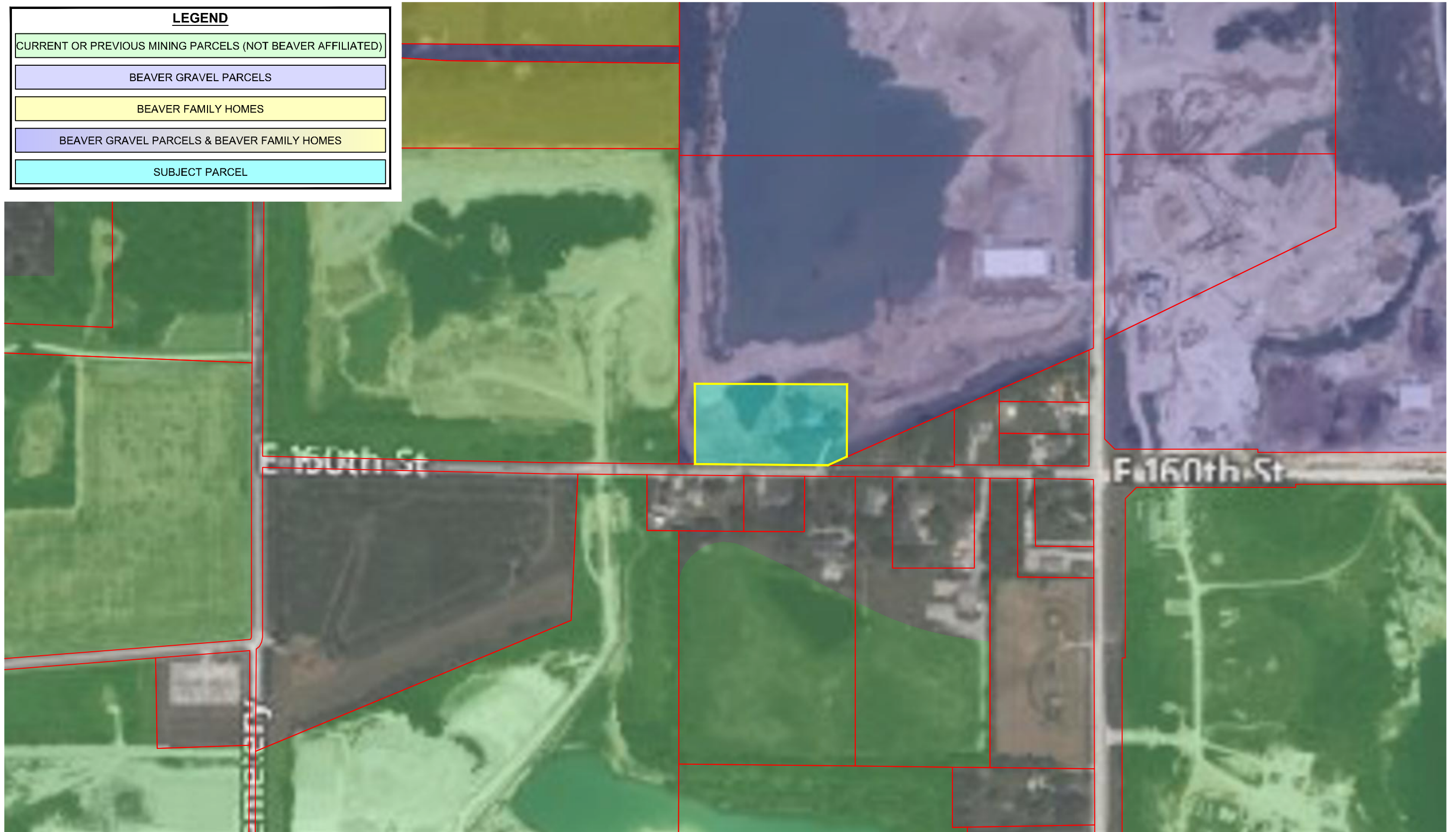
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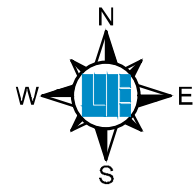
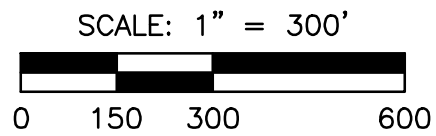


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7810 E 160TH ST

PAGE 1



LEGEND



SUBJECT PARCEL

NOBLESVILLE, IN

DATE: FEBRUARY 2, 2024





MARTIN MARIETTA MATERIALS REAL ESTATE INVESTMENTS INC. INST. #

BEAVER GRAVEL CORPORATION INST. #1987010695

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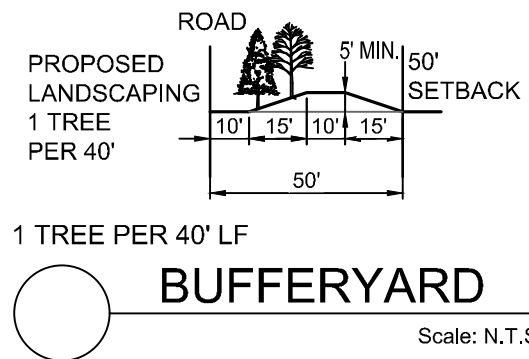
RIVER ROAD STONE INST. #2013003608

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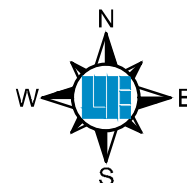
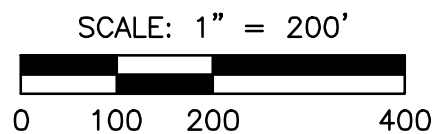
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CANOPY DECIDUOUS TREES		
GINKGO BILOBA 'AUTUMN GOLD'	AUTUMN GOLD GINKGO	45'T x 30'W
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**LEGEND**

- SUBJECT PARCEL
- PROPOSED BERM

LOCATION: H:\2024\W240061\Engineering\design\exhibits\W240061\_Exh.dwg  
 DATE/TIME: February 13, 2024 - 6:13pm  
 PLOTTED BY: shinnemany



**IDEM**

**Guidance**

Indiana Department of Environmental Management  
Office of Land Quality  
100 North Senate  
Indianapolis, IN 46204  
OLQ PH: (317) 232-8941

## Disposal Criteria for Construction and Demolition Waste

The following information is provided as guidance for the proper disposal of construction and demolition waste.

Disposal of construction/demolition (C/D) waste is a regulated activity. C/D waste is defined in 329 IAC 10-2-37 as, "...solid waste resulting from the construction, remodeling, repair, or demolition of structures. Such wastes may include any of the following: (1) scrap lumber; (2) bricks; (3) concrete; (4) stone; (5) glass; (6) wallboard; (7) roofing; (8) plumbing fixtures; (9) wiring; (10) nonasbestos insulation." **These waste types must be disposed of at a State permitted solid waste management facility.**

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Any violation of these rules may subject the violator to legal action by the State of Indiana. Such action may include, but not be limited to, the imposition of a civil penalty in addition to being required to dispose all solid waste at a State approved solid waste management facility. IC 13-30-4-1 authorizes a civil penalty of up to \$25,000 per day of violation.

If you have a questions concerning this topic please contact the Compliance Branch, Office of Land Quality at (317) 234-6923.

# **Beaver Gravel Corporation dba Beaver Materials**

**VARIANCE OF LAND USE APPLICATION**

**CITY OF NOBLESVILLE, INDIANA**

**Application No.: BZNA 000031-2024**

**May 6, 2024**

**City of Noblesville Board of Zoning Appeals**

Applicant: Beaver Gravel Corporation dba Beaver Materials

Attorneys: Nelson & Frankenberger, LLC

James E. Shinaver, Attorney

Jon C. Dobosiewicz, Land Use Professional

## **TABLE OF CONTENTS**

1. Explanation of Request, Proposed Conditions of Approval and Comprehensive Plan Statement
2. Site Location Map
3. Zoom Out Vicinity Map of Surrounding Mining Operations
4. Zoom In Vicinity Map of Surrounding Mining Operations
5. Bufferyard Plan
6. Intera Hydrologic Assessment Report
7. IDEM Reclamation Accepted Material Guidelines
8. Findings of Fact for Variance of Land Use Request

# TAB 1

## **Explanation of Request, Proposed Conditions of Approval and Comprehensive Plan Statement**

The applicant, Beaver Gravel Corporation, dba Beaver Materials, (“Beaver”) is a long-standing Noblesville business that provides aggregate services and has been an integral part of the growth of the City of Noblesville and Hamilton County over numerous years by providing its services and products to various businesses and industries that need aggregate material for their construction, building and development activities. The Beaver family began its operations in 1949 and is now a 5<sup>th</sup> Generation Noblesville business. Beaver’s current extraction activities and business operations occur on various parcels generally located south of 171<sup>st</sup> Street and north of 160<sup>th</sup> Street, on the east and west sides of River Road, as well as on areas on the east side of Cherry Tree Road, north of 161<sup>st</sup> Street.

Beaver is seeking Variance of Land Use approval for a single parcel of real estate that consists of approximately 2.91 acres, which parcel is located north of and adjacent to E. 160<sup>th</sup> Street and west of River Road and the parcel is identified by the Hamilton County, Indiana Auditor as Tax Identification Parcel Number 10-10-11-00-00-017.001 (the “Real Estate”). Behind Tab 2 is a site location map of the Real Estate.

The Real Estate is currently zoned R-1 Residential District and is situated between Martin Marietta’s mining operations on the north side of 160<sup>th</sup> Street and Beaver’s existing mining operations to the immediate north, east and west. Behind Tab 3 and Tab 4, respectively, are a zoom-out and zoom-in vicinity maps showing the show locations of numerous other parcels surrounding and within the general vicinity of the Real Estate that have current and past mining and aggregate operations.

By way of general background, while the other Beaver owned parcels that surround the Real Estate to the immediate north, east and west are zoned I-2 Industrial and permit mining and excavation activities, the subject Real Estate is zoned R-1 Residential. Beaver inadvertently began mining operations on the subject Real Estate because it mistakenly believed that the Real Estate was zoned I-2 Industrial. After mining approximately 2/3 of the Real Estate, Beaver was notified by City’s personnel that the Real Estate was actually zoned R-1 and not I-2 and that Beaver would need to cease any further mining on the Real Estate and obtain a Variance of Land Use for permission to finish the mining activities on the remaining 1/3 of the Real Estate.

As a result of the foregoing, Beaver filed a Variance of Land Use to finish mining the remaining 1/3 of the Real Estate and, once the mining efforts are finished, to take the Real Estate through the post-mining reclamation process and return the Real Estate back to a more natural, pre-mining condition.

As part of Beaver’s proposal for the Real Estate, Beaver has offered the following Conditions of Approval consisting of: (i) installing perimeter landscaping and buffering treatment (via mounding and landscape plantings) along the 160<sup>th</sup> Street frontage, as depicted on the buffer plan exhibit included behind Tab 5; and, (ii) committing that gravel processing (i.e., blasting, crushing or wet processing) is strictly prohibited on the Real Estate. Further, Beaver is willing to consider adopting other reasonable Conditions of Approval that the Planning Staff and/or BZA may desire to impose on the Real Estate in order to allow Beaver to finish mining the remaining 1/3 of the Real Estate.

Regarding the Comprehensive Plan, the Future Land Use Map of the 2020 Noblesville Comprehensive Plan designates the Real Estate as a “Residential”. However, it should be noted that surrounding the Real Estate on almost all sides (other than to the on the south and north sides of 160<sup>th</sup> Street moving east toward River Road where some individual residential parcels exist) there are numerous former and current extraction and mining activities that have occurred for numerous years and these other parcels are shown on the Future Land Use Map as either “Residential” or “Preservation/Natural Area”.

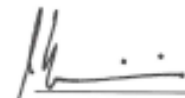
Should Beaver’s request be approved, upon completing all mining activities on the Real Estate, Beaver will implement and complete a reclamation plan regarding the Real Estate. Further, if Beaver is permitted to finish mining the remaining 1/3 of the Real Estate, as most all other real estate on the northside of 160<sup>th</sup> Street is mined, it will allow Beaver to continue providing its services and products to its clients that have a continued demand for the same, which in turn will allow Noblesville and Hamilton County to continue to appropriately grow and prosper.

Additionally, as set forth above, in order to mitigate any potential impacts from any extraction activities that would occur on the subject Real Estate, Beaver is willing to offer Conditions of Approval, including: (i) installing perimeter landscaping and buffering treatment along the 160<sup>th</sup> Street frontage per the landscape buffer yards plan; and, (ii) strictly prohibiting gravel processing (i.e., blasting, crushing or wet processing) on the Real Estate.

Also included herein, behind Tab 6 and Tab 7, respectively, are: (i) a) a Hydrologic Assessment Memo from Intera Incorporated; and, (ii) an IDEM Guidance Directive on Disposal Criteria for Construction and Demolition Waste. Behind Tab 8 are Beaver’s proposed Findings of Fact supporting its request for Variance of Land Use approval.

We look forward to presenting this request to the BZA at the May 6, 2024, meeting.

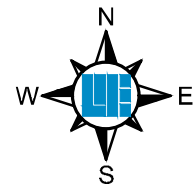
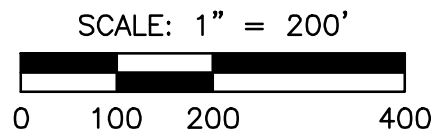
Respectfully submitted,

  
\_\_\_\_\_  
Jon Dobosiewicz

  
\_\_\_\_\_  
Jim Shinaver

# **TAB 2**





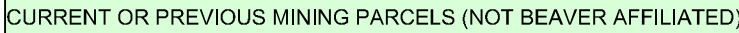

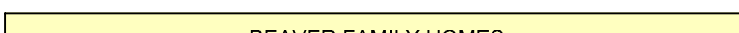
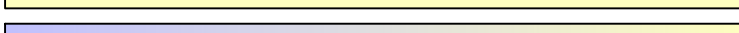
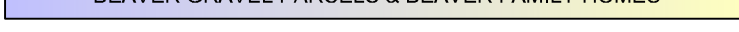
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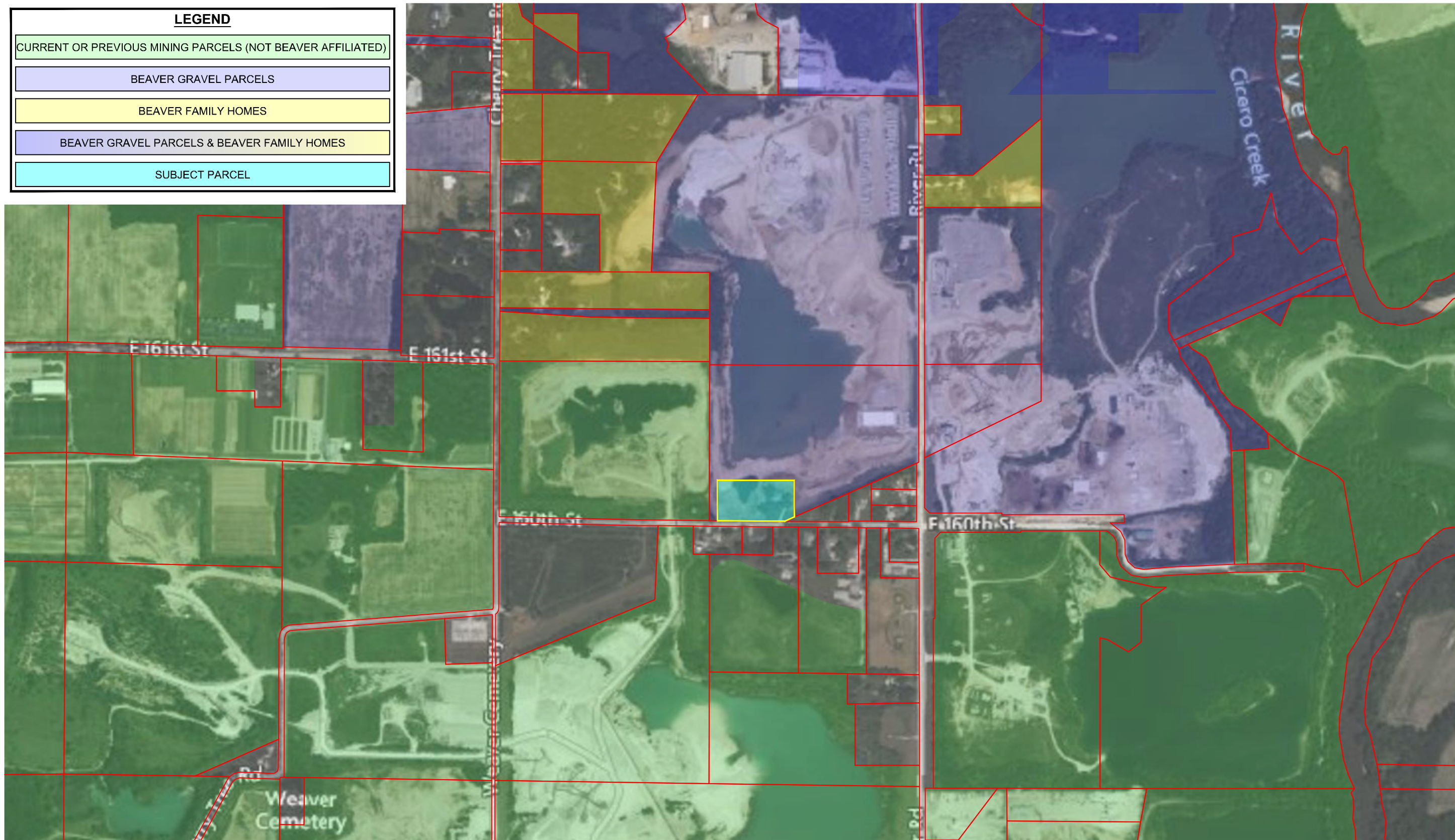


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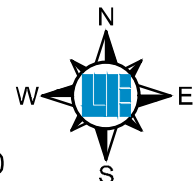
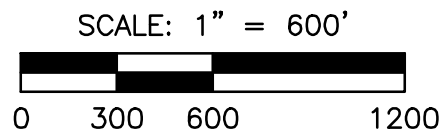
# TAB 3

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7810 E 160TH ST

PAGE 3



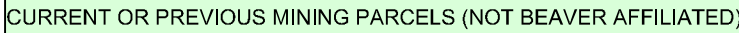

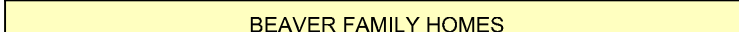

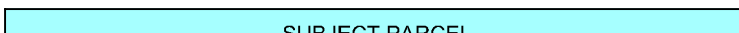
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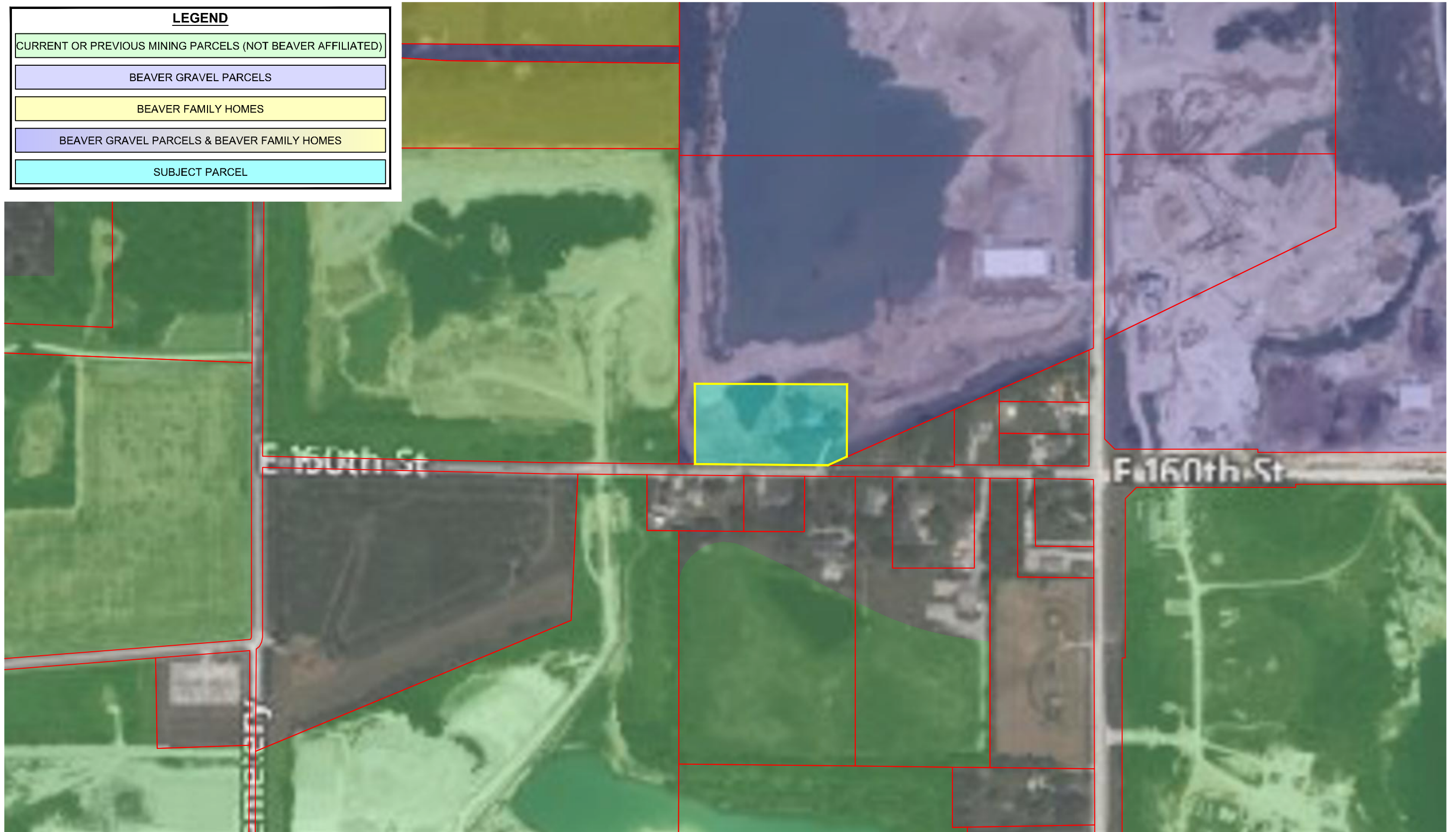


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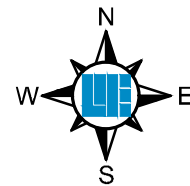
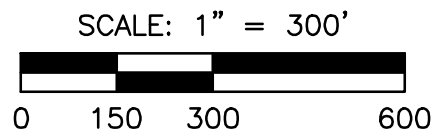
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7810 E 160TH ST  
PAGE 1



LEGEND  
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NOBLESVILLE, IN  
DATE: FEBRUARY 2, 2024

# **TAB 5**





MARTIN MARIETTA MATERIALS REAL ESTATE INVESTMENTS INC. INST. #

BEAVER GRAVEL CORPORATION INST. #1987010695

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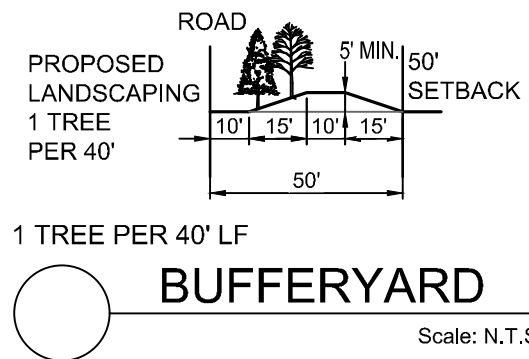
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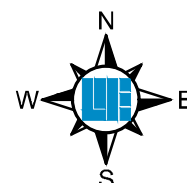
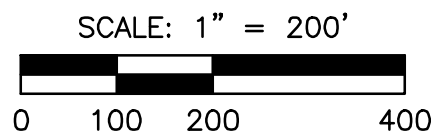
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LEGEND

- SUBJECT PARCEL
- PROPOSED BERM



# **TAB 6**



1/31/2024

Chris Beaver  
Beaver Gravel Corporation  
16101 River Avenue  
Noblesville, IN 46062

**RE: 160th St. Gravel Pit Hydrologic Assessment**

Beaver Gravel Corporation (Beaver) has been extracting sand and gravel from 7810 E 160th St. (Parcel No. 10-10-11-00-00-017.001) in Hamilton County, Indiana since 2022. This parcel is approximately 2.91 acres and is located adjacent to other active Beaver and Martin Marietta gravel pits, as shown in Figure 1. Currently, Beaver has excavated material from approximately 2/3 of the surface area of this parcel.

This parcel is located within 1,000 feet of about 10 residences that utilize private domestic wells for their water supply. The parcel also falls within Citizens Water's Wellhead Protection Area (WPA), as they have multiple high-capacity public supply wells within a quarter mile from the parcel (Indiana SWWF Database). The land in area surrounding the parcel (west of the White River, East of Cherry Tree Rd., and north of E 146th St.) has been utilized as a source of sand and gravel since the late 1950's.

The parcel is located within the White River Outwash system, where glacial meltwater deposited high volumes of permeable sand and gravel that now surround the lowland areas near the White River. These sand and gravel deposits are utilized as two important resources within the immediate area of the parcel, sand and gravel aggregate for construction needs, and as highly productive aquifer material utilized for public water consumption. The sand and gravel operations, public utilities, and private water sources have been collectively operating in this area for decades. Impacts to water quality and quantity should always be considered at parcels with sand and gravel within a WPA. However, the joint use of this resource has not historically shown any direct negative impacts to the water system.

Water Quantity

The excavation techniques that Beaver utilizes do not require de-watering or any other means of moving water within the system, so there should be no direct impacts to water quantity. Currently, the depth of excavation has not encountered the water table, so there are no evaporative losses of water to the atmosphere. Even if the excavation encounters the water table with increasing depth and a gravel pit lake is formed, losses to evaporation would be minimal within the 2.91 acre parcel.

Water Quality

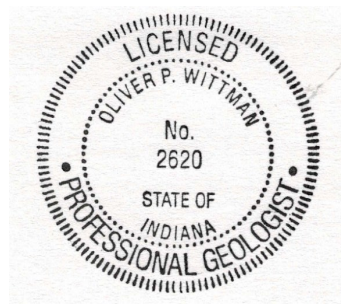
Gravel pits operators remove the top layer of soil/clay to access the sand and gravel aggregate below. The soil/clay layer can act as a protective barrier that slows the movement of any accidental contaminant in the case of a spill. The removal of this layer opens part of the aquifer system to surface sources of contamination. In the case of this parcel, the relatively small size and proximity to much larger active pits minimize the overall risks to water quality associated with excavating this pit. Figure 1 shows the parcel

in comparison to the surrounding area, where open pits are already widespread and put groundwater in direct connection to the surface water. Beaver has operated in this area for decades, within the WHP and side-by-side with the public water supply and have shown no history of water contamination. Also, the increased risk caused by removal of the surface soil/clay will be temporary, as future plans call for the excavated pit to be filled in with low-permeability “clean-fill”.



Figure 1: Location of 160th St. Parcel (red)

Oliver Wittman, P.G.  
Geologist



# **TAB 7**

Indiana Department of Environmental Management  
Office of Land Quality  
100 North Senate  
Indianapolis, IN 46204  
OLQ PH: (317) 232-8941

## **Disposal Criteria for Construction and Demolition Waste**

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If you have a questions concerning this topic please contact the Compliance Branch, Office of Land Quality at (317) 234-6923.

# TAB 8

# Proposed Findings of Fact – Variance of Land Use

## City of Noblesville Board of Zoning Appeals

Docket No.: BZNA 000031-2024

Petitioner: Beaver Gravel Corporation dba Beaver Materials

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:

Currently, mining and extraction activities occur on numerous parcels adjacent to, and in the vicinity of, the subject Real Estate, including parcels generally located on the north and south side of 160<sup>th</sup> Street. The Applicant's Request is to allow it to finish mining and extraction activities on the remaining approximately 1/3 portion of the Real Estate, as similar extraction activities are already occurring on numerous parcels that generally surround the subject Real Estate. Further, as the Applicant is proposing certain "Conditions of Approval" that the Applicant would be required to adhere to, approval of the Request would not be injurious to the public health, safety, morals, and general welfare of the community.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner by the approval of this variance request because:

As stated in Paragraph #1 above, similar mining and extraction activities are already occurring on numerous adjacent and nearby parcels that are in the general vicinity of the subject Real Estate. Further, based on the Applicant's proposed "Conditions of Approval", that the Applicant would be required to adhere to, the use and value of the area adjacent to the property included in the variance should not be affected in a substantially adverse manner.

3. The need for the proposed variance arises from some condition peculiar to the property involved because:

Based on the mining that has already occurred on approximately 2/3 of the Real Estate to date, the Applicant has determined that the geological characteristics of the subject Real Estate are comparable and consistent to the geological characteristics of the numerous parcels that surround the subject Real Estate upon which mining and extraction activities are already occurring. The subject Real Estate contains important sand and gravel materials which are a natural resource that cannot be manufactured and must be mined where available. Approving the Request will allow for important mining and extraction activities to occur in an area that already has such operations currently existing. Further, the demand in Hamilton County and the central Indianapolis area for such aggregate materials continues to be strong and providing these resources to the construction and building industry is vitally important to the growing Hamilton County area and surrounding areas.

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which this variance is sought because:

For the reasons set out in Paragraph #3 above, providing appropriate levels of aggregate materials to the construction and building industry is vitally important to the growing Hamilton County area and surrounding areas. Further, allowing the Applicant to complete the extraction activities on the remaining 1/3 portion of the Real Estate can assist in providing the needed and necessary aggregate materials to the building and construction industry.

5. The approval of this variance does not interfere substantially with the provisions of the Comprehensive Master Plan for the City of Noblesville, Indiana because:

The Future Land Use Map of the 2020 Noblesville Comprehensive Plan designates the Real Estate as a “Residential”. However, it should be noted that surrounding the Real Estate on almost all sides (other than to the on the south and north sides of 160<sup>th</sup> Street moving east toward River Road where some individual residential parcels exist) there are numerous former and current extraction and mining activities that have occurred for numerous years and these other parcels are shown on the Future Land Use Map as either “Residential” or “Preservation/Natural Area”.

Based on Applicant’s planned reclamation efforts, after extraction activities have been completed on the Real Estate, the Real Estate will be placed back in a more natural condition. Further, if the Applicant is permitted to finish mining the remaining 1/3 of the Real Estate, as most all other real estate on the northside of 160<sup>th</sup> Street and the general vicinity is mined, it will allow the Applicant to continue providing its services and products to its clients that have a continued demand for the same, which in turn will allow Noblesville and Hamilton County to continue to appropriately grow and prosper.

Additionally, as set forth above, in order to mitigate any potential impacts from any extraction activities that would occur on the subject Real Estate, the Applicant is willing to offer Conditions of Approval, including: (i) installing perimeter landscaping and buffering treatment along the 160<sup>th</sup> Street frontage per the landscape buffer yards plan; and, (ii) strictly prohibiting gravel processing (i.e., blasting, crushing or wet processing) on the Real Estate.



BZNA 0031-2024  
Beaver Materials/Dump

I am Bill Kirsch. My wife and I Becky Live at 7825 E. 160th St. immediately south of the property 7810 E. 160th St. I am also speaking on behalf of Kyle and Elizabeth Davidson the property owners of 7795 160th St. We live immediately south of the real estate, where Beaver materials has been illegally mining for over a year.

Please see below:

The first picture is of the residentially zoned 2.91 acre property with the accompanying residence on it. This residence created a noise barrier, dust and further filtration of the aquifer surrounding our home wells.



Please note that in addition to Mining on residential property without a permit, the house was also torn down without a permit.


The second picture shows what the property looks like today. The residence on the property was demolished without a permit and mined even though a variance to the property had not yet been filed. At the end of this document please see e-mail screenshot attached regarding correspondence to this issue with Noblesville Planning Director. As you can see, based on dates, this e-mail was sent in October '23. The demolition permit was granted 3 months later on January 16, '24. The variance was non-existent at this time as well.

Also, please note that excavation has already gone down to the level of ground water in the Northwest corner of the 7810 property.



Please also note that we are not talking just about excavating. Beaver materials mines and then fills in the hole with unregulated waste. (per Indiana department of environmental management, office of land quality guidance) Please see the screenshot from Beaver website below.

**DUMP PROCESS**



**OUR LOCATIONS**

Noblesville Plant  
16101 River Avenue  
Noblesville, IN 46062  
Fax: 317.772.9048

**GET IN TOUCH!**

Name\*

Email\*

Phone

Business

I believe there are two key considerations as to whether this zoning appeal should be granted.

The first is does this request meet all five findings of fact.

The second is even if it were to meet the findings of fact, should the board reward a company for doing illegal behavior, and completely disregarding the authority of the appeals board? As law abiding property owners, the homes purchased at 7825, 7855, & 7795 were purchased in good faith that the surrounding properties would be handled with legal behavior. These properties were purchased knowing that some land surrounding these homes was used for legal mining. However, the existing legal mining land was created with berms for sound control, dust reduction, trees and located 360 feet from 160th which helped control the eye sore of mining next to residential properties and allow for us as home owners to uphold our property value. These homes were also purchased in good faith that the local hydrology, truck traffic, noise, dust and road safety would continue to be a suitable environment for raising children, hosting grandchildren and enjoy country like living while being located close to the city. With this being said,, should a company be rewarded for ignoring my rights and the rights of the fellow adjacent property owners to be heard before the board?

## **FINDINGS OF FACT**

### **The first is the approval would not be injurious to the public health, safety, morals, and general welfare of the community.**

Excavation does cause air pollution, noise pollution, and water pollution. Beaver has hired experts to say the water is OK. Other geologists have stated before the board in the past that it does cause water pollution. My wife and I live here. We can attest that there is excess noise that comes from Mining. We can attest that dirt does collect on our home and property. Previously, I tried to find a unbiased community expert to tell me this Mining and dumping is safe for the water. The head of Hamilton county office of soil and water would not commit to that. Indiana DNR would not commit to that. IDEM would not commit to that.

**The second is the use and value of the area adjacent to the property, including the variance, will not be affected in a substantially adverse manner by the approval of the variance.**

Once again, competing realtors have given different opinions on this before the board in the past. I would ask you merely to look at the pictures and determine if a lush green residence offers better curb appeal than piles of mud. Also, please note that before this property was illegally mined, there was a 400 foot buffer between the mining operation and the front of my property. As someone who lives here I can tell you this is indeed huge.

**The third is the need for the proposed variance arises from some condition peculiar to the property involved.**

The fact that this real estate contains Sand and gravel materials does not make it peculiar. Beaver materials themselves note in their appeal that this characteristic is present on numerous other parcels. Maps of sand and gravel show that these products are present in a large swath throughout Hamilton County, and Indiana.

**The fourth is the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is being sought.**

This property is zoned R1 ( low density, single-family residential ) That is precisely what this property is. There is a single-family home on it, and a family living in it. Obviously, there is no hardship here whatsoever.-

**The fifth is the approval of this variance does not interfere substantially with the provisions of the comprehensive master plan for the city of Noblesville Indiana.**

As Beaver Materials states in their opening line of their proposed findings of fact:  
The Future Land Use Map of the 2020 Noblesville comprehensive plan designates the real estate is residential. Residential 1, and I2 are incompatible

### **CONSEQUENCES OF ILLEGAL BEHAVIOR**

There's no disputing that Beaver materials mined illegally and demolished the residence on this property without a permit.

Once again, I believe a governmental board would not wish to condone illegal behavior, and reward an entity for such behavior.

I do not believe a government board would wish to tell someone who ignored the boards authority. "No problem it's fine".

In their proposal, Beaver materials has offered to mitigate impacts. While some would like to see large fines for this behavior, I am not one of those. Personally, I am OK with Beaver materials correcting their illegal actions by immediately returning the property to its original state and applying a 20 foot berm North of the 7810 property. Beaver materials sent a letter to homeowners stating they are committed to transparency and community engagement. I look forward to dealing with Beaver materials in the future with transparency and respect.

On Nov 7, 2020, at 4:21 PM, PlanDept <plandep@noblesville.in.us> wrote:

We did not have a variance for the property. We notified the property owner and they stopped working on the property immediately. Our attorney and their attorney were going to have a conversation about next steps.

DENISE WISCHMANN, AICP, CFM  
Principal Planner  
Planning and Development Department  
CITY OF NOBLESVILLE  
P: 317.775.6022 F: 317.775.4534  
16 S. 16th Street • Noblesville, IN • 46060  
www.CityofNoblesville.org

-----Original Message-----

From: elizabeth spears <lspears7148@yahoo.com>  
Sent: Tuesday, November 7, 2023 11:01 AM  
To: PlanDept <plandep@noblesville.in.us>  
Cc: Hubs <hubs@noblesville.in.us>  
Subject: Re: 160th street

[Do not often get email from lspears7148@yahoo.com. Learn why this is important at <https://www.ms.com/learn/About/Secure/default.aspx>]

Hi Denise

Just following up to see if you have found a variance for this property?

Elizabeth Davidson

On Oct 27, 2020, at 2:28 PM, elizabeth spears <lspears7148@yahoo.com> wrote:

Denise

Thank you for getting back to me. From my research, I was able to see that this property was single family residential, however I wanted to confirm.

I would like to inform that the house on this property has been demolished as of today to prepare for commercial mining. Has a variance been filed in order for this to occur?

There is also a 601 easement on the property that is owned by Duke energy that states that the grading of the land can not be interfered with.

I know and have record of the easement because it runs into my property as well. I have contacted the engineer for Duke energy to inform him of the interference with this easement.

I would like to report this issue as a concerned home owner with small children. Who do I need to contact for this matter?

Elizabeth

**From:** DEON GOOSEN <deon.goosen@yahoo.com>  
**Sent:** Wednesday, May 1, 2024 12:35 PM  
**To:** Denise Aschleman  
**Subject:** Concern in regards to BZNA-0031-2024

Denise,

I have the following concerns in regard to the application for variance of use for mining at 7810 E 160th Street:

**Protection of the main sewer line on 160th street**

1) I recall there is a main sewer line running along 160th street (See 13J-13-6046/extended through BZNA-0011-2019) ... I do not see the applicant addressing positioning of the mound/berm to protect the sewer line.

**Height and positioning of mounds/berms and maintenance thereof**

2) The applicant's proposed mound/berm is shown to be a min of 5 feet and set back of 50 feet ... this is in contrast to a prior BZA variance of use approval of the Martin Marietta mounds/berms next door at a min of 15 feet/ or between 15 and 20 feet at the southern front at 160th street and set back of 75 feet (See 13J-13-6046/extended through BZNA-0011-2019).

3) No mention is made by the applicant that the landscaping will be mowed and maintained.

**Recommendation:**

I strongly recommend that the Staff and BZA considers and require :

A) The applicant to address the positioning of the mound/berm to protect the main sewer line

B) A condition of approval (if approved) for the proposed mounds/berms be consistent of what Martin Marietta has on the property next door given it's proximity, for consistency and to better protect the neighboring residences from sound and visual pollution.

C) That applicant commits to mow and maintain the mound/berm

Best regards,

Deon Goosen  
16984 Peach Ln,  
Noblesville,IN