

Office of the County Recorder  
Sherburne County, MN  
Doc. No. **864094**

Certified, filed, and or recorded on  
**October 29, 2018 11:00 AM**

Michelle Ashe, County Recorder  
By SD Deputy  
Fees: **\$46.00**



864094

**HAVEN TOWNSHIP  
SHERBURNE COUNTY, MINNESOTA  
RESOLUTION NO. R – 2018-02**

**RESOLUTION ADOPTING FINDINGS OF FACT WITH CONDITIONS,  
AND APPROVING APPLICANT CEMSTONE PRODUCTS  
COMPANY’S REQUEST FOR AN INTERIM USE PERMIT**

**RECITALS**

WHEREAS, on July 7, 2018, Haven Township (“Township”) received an Interim Use Permit (“IUP”) application from Cemstone Products Company (“Applicant”);

WHEREAS, the Applicant has requested an Interim Use Permit (IUP) to use the Real Property legally described in attached **Exhibit A**, PID Nos. 25-17-4100, 25-17-4102, and 25-016-3200 (“Property”);

WHEREAS, the request is for grading, excavating or filling of 10,000 cubic yards or more under Haven Township Zoning Ordinance, Section 12, Subdivision 5, (12 & 20), specifically, a gravel mining, washing and crushing operation, together with washing and crushing recycled concrete rubble;

WHEREAS, On September 17, 2018, the Haven Town Board accepted as sufficient the updated Cemstone Environmental Assessment Worksheet (EAW). The EAW was originally prepared by Vesterra, LLC for a similar operation on the Property;

WHEREAS, the Property is zoned as Industrial District under the Haven Township Zoning Ordinance;

WHEREAS, pursuant to Section 12, Subdivision 1 of the Haven Township Zoning Ordinance, IUPs may be approved in accordance with Minn. Stat. § 462.357;

WHEREAS, on September 17 and 24, 2018, the Township Planning Commission held public Hearings on Applicants’ IUP application in accordance with Minn. Stat. Chpt. 462 and the Haven Town Zoning Ordinance;

WHEREAS, Notice of the Hearing was served and published as required by Haven Township Zoning Ordinance Section 16, Subdivision 5 (3). In addition, all landowners living along 32<sup>nd</sup> St. SE were given Notice; and

WHEREAS, the Township Board has considered the Application, the recommendation of the Town Planning Commission, the testimony of the Applicant's Representatives and parties in attendance at the Hearings and Finds as follows:

**FINDINGS OF FACT AND CONDITIONS OF PERMIT**

- A. Applicant Cemstone Products Company is purchasing the Property from Bazley, LLC, Jess Resources, LLC and Extex, LLC pursuant to a Contract for Deed dated September 29, 2017, and recorded on October 5, 2017 as Document No. 846109.
- B. The Property is zoned Industrial. Recycling concrete rubble and a gravel mining over 10,000 cubic yards are permitted with an IUP in the Industrial District pursuant to Section 9, Subdivision 3(5 & 8); and Section 12, Subdivision 5 (12 & 20) of the Haven Township Zoning Ordinance.
- C. Applicant wishes to extract sand and gravel resources over 10,000 cubic yards along with recycling of concrete rubble.
- D. Pursuant to Minn. Stat. § 462.3597, Subd. 2, as well as Section 12 of the Haven Township Zoning Ordinance, the Township may grant an interim use of property when the following are met:
  - 1. Sellers Bazley, LLC, Jess Resources, LLC and Extex, LLC pursuant to a Contract for Deed dated September 29, 2017, and recorded on October 5, 2017 as Document No. 846109, must agree in writing to be bound by all terms and conditions listed in this Permit.
  - 2. Crushing will only be done on site and according to the set hours of this permit.
  - 3. The mining operation will follow the phasing plan as shown on attached Map B-2. Berms will be constructed and maintained as shown on attached Map B-1. A Berm shall also be constructed along the west property boundary starting at the northwest corner near 32<sup>nd</sup> St. SE, then south 400 feet along the west property line. (Prior to signing this permit Applicant shall provide the Town Zoning Administrator with an updated map and plan that

incorporates this additional Berm). Berms shall be a minimum of 12 feet high from existing grade. It is anticipated that excavation will be at least 8 feet below existing grade.

4. Adequate vehicle stacking space shall be provided on site to ensure that no vehicle desiring entry onto the mining site shall have to wait outside the perimeter of the property. No more than two (2) vehicles leaving the site may be on 32nd St. SE west of U.S. Highway 10 at the same time.

5. Adequate communication facilities will be provided for emergency purposes.

6. A gate shall be provided at both entrances to the site and kept locked when an attendant is not on duty.

7. The hours of operation will be 7:00 a.m. to 9:00 p.m. Monday through Thursday, 7:00 a.m. to 7:00 p.m. on Fridays and Saturdays. A maximum of ten (10) 24-hour crushing or washing days in a calendar year during Monday through Thursday are allowed to meet specific Township, County, or State job requirements. Applicant must give 48 hours advance, written notice to the Town Zoning Administrator of any 24-hour crushing or washing. Crushing and washing will be confined to 7:00 a.m. to 9:00 p.m. Monday through Thursday, and 7:00 a.m. to 7:00 p.m. on Fridays and Saturdays. Washing and crushing on Friday and Saturday will be confined to five (5) Friday and Saturday periods each year are allowed if required to meet any Township, County or State job requirements. Applicant must give 48 hours advanced, written notice to the Town Zoning Administrator of any 24-hour crushing or washing. Excavation and retail distribution will be allowed on all Saturdays during the specified hours. No mining, crushing, washing or other operations shall take place on Sundays or legal holidays (defined in Minn. Stat. Sec. 645.44). If a complaint arising from the noise or other disturbance associated

with excavation is determined to be excessive by the Town Zoning Administrator, the Town may require the Applicant to cease excavation operations on Saturday.

8. Dust emissions off-site shall be controlled at the site as necessary by undertaking the following: road and trail services within the site shall be wetted with water or an appropriate deliquescent chemical whenever off-site dust levels become unreasonable as determined by the Town Zoning Administrator. Dust palliatives shall be utilized to the extent necessary on covered material, such as rock piles to reduce wind erosion as well as other exposed services as appropriate. Cover compaction and revegetation activities shall be undertaken promptly upon the completion of various areas and vegetative cover capable of quick growth shall be utilized. Berms shall be constructed as laid out on Map B-1 of the IUP application. All government regulation regarding noise, water and air quality standard and water appropriation shall apply. All equipment or vehicles utilized at the site shall be periodically inspected and maintained to minimize noise. Applicable State standards for noise pollution may not be exceeded by the gravel extraction operation, equipment, vehicles or machinery.

9. The permit shall secure general liability insurance and bonding, all as required by the Town Zoning Administrator.

10. The crusher may relocate on site as needed and will operate only within the operation hours that are assigned to this permit. The crusher may not be located closer than 500 feet from any residence home.

11. A hot mix plant or ready mix plant will not be allowed under this permit.

12. Excavation will be permitted within the water table.

13. All entrances and exits shall be constructed so as not to create a safety hazard and to comply with the manual of uniform traffic control devices as specified by the Minnesota Department of Transportation.

14. An extractive use shall be solely for operations directly related to such use. Any other use shall require a separate interim use permit. It shall be the responsibility of the pit operator and owner to control activity within the pit area and cleanup any debris or other material left onsite.

15. No waste materials shall be disposed of onsite unless authorized by the County and Haven Township. Sanitary facilities shall be provided for workers during pit operation.

16. A reclamation plan and final grading plan is attached as Map C and is approved by Haven Township.

17. Applicant is required to obtain the NPDES permit prior to excavation.

18. The permit holder, including all haulers and its customers, must comply with all conditions of this permit and all Haven Township, MNDOT, and Sherburne County road right-of-way regulations. The Applicant must comply with any MNDOT recommendations. The permit holder must improve the road (32nd Street SE) to specifications to be determined by the Town Board. The Applicant must also pay all costs and make all arrangements to move and/or interrupt any utility services in the roadway. Applicant must meet all railroad and MNDOT requirements for the road.

19. Applicant and Haven Township will enter into a Developer's Agreement for construction, dedication and maintenance of 32<sup>nd</sup> Street SE. Applicant must pay Haven Township an annual amount determined by the Town Board for maintenance and upkeep of the road. The Developer's Agreement may require other commercial or industrial users to pay a

share of the maintenance costs of the road. Materials may not be moved off or onto the Property until 32<sup>nd</sup> Street SE and U.S. Highway 10 are reconstructed as required by the Developer's Agreement.

20. Access to the Applicant's property and the excavation may only be from U.S. Highway 10 East to the site, and exit only West to U.S. Highway 10 all on the part of 32nd Street SE to be constructed by Applicant. Applicant, haulers and customers may not access or exit this site by any other County Road or Town Road.

21. This permit will allow the operation of a recycle concrete rubble plant on not more than fifteen (15) acres of land. Not more than 50,000 tons of rubble may be stored on the property at any time. Crushing, hauling, and other use of the rubble is limited to Monday-Friday, not on legal holidays, and is subject to the hours of operation in paragraph 7.

22. A cash deposit shall be provided to the Town Clerk at a rate of \$2,500 per open acre up to a maximum of \$50,000.00. The Town and Applicant shall sign an Escrow Agreement for the cash. Open being defined as an area stripped of natural vegetation, but not yet reclaimed – including, but not limited to stockpiling materials, crushing areas, and roads. Any areas of open water shall be considered reclaimed and not count towards the open acres. The number of open acres and the cash deposit amount shall be reviewed annually. The cash shall be used to reimburse the Township for any monies, labor, or material expended to bring the operation into compliance with the conditions of the permit. The cash may be used after non-renewal of the permit and failure to execute the restoration plan. The cash may also be used if there is a failure to execute a phase of a restoration plan specifically scheduled in this permit. This option may be executed 180 days after written notice of non-compliance to the Applicant.

23. An opacity test must be done on all dry mining equipment within 180 days of initial equipment startup. Opacity results must be kept on file at the pit and made available upon Township request. Once mining begins below the water table, the material will be wet and any new equipment will no longer be required to undergo opacity testing.

24. Applicants must comply with all applicable airport regulations. This includes, but is not limited to, the St. Cloud Airport Ordinance, Section V, B(1), which states in part: “no use shall be made of any land in any [airport] safety zones, which makes it difficult for pilots to distinguish between airport lights and other, results in glare in the eyes of the pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off or maneuvering of aircraft.”

25. Restoration will follow attached Map C of the IUP application. Upon final grading, reclaimed areas will be seeded with an appropriate MN/DOT specified seed mix.

26. An Annual Review for Compliance will be conducted in January of each year by Zoning Administrator or a contractor hired by the Town. If the conditions of the permit have not changed, and no complaints or concerns have been filed, the mine will be determined to be compliant once the annual fee is paid. If the conditions of the permit have changed and /or if it is determined by the Town the mine is noncompliant, the permit holder will be advised to attend a public hearing with all associated costs being born by permit holder for enforcement of this permit, further review or amendment of this permit. This is not an exclusive remedy.

27. The annual fee for the permit shall be based on the current per acre fee set by the Town Board in the annual fee schedule. Permit holder shall pay when billed all costs of inspections and monitoring of this permit. Permit holder shall pay when billed all costs of enforcing compliance with this permit, including legal fees and costs.

28. The permit holder shall secure and maintain liability insurance for the duration of the permit. The minimum limits are \$400,000.00 per claimant, \$500,000.00 per claimant, \$1,500,000.00 per occurrence, \$1,500,000.00 annual aggregate for claims.

29. Gravel tax payments must be kept current and the County has authority to request an audit to insure compliance with Gravel Tax Law.

30. All mining activity must comply with Minnesota Noise Standards. If complaints arise related to the noise levels the permit holder will supply the Town with a valid noise level test in accordance with Minnesota Rules. If a noise level test does not exist the permit holder may be required by the Town to complete one and supply the Town with a copy.

31. All equipment and vehicles utilized at the site shall be periodically inspected and maintained to minimize noise. To the extent possible Applicant shall use “white noise” back up measures on production equipment to reduce noise.

32. All refueling and hazardous materials must comply with all County, State and Federal Laws.

33. A sign no smaller than 24’ x 36’ must be, maintained at the entrance to the mine that provides the following: Days and Hours of operation along with a 24 hour contact number to report concerns.

34. The permit holder shall hold Haven Twp. and its officers, board members and employees harmless from claims made by anyone for damages sustained or cost incurred resulting from the gravel extraction operation of this permit. The permit holder shall indemnify the Twp. and its officers, board members and employees for any and all costs, damages or expenses, which the Twp. may pay or incur in consequences of such claims, including attorney’s fees.



35. Applicant to comply with all other Town Zoning Ordinances and all local, state, and federal laws.

36. The applicant shall agree to permit the Town to inspect the property any time.

37. No use is permitted that impacts the Town NPDES or MS-4 Permit. If any use is determined to impact, cause or create any NPDES, MS-4 or other Government permit requirements, the permit holder shall pay all of Haven Township's costs to comply.

38. The rights of Haven Township under this permit may be transferred to another Government entity.

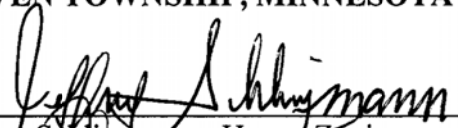
39. The Findings in Sec. 14, Subd. 4 of the Haven Town Zoning Ordinance have been made.

**NOW THEREFORE, BE IT RESOLVED BY THE HAVEN TOWNSHIP TOWN BOARD THAT:**

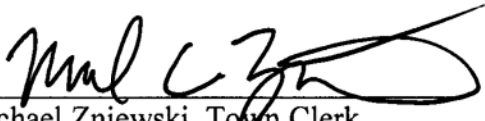
1. An IUP is granted to Applicant, subject to these Findings and Conditions, for grading, excavating or filling of 10,000 cubic yards or more and for recycling concrete rubble.
2. The above Findings of Fact and conditions are adopted and all conditions are made a part of this permit.
3. The IUP will terminate upon the earlier of: (a) the violation of any condition of this permit; (b) the date that is sixty (60) consecutive days after Applicant ceases to operate under this Permit. This does not include days shut down for winter or end of seasons; or (c) the date of any of the events stated in Section 12, Subd. 2 and Section 16, Subd. 5 of the Haven Township Zoning Ordinance.
4. The Township hereby terminates any and all other conditional use permits and interim use permits on the Property.

Adopted October 15, 2018.

**HAVEN TOWNSHIP, MINNESOTA**

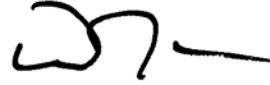
By   
Jeffrey Schlingmann, Haven Zoning  
Administrator and Town Board Chair

**ATTEST:**

By   
Michael Zniewski, Town Clerk

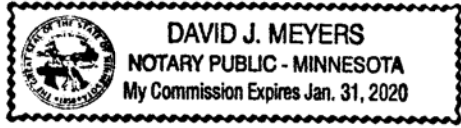
STATE OF MINNESOTA     )  
  ) SS  
COUNTY OF SHERBURNE   )

This instrument was acknowledged before me this 25 day of October, 2018, by Jeffrey Schlingmann.

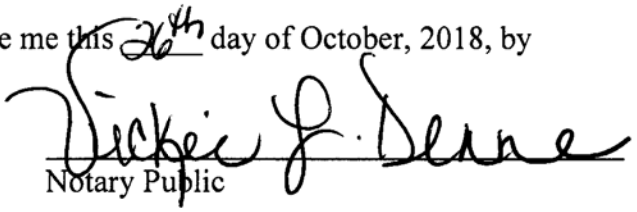


Notary Public

STATE OF MINNESOTA     )  
  ) SS  
COUNTY OF SHERBURNE   )



This instrument was acknowledged before me this 26<sup>th</sup> day of October, 2018, by Michael Zniewski.

  
Notary Public

**THIS INSTRUMENT DRAFTED BY:**  
Rinke Noonan (DJM/mjr)  
1015 W. St. Germain St., Suite 300  
P.O. Box 1497  
St. Cloud, MN 56302-1497  
(320) 251-6700  
File No. 5097-0107



## EXHIBIT A

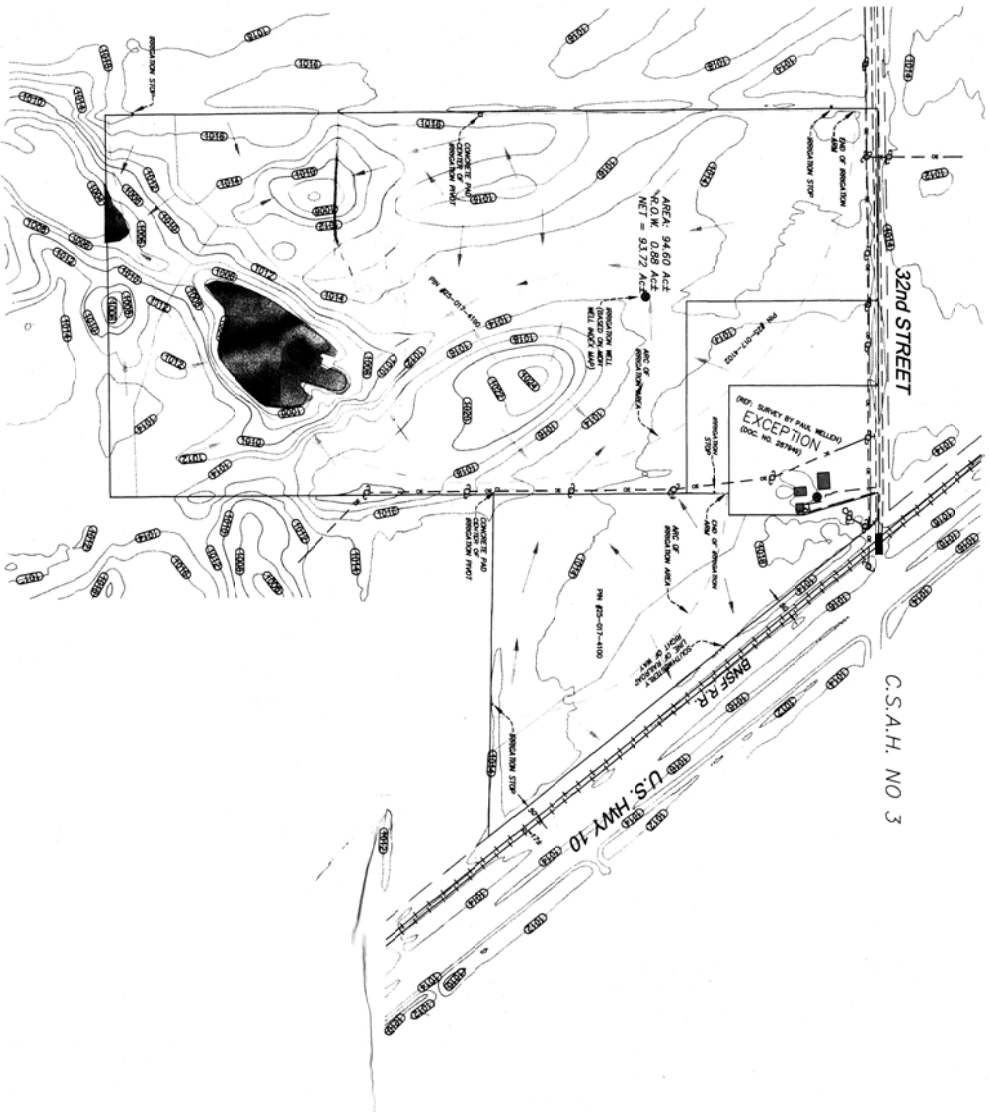
The East Half of the Southeast Quarter (E½ of SE¼) of Section 17, Township 35, Range 30 in Sherburne County, Minnesota, and that part of the Northwest Quarter of the Southwest Quarter (NW¼ of SW¼) which lies Southwesterly of Railroad right of way of Section 16, Township 35, Range 30 in Sherburne County, Minnesota, less and except that part of the Northeast Quarter of the Southeast Quarter (NE¼ of SE¼) of Section 17, Township 35, Range 30 and that part of the Northwest Quarter of the Southwest Quarter (NW¼ of SW¼) of Section 16, Township 35, Range 30 described as follows:

Beginning at the Northeast corner of said Northeast Quarter of the Southeast Quarter (NE¼ of SE¼); thence North 89 degrees 53 minutes 31 seconds West on an assumed bearing along the North line of said NE¼ of SE¼, a distance of 369.45 feet; thence South 00 degrees 06 minutes 29 seconds West, a distance of 510.98 feet; thence South 89 degrees 53 minutes 31 seconds East, parallel with said North line, a distance of 447.17 feet; thence North 00 degrees 03 minutes 39 seconds East, a distance of 257.26 feet; thence North 16 degrees 52 minutes 44 seconds West, a distance of 265.30 feet to the point of beginning.

# CEMSTONE®

32ND STREET SE  
HAVEN TOWNSHIP, MN

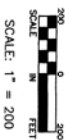
## MAP A EXISTING CONDITIONS



- LEGEND:**
- ⊕ Denotes power pole
  - Denotes power wire
  - Denotes well
  - Denotes irrigation stop
  - Denotes railroad tracks
  - Denotes overhead electric
  - Denotes gravel surface
  - Denotes bituminous surface
  - Denotes concrete surface
  - Denotes delineated wetland
  - Denotes storm water flow
  - Denotes parcel line
  - Denotes property boundary
  - Denotes right of way line (10')
  - Denotes major contour line (2')
  - Denotes minor contour line (2')

**SURVEY NOTES:**

SURVEYED BY: BOGART, PEDERSON & ASSOCIATES  
 SURVEY DATE: 10/29/05  
 ELEVATION DATA: STATE OF MINNESOTA, GEOSPATIAL INFORMATION OFFICE  
 ELEVATION DOWNLOAD DATE: 04/05/2018  
 WETLAND DELINEATION BY: CRITICAL CONNECTIONS ECOLOGICAL SERVICES, INC.  
 DELINEATION DATE: 04/24/06

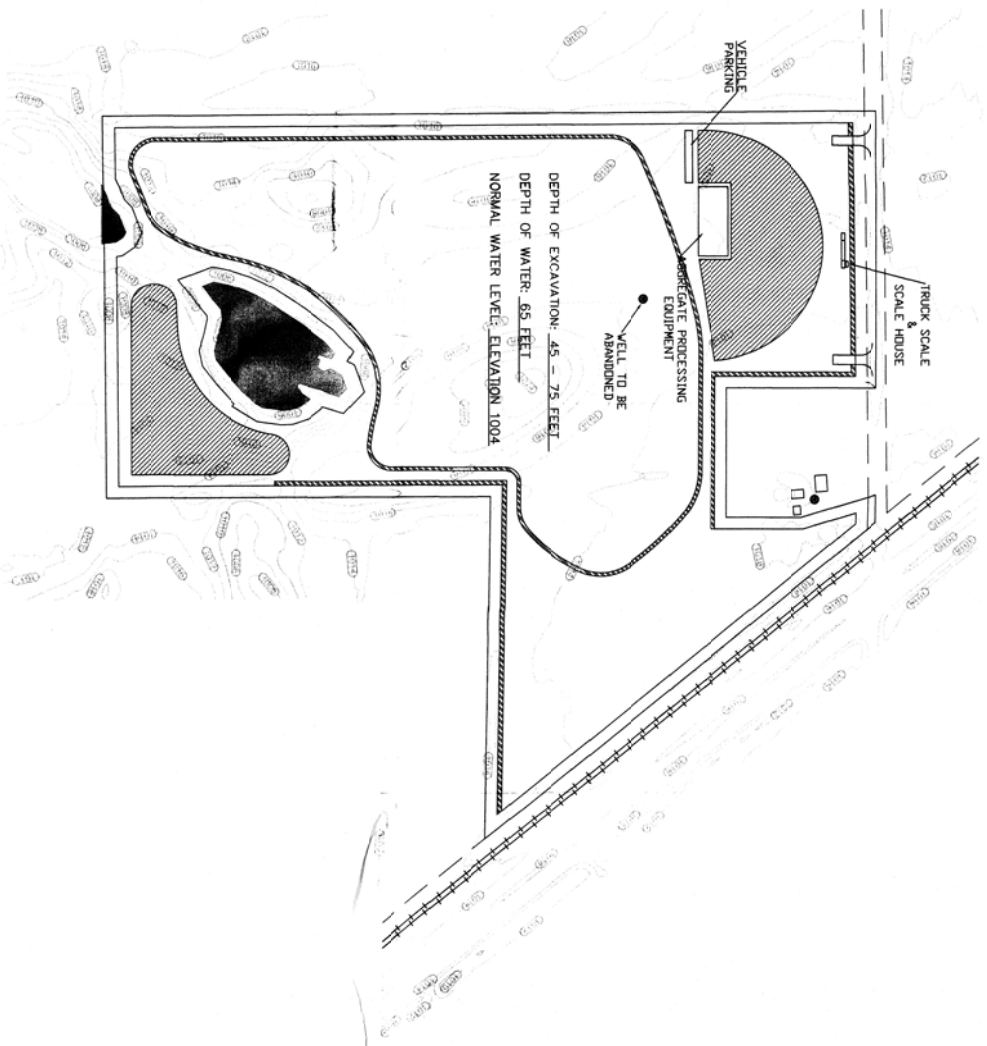


REV. NO.	DATE	DESCRIPTION	DRAWN BY: <u>AKO</u>	DRAWING DATE: <u>07/18/2018</u>	SHEET: <u>1</u>

# CEMSTONE®

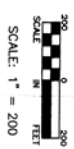
32ND STREET SE  
HAVEN TOWNSHIP, MN

## MAP B-1 PROPOSED OPERATIONS



- LEGEND:**
- Denotes well
  - +—+—+ Denotes railroad tracks
  - Denotes mining setbacks
  - Denotes property boundary
  - Denotes right of way line
  - ▨ Denotes aggregate stockpile area
  - ▨ Denotes berm location
  - Denotes open water
  - ▨ Denotes delineated wetland
  - Denotes major contour line (10')
  - Denotes minor contour line (2')

- NOTES:**
- Height of aggregate processing equipment not to exceed 100'
  - Height of stockpiles not to exceed 60'



REV. NO.	DATE	DESCRIPTION
1	07/25/18	Moved location of scale and scale house

DRAWN BY: AKO  
DRAWING DATE: 07/18/2018

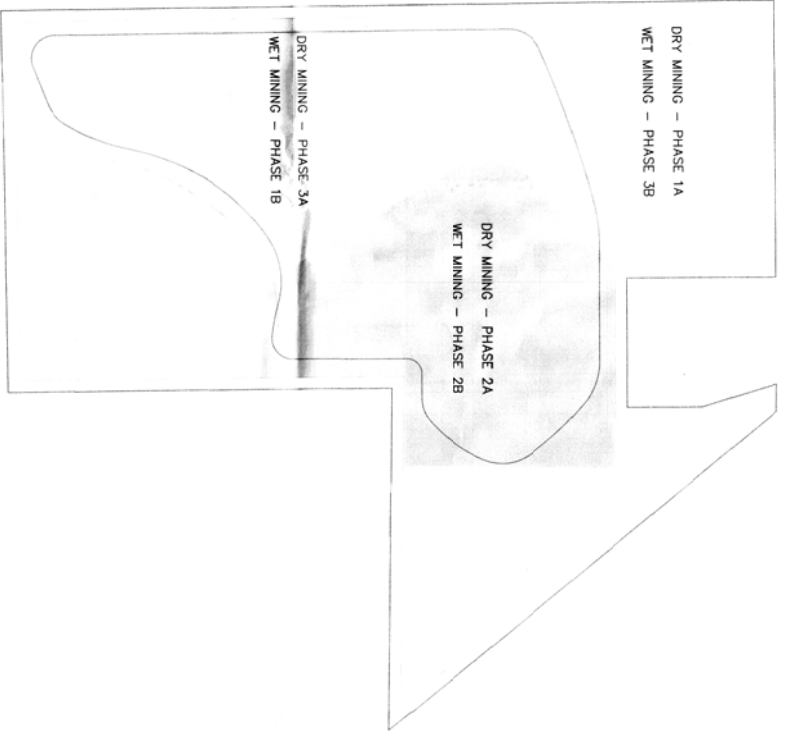
SHEET: **2**  
OF **4**

**CEMASTONE**  
 32ND STREET SE  
 HAVEN TOWNSHIP, MN

**MAP B-2**  
 PHASING  
 PLAN

REV. NO.	DATE	DESCRIPTION

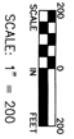
DRAWN BY: AKO      DRAWING DATE: 07/18/2018      SHEET: **3** OF **4**



- LEGEND:**
- Denotes mining setbacks
  - Denotes property boundary
  - Denotes open water
  - Denotes delineated wetland

**NOTES:**

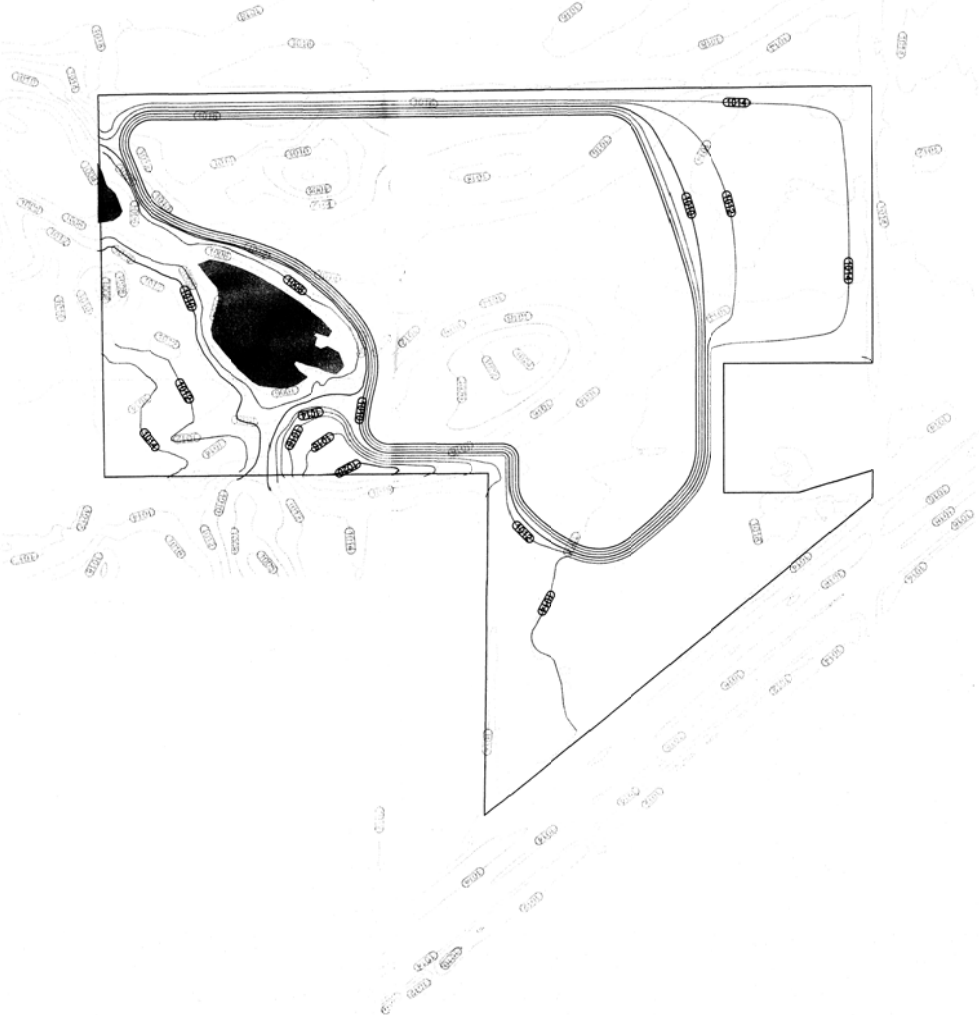
Dry mining will occur first, and move from north to south. Once dry mining is completed, mining will move into the wet mining phase below the ground water table. Wet mining will progress from south to north.



# CEMSTONE®

32ND STREET SE  
HAVEN TOWNSHIP, MN

## MAP C RECLAMATION PLAN



- LEGEND:**
- Denotes property boundary
  - ▭ Denotes proposed water body
  - ▨ Denotes delineated wetland
  - Denotes pre-mining major contour line (10')
  - Denotes pre-mining minor contour line (2')
  - Denotes reclamation major contour line (10')
  - Denotes reclamation minor contour line (2')

- NOTES:**
- Reclamation will begin on the south side of the property and follow the wet mining process north
  - Proposed post-mining land use is cropland
  - Reclamation grades will not exceed 5:1 slopes
  - Reclamation grades may change in the field based on actual amounts of topsoil and depins of excavation



DRAWN BY: AKO		DRAWING DATE: 07/18/2018		SHEET: <b>4</b> OF <b>4</b>
REV. NO.	DATE	DESCRIPTION		