



**DANE COUNTY ZONING STAFF COMMENTS / BACKGROUND**

**Owner/Applicant:** Kirk & Heidi Eilenfeldt are the property owners, and Rocky Rights LLC/Wade Cattell is the operator.

**Size, zoning, use of existing parcel:** 35 acres, zoned A-1EX Agricultural.

**Rezone/CUP desired:** Expansion of a an existing legal nonconforming (NC) mineral extraction site.

**History:** There is a long history of mineral extraction operations at this location. The NC portion of the operation was registered in 1969.

**DANE COUNTY PLANNING STAFF COMMENTS**

**Operations Plan:** The applicant is proposing expansion of an existing mineral extraction site into a 35 acre area located directly north of the existing operation. The material to be extracted is sand and gravel. Extraction of the material will be below the water table, with the area being dewatered prior to mining. The water will not be pumped off site. There will be no blasting, drilling, crushing or screening on this 35 expansion area. The operation will be conducted in phases with reclamation completed as each phase moves forward. The extracted material will be transferred in the southerly direction to an area beside the existing concrete batch plant to be used in the making of concrete. This will prevent raw materials from being trucked into the site, thus reducing truck traffic. The permit period requested is 20 years. The applicant will reclaim 9 acres of the existing mineral extraction site.

**Hours of Operation:** The hours of operation will match those on the existing site which is 6 am to 6 pm Monday through Saturday with no operations on Sundays or holidays.

**Surrounding Area Characteristics:** The area surrounding the operation is agricultural use. Farther from the site there is a mix of primarily agricultural uses and residential land use.

**Sensitive Environmental Features:** The extraction area is beside a creek with wetlands.

**Town Plan:** The *Future Land Use* map (of the *Town of Cottage Grove Comprehensive Plan*) shows the subject property in the *Agricultural Preservation Area*. Non-residential uses do not count against the density policy, therefore an RDU is not required. This proposal is consistent with the town and county comprehensive plans.

**Town Action:** As of December 14, 2017, we have not yet received a Town Action Report.

**Compliance with County Ordinances:** The applicant will have to meet requirements of Chapter 74, Nonmetallic Mining Reclamation, and Chapter 14 (Stormwater and Erosion Control) of the Dane County Code of Ordinances (DCCO). The applicant is submitting a reclamation plan for the expansion area,



and staff is requiring that the new reclamation plan be submitted for the entire site in order to correct outdated material. As is required in an exclusive agriculture zoning district, the site will be reclaimed for agricultural use.

**Chapter 10** provides six standards for granting a CUP in Section 10.255(2)(h) of the zoning ordinance are as follows:

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.
2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.
3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.
5. That adequate measures have been or will be being taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

In addition to the requirements of s. 10.255(2)(h), the zoning committee must find that the following standards are met before approving any conditional use permit in the A-1(exclusive agriculture) zoning district:

1. The use and its location in the A-1 Exclusive Agriculture zoning district are consistent with the purposes of the district.

2. The use and its location in the A-1 Exclusive Agriculture zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
3. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
4. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
5. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

### **CONCERNS RAISED AT PUBLIC HEARING**

Following is a list of concerns raised by the public at the January 23, 2018 ZLR Committee Public Hearing. Following each one is the applicant's response to these issues as described in supplemental information provided to the County on February 20, 2018.

**Lack of reclamation on the existing operation** The applicant will commit to voluntarily reclaiming and seeding 6 acres of disturbed land in the existing quarry. *See condition number 5.* In the expansion area (proposed CUP 2405), a maximum of 9 acres can be active at any one time, including all three phases of up to 3 acres each: 1) operating, 2) dewatering, and 3) reclamation. *See condition number 6.*

**Close proximity to Door Creek** A Dane County erosion control and stormwater permit is required for this operation. The requirements of this permit meets what is required for DNR. Dane County Department of Land & Water and DNR work together on plan review and permitting. A 75 foot set-back is required

The applicant provided a letter from an environmental engineer showing that because of how water is managed on the site, his professional opinion is that the proposed operation will not negatively effect the water table, aquifer or Little Door Creek.

Rainfall falling on the property being mined will be retained on the property through the installation of additional constructed berms. *See condition number 11.*

**Impact on aquifer** The applicant provided a letter from an environmental engineer showing that because of how water is managed on the site, his professional opinion is that the proposed operation will not negatively effect the water table, aquifer or Little Door Creek.

**Location of property lines** The applicant had a professional Surveyor provide a plat of survey showing property lines. *See condition number 10.*

**Back-up alarms** The operator will make sure directional alarms will be installed. The applicant research various alarms that provide safety while controlling potential noise pollution. The multi-frequency back-up alarm identified in the submitted quote minimize disturbance to neighbors of the site by emitting sound at multiple frequencies attenuated above 4000Hz so that the sound is perceived to dissipate more quickly than a conventional pure-tone alarm.

In addition, trucks will routed to avoid unnecessary back ups. *See condition number 9.*

**Increase in activity** The expansion of the existing quarry will be used to support the concrete batch plant. Material will not need to be trucked in, thus reducing truck activity. The maximum capacity of

batch plant is 4 truck loads per hour.

The applicant provided trucking history for the years 2015 through 2017 and from 2007 to 2009, showing how recent trucking activity is lower than that in the past.

**Dust** The operator is complying with Best management practices. The water truck is on-site and records daily logs of watering. See *conditions 13, 14 & 19*

The applicant provided a copy of their Dust Control Plan and watering logs as an example of what is done to control dust.

**Noise** The proposed expansion area is on the north end of the existing operation. There is a large berm along the southern boundary of the existing operation. The applicant measured decibel levels in the existing quarry noting the distances from nearby houses. A map showing decibel levels during operations has been provided. Dane County staff has conducted noise studies that show that noise from the mineral extraction operation is not distinguishable from ambient noise from Highway 12/18.

**Lack of notification** All meetings have been properly noticed, to town and neighbors, with notices being sent out to properties within 1,000 feet of the site. The applicant notes there has not been any night work since 2013.

**Hours of operation** The quarry operations will be the same as the batch plant hours of operation. The operation is intermittent. There are down times for the batch plant and the quarry. The operation closes between November to March. When in operation, the hours must adhere to those described in *condition number 17*.

**Reduced land values on adjacent property** Those expressing concern over impact on property values, provided information that is based on the assumption of industrial use for the area. A recent (2017) sale of a residence at 2236 Hwy 12& 18, 800 feet from quarry entrance, shows no substantial decrease in value.

The applicant submitted a property appraisal conducted by a licensed real estate appraiser. That study determines residential as the highest and best use, and has had no negative effect on the fair market value of property located at 2292 Hwy 12&18.

**Truck traffic** There will be no increase in traffic associated with this expansion. Material from area will be used to support on-site concrete batch plant.

### **RECOMMENDED CONDITIONS**

The following list of conditions is based upon a list of conditions that are traditionally used for similar operations in Dane County, customized for this specific site and proposal. The list includes conditions from the Town of Cottage Grove.

#### **POTENTIAL CONDITIONS OF APPROVAL FOR CUP 2405:**

- 1) The applicant shall submit an erosion control plan covering the entire CUP area for the duration of operations, and receive approval of an erosion control permit prior to commencing extraction operations.
- 2) The applicant shall apply for and receive all other required local, state and federal permits.

- 3) The operator shall develop and operate the site according to the proposed site operations plan.
- 4) Operations shall cease no later than ten (10) years from the date of CUP approval.
- 5) The applicant will reclaim and seed 6 acres of disturbed land in the existing quarry.
- 6) A maximum of 9 acres can be active at any one time, including all three phases of up to 3 acres each: 1) operating, 2) dewatering, 3) reclamation.
- 7) Reclamation shall be completed as required by Chapter 74 of the DCCO and NR135. The plan shall cover the existing site (NC site) as well as the expansion area, treating it as one overall site and operation. The reclaimed areas must be returned to agricultural use.
- 8) The following are prohibited on this 35 acre site: blasting, drilling, crushing, screening, production of asphalt or concrete, storage of recycled material, permanent structures, additional water wells, lighting, vehicle storage or fuel storage.
- 9) The operator shall use multi-frequency back-up alarms to minimize disturbance to surrounding properties, and trucks will be routed to avoid unnecessary back-ups.
- 10) The property boundaries must be surveyed and the entire property must be surrounded by a perimeter fence.
- 11) Exterior sides of active acres shall have a 7' high berm with 1:1 side slopes, and interior sides of active areas shall have a 5' berm with 1:1 side slopes.
- 12) Berms shall be seeded within 14 days.
- 13) The operator shall maintain the driveway in a dust free manner in accordance with local, state, and federal regulations, and shall clean any dust or mud tracked onto public roads. The operator will follow the Dust Control Plan.
- 14) Haul roads must be maintained for dust control.
- 15) The operator and all haulers shall access the CUP site through the existing access points.
- 16) The access to the driveways shall have gates securely locked when the extraction site is not in operation. The site shall be signed "NO TRESPASSING."
- 17) Hours of operation shall be as follows:
  - a. 6 am to 6 pm Monday through Fridays..
  - b. 6 am to 4 pm on no more than six Saturdays each year, with 7 days prior notice provided to the Town Clerk, and residents at 2252, 2272 and 2292 US Hwy 12&18, 3380 North Star Road, and all others within 500 feet of the new site. Rocky Rights LLC and those receiving notice will define the means of notification.
  - c. No operations shall take place on Sundays or legal holidays
- 18) There shall be a safety fence around the entire extraction area at all times. This fence shall be comprised of a basic farm fence with posts and "NO TRESPASSING" signs at regular intervals of at least 100 ft. around the entire perimeter of the anticipated disturbed area.
- 19) The operator shall use water spray bars in the crushing process to reduce dust. Use of spray bars is not required when the temperature is below freezing. The operator shall spray the site with water if and when needed to control dust.

- 20) There shall be no storage of recycled material on the site.
- 21) There shall be no permanent structures on the site.
- 22) All of the material extracted on this site shall be taken to the existing batch plant.
- 23) All vehicles shall be stored on lands three (3) feet above highest water table elevation to prevent against groundwater contamination from leaks or spills.
- 24) The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed current industry standards for noise abatement.
- 25) The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076.
- 26) No minerals shall be excavated within 20 feet of the property boundaries with the exception of the south property line.
- 27) There shall be no alternation of topography within 5 feet of the property line.
- 28) Dane County and the Town of Cottage Grove shall be listed as additional named insureds on the operator's liability insurance policy, which shall be for a minimum of \$1,000,000 combined single limit coverage per occurrence. The operator shall furnish a copy of a Certificate of Insurance as evidence of coverage before operations may commence. The liability insurance policy shall remain in effect until reclamation is complete. Copies of appropriate insurance policies shall be filed with the Town of Cottage Grove.
- 29) The Zoning Administrator or designee may enter the premises of the operation to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. If the operation is not in reasonable compliance with the terms of this approval, such approval is subject to amendment or revocation.
- 30) No minerals shall be excavated within 20 feet of the property boundaries with the exception of the south property line.

**Questions? Contact Pam Andros – (608) 261-9780**