
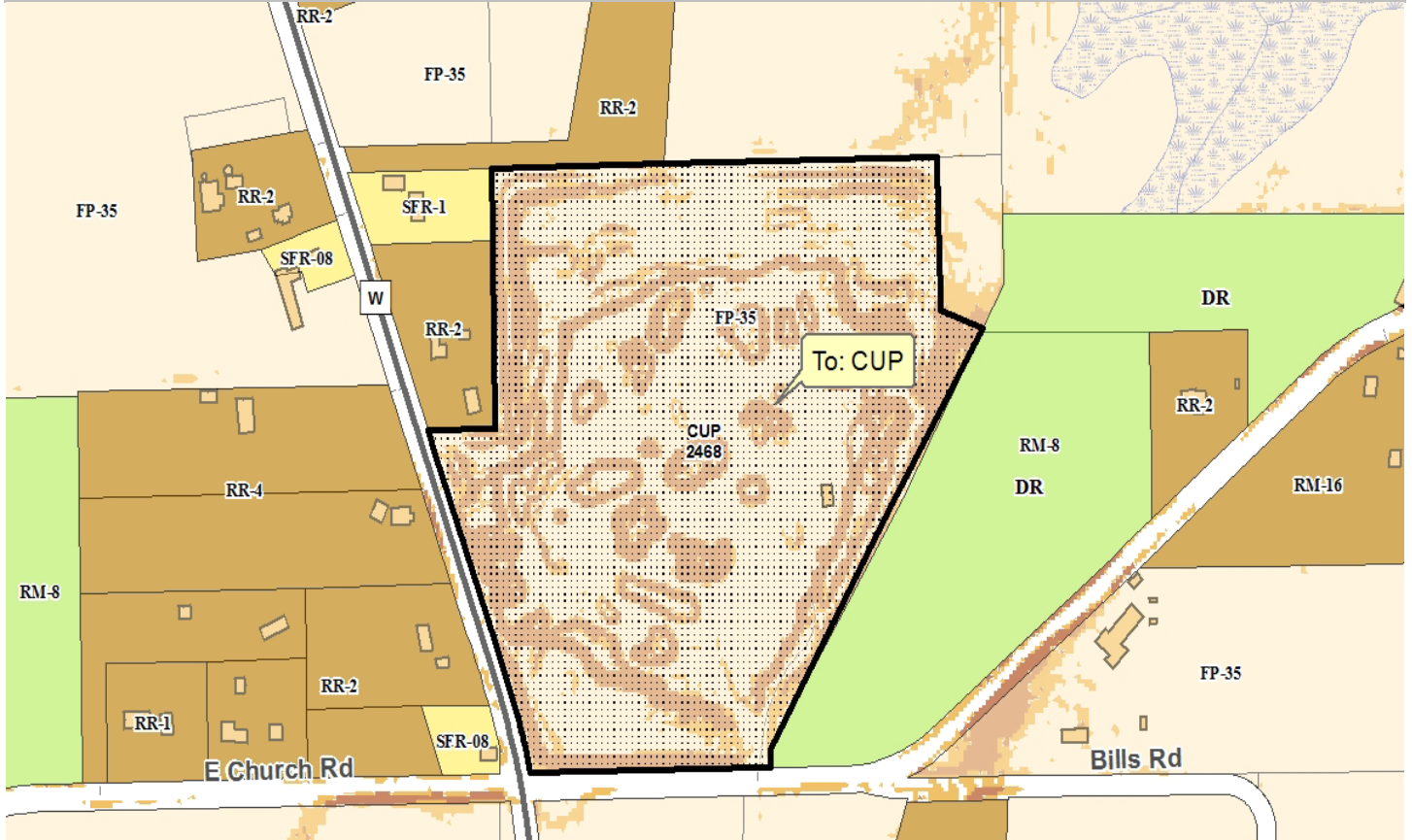


<b>Staff Report</b>    <b>Zoning and Land Regulation Committee</b>  <b>Questions? Contact:</b> <b>Majid Allan – 267-2536</b>	<u>Public Hearing:</u> <b>June 25, 2019</b>	<b>CUP 02468</b>
	<u>Zoning Amendment Requested:</u> <b>CONDITIONAL USE PERMIT FOR A TEMPORARY CONCRETE BATCH PLANT</b>	<u>Town/Section:</u> <b>CHRISTIANA, Section 30</b>
	<u>Size:</u> <b>35.5 Acres</b>	<u>Survey Required:</u> <b>NO</b>
	<u>Reason for the request:</u> <b>TEMPORARY CONCRETE BATCH PLANT</b>	<u>Applicant:</u> <b>RACHEL HALVERSON</b>
		<u>Address:</u> <b>1320 E CHURCH ROAD</b>



**DESCRIPTION:** Applicant, Trierweiler Construction, requests approval of a conditional use permit for temporary batch concrete production (a/k/a “ready mix batch plant”) to be located within the existing “Utica Pit” sand and gravel quarry located at 1320 E. Church Road in section 30 of the town of Christiana. The permit is being sought to provide concrete for the I-39/90 expansion project currently underway. Hours of operation would be 6am-8pm weekdays, with intermittent operations during weekends and nighttime hours as WISDOT project demands may require. Applicant requests a roughly six month timeframe for the permit, ending 12/31/19.

**CONDITIONAL USE PERMIT PROCESS:** Conditional uses are those uses which, because of their unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review. The zoning ordinance includes specific requirements and standards for review and approval of conditional use permits.

In order to obtain a Conditional Use Permit, an applicant must provide **substantial evidence** to demonstrate that the application, and all requirements and conditions established by the county relating to the conditional use, are or shall be satisfied. Substantial evidence means, *“facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.”*

Prior to granting or denying a conditional use, the zoning committee shall make written findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the following standards:

- General standards for approval of a conditional use under s. 10.101(7)(d)
- Any prescribed standards specific to the applicable zoning district
- Any prescribed standards specific to the particular use under s. 10.103

The zoning committee must deny a conditional use permit if it finds that the standards for approval are not met, and must approve if it finds that the standards for approval are met. The decision to approve or deny a conditional use permit must be supported by substantial evidence. Any conditions imposed must be based on substantial evidence, related to the purpose of the ordinance, reasonable, and, to the extent practicable, measurable.

As indicated above, many conditional uses are subject to prescribed standards found in section 10.103 of the ordinance. At a minimum, the zoning committee must find that all the following general standards for approval are met for the proposed conditional use:

- a. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare;
- b. 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;
- c. 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;
- d. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;
- e. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
- f. That the conditional use shall conform to all applicable regulations of the district in which it is located.
- g. That the conditional use is consistent with the adopted town and county comprehensive plans.
- h. If the conditional use is located in a Farmland Preservation Zoning district, the town board and zoning committee must also make the findings described in s.10.220(1).

## **RELEVANT FACTS & INFORMATION**

Location, size, existing use and characteristics of subject property: The property is located at 1320 E. Church Road in section 30 of the Town of Christiana. The 31 acre property is located in the southwest corner of the Town less than 1 mile west of Interstate 39/90. Existing use of the property is a nonconforming sand and gravel quarry. Such nonconforming mineral extraction operations are not subject to conditions that limit hours / days of operation, truck haul routes, fugitive dust mitigation measures, or other conditions that may be required as part of a Conditional Use Permit request and approval. Adjacent land uses include agriculture / open space and scattered rural residences. There are 21 residences located within 2,500' of the subject property.

Utilities, access, drainage, and other necessary site improvements: Applicant has submitted documents showing the location of the batch plant immediately east of an existing water retention pond located in the north-central portion of the property, with aggregate stockpiles located near the batch plant. Applicant has provided a ground water and stormwater pollution prevention spill response plan detailing measures taken to address the release and containment of potential pollutants. No well is proposed and water for the operation will be provided by onsite stormwater detention

ponds. Access to the site would be via the existing driveway onto Church Road, with truck traffic proceeding west to County Highway W and north to I-39/90.

Applicable additional standards: The zoning code provides the following definition of *Temporary batch asphalt or concrete production*:

“Production of asphalt or concrete, using portable equipment, for a period not to exceed six months per calendar year and associated with time-limited, specific projects identified by project number.”

Per 10.103(20), the following additional requirements apply to temporary batch concrete and asphalt production:

(20) Temporary batch concrete and asphalt production.

- (a) The zoning committee and town board shall set daily limits on hours for concrete and asphalt production, as necessary to minimize impact on neighboring properties. Schedules for concrete or asphalt production need not conform to hours of operation for the overall mineral extraction project.
- (b) Operators of concrete or asphalt plants shall be responsible for any conditions placed on such operations.
- (c) Asphalt production facilities must comply with all requirements, including spill containment, of Chapter ATCP 93, Wisconsin Administrative Code.

**TOWN PLAN:** The property is in the Agricultural Preservation Area of the Town Plan.

**COUNTY HIGHWAY:** County Highway W is not a controlled access highway. Access onto County Highway W shall be prohibited.

**RESOURCE PROTECTION:** There are no areas of resource protection corridor located on the property.

**STAFF ANALYSIS:** The proposed batch plant would provide concrete for the reconstruction of the north segment of Interstate 39/90 between the US 12/18 interchange and Rock County line. WISDOT project phasing information indicates that the schedule for work on southbound lanes of the north segment will occur spring 2019 to fall 2019. Primary impacts associated with the operation of concrete batch plants are truck traffic, fugitive dust, and noise that may conflict with surrounding residential uses. Truck traffic will be limited primarily to County Highway W, with no access to the interstate via E. Church Road. Applicant indicates that water will be sprayed around the site as needed to control dust from vehicle traffic. Cement will be stored in enclosed containers to reduce potential for release of additional fine particulates. The site is currently operated as a quarry with no limits on hours/days of operation. Limited hours of operation should mitigate the impact of any excess noise associated with the use.

Staff believes that the applicant has submitted substantial evidence in the form of detailed information and plans for operation of the use and that, with appropriately crafted conditions of approval, the proposal will satisfy the applicable standards for approval of a conditional use permit for a concrete batch plant.

Staff has prepared the following list of conditions based on substantial evidence and which may be applied to ensure the use meets the applicable standards for approval and the purposes of the ordinance. These conditions are in addition to the standard conditions of approval applicable to all conditional use permits and found in section 10.101(7)(d)2 of the Dane County Zoning Ordinance. Please note that the conditions may need to be changed or additional conditions added to address potential nuisances that may come to light during the public hearing.

1. The conditional use permit shall be for temporary batch concrete production. The Conditional Use Permit (CUP) shall expire on December 31, 2019. Equipment associated with the use may overwinter on the property until the spring of 2020.
2. The facility and business shall comply with the site plan and operations plan (application narrative), as submitted.
3. The CUP is subject to all applicable standard conditions found in section 10.101(7)(d)2a.

[https://plandev.countyofdane.com/documents/pdf/CompZoningRevision/Ordinance\\_Text/Chapter\\_10\\_Revised.pdf#page=67](https://plandev.countyofdane.com/documents/pdf/CompZoningRevision/Ordinance_Text/Chapter_10_Revised.pdf#page=67)

4. 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.
5. The applicant shall apply for and receive all other required local, state and federal permits.
6. The operator shall develop and operate the site according to the site/operations and plan submitted with the application.
7. Hours of operation shall be limited to 6am-8pm, weekdays. Operation outside these hours, including weekend and nighttime operation, shall be permitted if required by WISDOT for work associated with project #s 1007-11-79 or 1007-11-80.
8. If the operator wishes to have bulk fuel stored on site, the operator should provide a plan for spill containment that meets state regulations.
9. The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed then current industry standards for noise abatement.
10. The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076.
11. Concrete trucks shall be prohibited from using East Church road except from County Highway W to the driveway of the subject property.
12. Applicant shall review the road with the town's public works director.
13. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Unless the operation is in reasonable compliance with these terms of this approval, such approval is subject to amendment or revocation.

**TOWN:** Approved with the following conditions (note that these are incorporated in the staff recommended conditions, above): The temporary ready-mix concrete batch plant will be in operation from June, 2019 through December 31, 2019, with the condition that the equipment will overwinter until the spring of 2020. Also, there will be no truck traffic on East Church Road except from County Highway W to the driveway of the gravel pit. Nick Petit is to review the road with George Waag, the Town's Public Works Director.

**STAFF UPDATE:** Staff has received input from a neighboring property to the west with concerns regarding the steep topography of the quarry boundaries. The quarry operator has responded to the concern by installing fencing along the western boundary. Trierweiler Construction has also submitted a spill prevention plan and has evaluated the road conditions with the Town's public works director.