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DANE COUNTY PLANNING & DEVELOPMENT

Planning

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Zoning

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TO: JMM LLC; Michael Marquette
FROM: Dan Everson, Assistant Zoning Adm.
DATE: September 19, 2024
RE: Concerns regarding CUP #2629 - Mineral extraction

Dear Mr. Marquette,

The Dane County Zoning and Land Regulation Committee held a public hearing regarding CUP #2629 on August 27, 2024. At the meeting, the public raised concerns about the proposed non-metallic mineral extraction activity. I have summarized the concerns below.

In order to obtain a conditional use permit, the proposal must meet eight (8) standards as listed under the zoning ordinances. Many times, conditions must be placed on the conditional use permit to address concerns in meeting these eight (8) standards. The standards are listed at the end of this letter.

Please review the topics below and provide your response regarding the concerns. Staff has provided an objective view of each topic. The response to the items will be helpful for the Zoning and Land Regulation Committee in rendering a decision on the conditional use permit.

Planning comments and concerns:

You shared with the ZLR committee information pertaining to state and county regulations that allow for registration of marketable non-metallic mineral deposits within a county. Property owners within Dane County do have the ability to submit and record with the Register of Deeds office detailed information for planning purposes to recognize a potential site that has a marketable deposit. However, let it be known that no one has ever registered this subject site as per the requirements found in NR 135 and the Dane County Ordinance section 74.53.

The proposed use appears to conflict with the overall land use policies of the City of Verona Southwest Neighborhood Plan. Proposed land uses are to demonstrate compliance with the Town of Verona comprehensive plan and the intergovernmental agreement with the City of Verona. It appears that a 159 acre quarry will disrupt the planned development within and around the proposed site.

Evidence needs to be submitted that the proposed operation and the final reclaimed land use will comply with the standards of the City of Verona [Resource Assessment and Development Analysis for the Upper Sugar River and Badger Mill Creek Southwest of Verona, WI.](#)

The materials provided in the CUP application are insufficient to determine consistency with some of the standards of the adopted town/county comprehensive plan. Prior to approval of any CUP application, the applicant should provide additional information to determine whether the following plan standards are met.

- **Positive Cost-Benefit Analysis** -The establishment, maintenance, or operation of the site shall balance the risk with the positive business of employment, tax revenue, and need of natural resources for all citizens. **Please provide an appropriate cost-benefit analysis.**
- **Protection of Wetlands and Water Quality** - Operation of the site shall meet and satisfy all State and County criteria regarding wetlands and water quality impacts of the proposed extraction operation. Although the aerial photo-derived Wisconsin Wetland Inventory shows only small wetlands on the site, there are approximately 23 acres of hydric soils in the northwestern portion of the site. Such soils are indicative of wetland conditions. Field-verified wetland delineations will be necessary to determine the actual extent of wetlands on the site and any impact from the proposed use. **Please provide a wetland delineation report showing the extent of the wetlands on the property.**
- **Transportation analysis** - Applicant will be required to provide for a traffic impact study on roads. If there is potential damage to town roads, particularly from the weight of the trucks, the applicant will be required to cover the repair of the road. The application includes a very general discussion of road impacts resulting from mineral extraction operations, but does not include any site-specific analysis of the roads and transportation network at this location. **The applicant should provide a site-specific traffic and road impact analysis that meets the current technical standards of the Wisconsin Department of Transportation, the Dane County Highway and Transportation Department and both the City of Verona and Town of Verona Engineers. The report should identify any existing roadways or intersections inadequate to safely handle projected traffic and include estimated costs for improvements.**

Dane County Land and Water Resources Department (LWRD) comments and concerns:

There is insufficient data and information submitted that demonstrates that the aquifer and groundwater is being protected. LWRD has pointed out that the Dane County groundwater model developed by the Wisconsin Geological and Natural History Survey (WGNHS) displays the reaches of the Sugar River and Badger Mill Creek in this area as relatively high areas of groundwater inputs. Without data, it is difficult to impossible to determine if the nonmetallic mining operation would or would not intercept some degree of groundwater that currently moves from the N/NE towards the Sugar River and Badger Mill Creek.

Trout Unlimited Southern Wisconsin has pointed out concerns with this subject matter too. The Sugar River and the Badger Mill Creek are both considered perennial streams and cold water communities. **Please provide information on what efforts will be made to protect thermal temperatures, the groundwater, and what efforts will be made to avoid disruption of the flow rates to the Sugar River.**

Local neighbors' concerns:

There is existing residential development directly to the east along Pine Row Road. The proposed operation plan shows that the staging area for the stockpiling and loading of trucks will be approximately 100 feet away from the property. The neighbors expressed concerns that the dust created by the processing and stockpiling area will travel onto their property and cause a nuisance. **Provide information on what efforts will be made to reduce the amount of dust that will be created from the site with the possibility of relocating the processing area to the west side of the property.**

The neighbors expressed concerns regarding the possible negative impact on the existing wells. The operation involves dredging of sand and gravel from the groundwater. There will be a fair amount of turbidity created in the aquifer due to the dredging. **Provide information on what efforts will be made to ensure that the neighboring wells will not be affected by the dredging operation.**

Local Access and Truck Traffic Concerns:

Given that Valley Road is a town road, the Town of Verona has jurisdiction and maintains the quality of the roadway. Valley Road has limitations being used as a haul route for dump trucks. Currently, the roadway width is 20 to 21 feet and may not meet the minimum road width standards noted for Wisc. Stats. 82 for the anticipated traffic load. **Please provide a traffic impact study showing what necessary improvements will be needed to Valley Road to handle proposed traffic loading in addition to the existing traffic load.**

The proposal states that the primary access route will be east along Valley Road to US Highway 69. The application lacks information to show that the existing intersection design is capable of supporting the proposed traffic loading. **Please provide a traffic impact study showing what necessary improvements will be needed to the Hwy 69 intersection with concurrence from Wisconsin DOT.**

Sensitive Environmental, Erosion Control, and Stormwater Concerns:

There is a culvert that runs under Valley Road that directs the natural drainage from the northerly land to the site. Once on site, the drainage continues south. The proposal does not address how the natural drainage from the north will be handled on the site. It appears that a driveway will be placed at the culvert location. **Please provide a stormwater analysis on how the existing stormwater flow from neighboring properties will flow across the site.**

The plan proposes to have a 25-acre processing area on the northeast corner of the property. The area is shown to have a 6% to 8% grade flowing to the southwest. It appears that the surface storm water from the processing area will run directly into the proposed subsurface excavation area (exposed groundwater) without any buffer. **Provide information on how the contaminants, debris, sediments, from the vehicles and equipment operating in the processing area will be removed or filtered prior to entering the open water.**

The plan identifies that there is a mapped floodplain area with the presence of wetlands adjacent to the west. The application lacks information to show how this area will be protected from filling or land disturbance. **Please provide a wetland delineation report showing the extent of the wetlands on the property and explain what efforts will be made to protect the wetlands and not disturb the natural drainage for the area.**

As mentioned above, the proposal needs to meet all eight (8) standards in order to obtain a conditional use permit. As you are responding to these concerns, please make sure you take in to account the standards. Please feel free to comment on other items that may have been stated during the public hearing that are not listed in the above concerns.

There appears to be numerous concerns raised regarding the proposed mineral extraction site that are not adequately addressed by the current materials that have been submitted. Based on the current submittal the proposal fails to meet the eight (8) standards as noted below:

1. *The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.*
 - a. The application lacks evidence showing adequate measures for traffic safety, protection of sensitive environmental features, dust effects on neighbors, and dealing with effect of dredging on groundwater.

2. *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*
 - a. The application lacks evidence how measures are in place to deal with nuisance dust effecting neighbors.
3. *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.*
 - a. The application notes that the property will be used for park purposes after extraction is terminated. The proposed future use is in conflict with the land use policies found within the City Comprehensive Plan.
4. *Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.*
 - a. The application lacks evidence showing how existing drainage patterns will not be interrupted or how the natural flow to the Sugar River will not be disrupted.
 - b. The application lacks evidence showing necessary roadway improvements to be made to Valley Road and the US Highway 69 intersection.
5. *Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.*
 - a. The application lacks evidence that the access point is acceptable to the Town of Verona and is designed to handle proposed truck traffic.
6. *The conditional use shall conform to all applicable regulations of the district in which it is located.*
 - a. The application lacks evidence showing that the proposal meets wetland, shoreland, floodplain, and stormwater requirements.
7. *That the conditional use is consistent with the adopted town and county comprehensive plans.*
 - a. The proposed use after the extraction phase appears to conflict with the intended uses for the property as noted in the City Comprehensive Plan.
8. *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).*
 - Not applicable.

Please provide the additional information as noted above and provide an explanation on how the additional materials or changes to the proposal will meet the eight (8) standards of obtaining a conditional use permit.

Respectfully,

Daniel Everson
Assistant Zoning Administrator
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CC: Town of Verona; City of Verona