

**COMPOSITE REPORT FOR CUP#2338
MAY 10, 2016 ZLR COMMITTEE PUBLIC HEARING
CONDITIONAL USE PERMIT FOR MINERAL EXTRACTION IN THE A-1 EXCLUSIVE DISTRICT
MAZOMANIE SECTION 10**



PROPOSAL SUMMARY & BACKGROUND

- **Agent/Applicant:** Yahara Materials, Inc.
- **Owner:** Halfway Prairie LLC
- **Size, zoning, use of existing parcel:** The parcels total 59.8 acres zoned A-1 Exclusive, with a CUP for mineral extraction (CUP#1721).
- **Rezone/CUP desired:** The applicant wishes to expand and continue the existing mineral extraction operation that was permitted as CUP #1721. The proposed CUP area is the same as that of CUP#1721. The total permit period requested is 15 years. This proposed CUP area is part of a larger operation that covers sites with legal non-conforming (NC) status. The NC portions of the operation are west and southwest of the subject property.
- **History:** CUP #1721 became effective on July 24, 2001 with permit period of 15 years, resulting in an expiration date of July 24, 2016.
- **Other county permits:** An erosion control (Chapter 14) and nonmetallic mining reclamation permit (Chapter 74) are required. There are reclamation and erosion control/storm water plans

and permits associated with this operation.

- **Town Action:** On March 30, 2016, the town of Mazomanie Board approved CUP#2338 as proposed, including the 26 conditions. Those conditions are reflected in the list of recommended conditions found at the end of this report.

DANE COUNTY PLANNING STAFF COMMENTS

Overview: This petition is for continuation and expansion of an existing mineral extraction operation. This request is for a CUP area covering 59.8 acres for a period of 15 years. The applicant included a list of 26 conditions as part of the proposal. These were based on conditions from the previous permit (CUP 1721), updated to meet current conditions and town feedback.

Surrounding Area Characteristics: The surrounding area is a mixture of agricultural and scattered residential uses.

Reclamation Plan: A reclamation plan and reclamation permit (part of reclamation permit #121) already exist for this operation. This permit is based upon a reclamation plan that identifies agriculture as it's future land use. Although the reclamation plan will be updated, the planned end land use continues to be agriculture.

Town of Mazomanie Comprehensive Plan:

Planned Land Use Map: The subject property is in the "Upper Agricultural Terrace" area in the *Agricultural Preservation* land use district. The plan describes this district as follows: "This area is the broad, level to gently rolling upper plain of the Wisconsin River, characterized by good to prime farmland and active farming, including dairying and farmsteads. This area surrounds the Village of Mazomanie and has several residential subdivisions. Planning issues include future expansion of the Village and potential development along USH 14".

The town comprehensive plan also includes language about mineral extraction as part of the Economic Development element of the Plan, as follows:

There are limited areas in the Town used for nonmetallic mineral extraction (e.g., gravel pits, sand quarries). The Town will likely receive requests for new or expanded extraction sites over the planning period. Such uses are appropriate in the Agricultural Preservation Areas shown on Map 6 provided that they are properly sited and reclaimed per state and county rules. Extraction activities are not generally compatible with residential uses and should be directed away from clusters of home sites or planned residential areas. Nonmetallic mineral extraction activities are prohibited in the Lower Wisconsin State Riverway areas as shown on Map 6.

This Plan advocates the following requirements when the Town and County consider applications for conditional use permits or rezonings for non-metallic mineral extraction sites:

- The petitioner shall submit directly to the Town copies of all project descriptions, site/operations plans, and reclamation plans required by the County Planning and Development Department.
- The Town shall provide for full public review of the proposal.

When reviewing these types of applications, the Town will require the same restrictions as required by Dane County. In addition to County regulations, the Town may recommend other restrictions or requirements if deemed appropriate for the site or situation.

Compliance with County Ordinances: Mineral extraction operations must meet requirements found in Chapters 10, 14 and 74 of the Dane County Code of Ordinances. The applicant submitted all of the required information as described in **10.191(2)**. The applicant has submitted an erosion control plan/storm water management plan as required by Chapter 14 of the Dane County Code of Ordinances (DCCO), and a reclamation plan as required by Chapter 74. Chapter 10 provides six standards for granting a CUP in Section **10.255(2)(h)**, 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.

10.123(5) Standards for conditional uses in the A-1 Exclusive Agriculture zoning district.

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.

- (a) The use and its location in the A-1 Exclusive Agriculture zoning district are consistent with the purposes of the district.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

POTENTIAL CONDITIONS OF APPROVAL FOR CUP 2338:

Conditions are based on those the ZLR commonly applies to permits for mineral extraction operations, customized to the particular site and operation, including conditions proposed by the applicant and reviewed by the town. The following list reflects the conditions proposed by the applicant and approved by the town of Mazomanie. They are in keeping with the county's standard set of conditions.

1. The applicant shall submit an erosion control plan covering the entire CUP area for the duration of operations that meets with the approval of the Dane County Land Conservation Department, and receive approval of an erosion control permit from the Dane County Planning and Development Department before extraction may commence.
2. The applicant shall apply for and receive all other required local, state and federal permits before extraction commences and proof shall be on file with both the Dane County Planning and Development Department and the Town of Mazomanie.
3. There shall be no use of any Town of Mazomanie roads by any hauler either for approaching or leaving the subject site, except to deliver material as a final destination to a site in the Town of Mazomanie or by permission of the Mazomanie Town Board.
4. The total disturbed area of the site shall not exceed thirty (30) acres at one time, excluding berms.
5. Operator will create an 10 foot landscaped earthen berm around the opened area of the pit, and

along STH "78" the berm will have a row of deciduous trees of appropriate type, spacing and height as determined by the Planning and Development Department for the purpose of mitigating the noise and for visual and safety concerns of the neighbors. The berm shall be seeded and maintained in a sightly condition and mowed periodically to prevent weed infestation.

6. The operator shall develop and operate the site according to the proposed site and operations plan dated February 1, 2016; and the reclamation plan (sheets 4 and 5 of 5 Wipperfurth/Beuthin Pit Reclamation Plan) dated April 30, 2014.
7. Operations shall cease no later than fifteen (15) years from the date of CUP approval unless review shows that an extension is warranted. For the duration of this CUP, operation is exclusive to Yahara Materials, Inc. A new CUP will need to be approved in order for a different operator to mine this site.
8. Reclamation shall meet requirements as defined in NR135 and Chapter 74 of the Dane County Code of Ordinances (DCCO). The property shall be reclaimed to farming and agricultural uses. The operator agrees to stockpile the topsoil separately from the overburden and to replace the overburden and topsoil in the proper sequence. Final reclamation of the site shall be completed within twelve (12) months of the expiration of the CUP.
9. The first 150' of the driveway accessing the subject site shall be paved. 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.
10. The operator and all haulers shall access the CUP site only through the proposed entry indicated on the site plan.
11. The access to the driveway shall have gates securely locked when the extraction site is not in operation. The site shall be signed "NO TRESPASSING."
12. Hours of operation shall be as follows:
6:00 am to 6:00 pm Monday – Friday, and 6:00 a.m. to 2:00 p.m. on Saturdays.
There shall be no operations on Sundays or any legal holidays. These hours of operation may be expanded with the approval of the Town Board if the operations are being solely performed for a public contract of unusual conditions. There shall be no Saturday operation unless approved by the Mazomanie Town Board Chairman and if approved the hours of operation shall be 7:00 A.M. to 12:00 P.M.
13. The only installed/permanent lighting on the subject property will be an exterior scale house light.
14. There shall be no blasting or drilling on the site.
15. There shall be a safety fence around the perimeter of the extraction area at all times. This fence shall be comprised of a basic 39"-48" woven wire with two barbs farm fence with posts placed 12' apart and "NO TRESPASSING" signs at regular intervals. No extraction activities shall take place until after the fence is in place.
16. The operator shall use water spray bars in the crushing process and screening process to eliminate dust and fugitive emissions. The operator shall spray the site with water when needed to control dust. The use of spray bars is not required when the temperature is below freezing. Verified complaints from neighboring landowners of blowing dust and sand will result in immediate corrective actions by Yahara Materials. Yahara Materials agrees to abide by all DNR air quality standards.
17. There shall be no bulk fuel stored on site. In cases where the operator wishes to have bulk fuel stored on site, the operator should indicate why and provide and receive approval from the Dane County Land Conservation Department of a spill containment plan that meets state

regulations prior to storing bulk fuel on the site.

18. All excavation equipment, plants, and vehicles shall be fueled, stored, serviced, and repaired on lands five (5) feet above highest water table elevation to prevent against groundwater contamination from leaks or spills.
19. The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed current industry standards for noise abatement.
20. The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076.
21. A hydrological water table study shall be performed before any disturbance at the site. This study must show the underground water movements, particularly in relation to the landfill site nearby and any residences that may be in the path of underground water movement, and indicate the maximum safe operating depth for the gravel pit. (This study has already been provided and is on file).
22. The mineral extraction site shall be designed so that trucks will maintain a forward direction while entering, loading and leaving whenever possible.
23. Trucks shall not use engine brakes (jake brakes) in the vicinity of the mineral extraction site.
24. Dane County and the Town of Mazomanie 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 two (2) years after reclamation is complete. Copies of appropriate insurance policies shall be filed with the Town of Mazomanie.
25. The zoning administrator or designee may enter the premises of the operation to inspect those premises with reasonable advance notice to ascertain compliance with these conditions or to investigate an alleged violation. Anyone inspecting the property will be escorted by Yahara Materials and will comply with all safety regulations.
26. If any portion of these conditions is held invalid the remainder of these conditions and provisions shall not be affected thereby.

(Questions? Contact Pam Andros – 261-9780)