

Staff Report

Review and Possible revocation of Conditional Use Permit # 2103



HISTORY

The property at 3522 Oak Park Road has been used for the extraction of non-metallic mineral (limestone) since 1981. One mineral extraction permit and four (4) conditional use permits have been issued over the years to allow the quarrying activity to exist on the property. The current conditional use permit, CUP #2103 was issued in 2009 to B.R. Amon & Sons for the quarry operation on the former Mandt property. The permit was approved with 14 conditions.

Since that time, the property was purchased by Jon Halverson (Oak Park Quarry, LLC) in 2010. Mr. Halverson has continued the quarrying activity on the property as allowed under CUP #2103.

PROCESS

Non-metallic mineral extraction operations may be allowed in certain zoning districts under a conditional use permit. In order for the conditional use permit to be granted, the Zoning and Land Regulation Committee must find that all of the six standards as listed in Dane County Code of Ordinances Section 10.255 must be met. The standards 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;
6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

CUP #2103

In March of 2009, the Dane County Zoning and Land Regulation Committee held a public hearing regarding conditional permit #2103. The request was made due to the previous conditional use permit, CUP #1757, was about to expire. There was no public opposition with regards to the continuation of the quarrying activity on the property. The Town of Deerfield Board voted unanimously in favor of the issuance of the permit. As part of the approval, 14 conditions were placed on the in order to satisfy the standards for obtaining a conditional use permit. The conditions of CUP # 2103 are as follows:

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. Reclamation shall meet the requirements of Chapter 74 of the Dane County Code of Ordinances.
3. The applicant shall apply for and receive all other required local, state and federal permits.
4. Operations shall cease no later than 10 (ten) years from the date of CUP approval.
5. The driveway accessing the subject site shall be paved for a distance of at least 100 feet from the public road. 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.
6. The haul route will be Oak Park Road South to USH 12.
7. 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."
8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m., Monday through Friday, and from 7:00 a.m. to 1:00 p.m. on Saturdays. No operations of any kind shall take place on Sundays or legal holidays.

9. There shall be a safety fence around the entire extraction area at all times. That safety fence shall be a minimum of 5 feet in height with a single strand of barbed wire on the top.
10. No water shall be pumped or otherwise removed from the site.
11. There shall be no bulk fuel stored on site
12. The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed then current industry standards for noise abatement.
13. The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076.
14. 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.

Concerns

Over the last year, the Zoning Division has been receiving complaints regarding the operation of the quarry. In July of 2014, the Town Board expressed their concerns regarding potential violations of the conditions of approval for the quarry. Also, the Zoning Division has received several complaints from neighboring residents and a local church representative regarding concerns on the intensity of blasting at the quarry operation.

STAFF REVIEW

County staff has conducted a review of the conditions of approval for Conditional Use Permit #2103. The results of each condition of approval are as follows:

Condition #1: The landowner is in compliance with erosion control requirements. Dane County Erosion Control Permit # EC2015-0145 is on file with Dane County Zoning Division.

Condition #2: The owner is in compliance with Reclamation requirements. The owner of the property has accepted the responsibilities for reclaiming the land when he purchased the property. Reclamation permit #74-2 and financial assurance is on file with the Dane County Zoning Division.

Condition #3: The owner of the property is not in compliance with this condition. The land owner has not obtained a Town of Deerfield Blasting License and/or Mineral Extraction License. All State and County permits/licenses have been obtained. See attached permit review sheet.

Condition #4: The owner is in compliance. The conditional use permit for the operation was approved in 2009. The operation may continue until March 24, 2019.

Condition #5: The main driveway is in compliance with the condition. A new driveway has been installed on the property that is not in conformance with the condition requirements. The new driveway does not fall within the boundaries of the CUP, it reflected on an approved operation plan or reclamation plan, and it is not paved at least 100 feet from the public road. The landowner has been instructed not to use the driveway for mineral extraction purposes.

Condition #6: The current haul route is in compliance with the condition.

Condition #7: The access point is in compliance with the condition.

Condition #8: The quarry is currently in compliance with the hours of operation. In 2014, complaints were filed by the Deerfield Town Board and neighbors with regards to starting operations prior to 6:00am. Since that time, the hours of operation have been followed.

Condition #9: A site inspection was conducted this October. The extraction area was fenced and was found to be in compliance with the safety fencing requirements.

Condition #10: The landowner is in compliance with the condition. The property is internally drained and no water leaves or is removed from the site.

Condition #11: The landowner is in compliance with the condition. Portable fuel containers are used for the equipment. No bulk fuel is being stored on site.

Condition #12: The operator appears to be in compliance with the muffler system requirements. However, all equipment and trucks appear to be owned by sub-contractors working at the site.

Condition #13: The landowner appears to be in compliance with particulate emissions. Rock ledge quarries sites that produce less than 300,000 tons on a rolling annual basis are exempt from air emission standards. The portable crushers that were used on site appear to be in compliance with emission standards.

Condition #14: The landowner allows inspections to be conducted on the site when requested. Previous violations observed have been corrected in a timely manner.

REVOCATION

Revocation of a conditional use permit. If the zoning committee finds that the standards in subsection (2)(h) and the conditions stipulated therein are not being complied with, the zoning committee, after a public hearing as provided in subs. (2)(f) and (g), may revoke the conditional use permit. Appeals from the action of the zoning committee may be as provided in sub. (2)(j).

Permit Review Sheet

Local Permit – Town of Deerfield

Blasting and Mineral Extraction licenses

The Town of Deerfield has recently adopted ordinances for the regulation of Blasting and the Non-metallic Mining Operations. County Staff has requested an update concerning the submittal and/or processing of licenses for the Oak Park Quarry.

On November 30, 2015, the Town Clerk responded to the request. The Town of Deerfield mailed the applications to the owner of Oak Park Quarry, Ahlgrimm Explosives, and the owner's attorney. As of that date, the Town of Deerfield is not in receipt of an application.

Driveway permit

A driveway permit was issued by the Town of Deerfield on July 21, 2014 for installation of an alternative route to the quarry. The new driveway allows the quarry to be accessed further south onto Oak Park Road. However, the driveway is outside the limits of the CUP and therefore can not be used as part of any mineral extraction uses. The new driveway may only be used for agricultural purposes until such time as the boundaries of the conditional use permit are amended.

State of Wisconsin Permits

Stormwater /Wastewater Permit

The Wisconsin DNR regulates the discharge of pollutants to waters of the state through the Wisconsin Pollutant Discharge Elimination System (WPDES) program and the Storm water Management program. In 2013, a letter of intent for this mineral extraction site was reviewed by the DNR and found to be acceptable. See attached Nonmetallic Mining Operations permit WI-0046515-5.

Air Emissions Permit

The Wisconsin DNR issues general operation permit for rock ledge quarries that produce over 300,000 tons of material over an annual rolling basis. The Oak Park Quarry falls under this requirement and is exempt from an operations permit.

Portable crushing equipment used on the site requires an air emissions permit. It appears that the sub-contractor used to crush the aggregate has air emission permits for all of their portable crushers.

Blasting

The Wisconsin Department of Safety and Professional Services licenses blasters under their explosives program. Ahlgrim Explosives Company is being used as the blaster for the Oak Park Quarry and currently holds the necessary licenses to conduct the blasting activity.

There have been concerns regarding the intensity of the blasting occurring at the Oak Park Quarry. The Wisconsin SPS reviewed the blasting reports for the Oak Park Quarry over the last few months and found that the blasting occurring at the Oak Park Quarry is in compliance with the Wisconsin Administrative Code SPS 307. See attached letter from Greg DeMicelli.

Dane County Permits

Reclamation Plan

- BR Amon & Sons submitted a reclamation plan on January 2, 2002. Aicardo Roa with the Land Conservation office approved the plan on May 15, 2002. The reclamation plan does include some basic erosion control measures and the lands are to be returned back to an agricultural use when mining has ceased. On December 14, 2010, Jon Halverson signed a certification of permit transfer and assumes all responsibilities of the approved reclamation plan.

Conditional use Permit for Non-metallic Mineral Extraction

Conditional Use Permit #2103 was issued on March 24, 2009 for the non-metallic mining operation. The permit will expire on March 24, 2019. The permit includes the standard conditions for mineral extraction operations which include hours of operations and State requirements.