



Staff Report

Zoning and Land Regulation Committee

Public Hearing: **February 24, 2015**

Zoning Amendment:
None

Acres: 30, 15
Survey Req. no

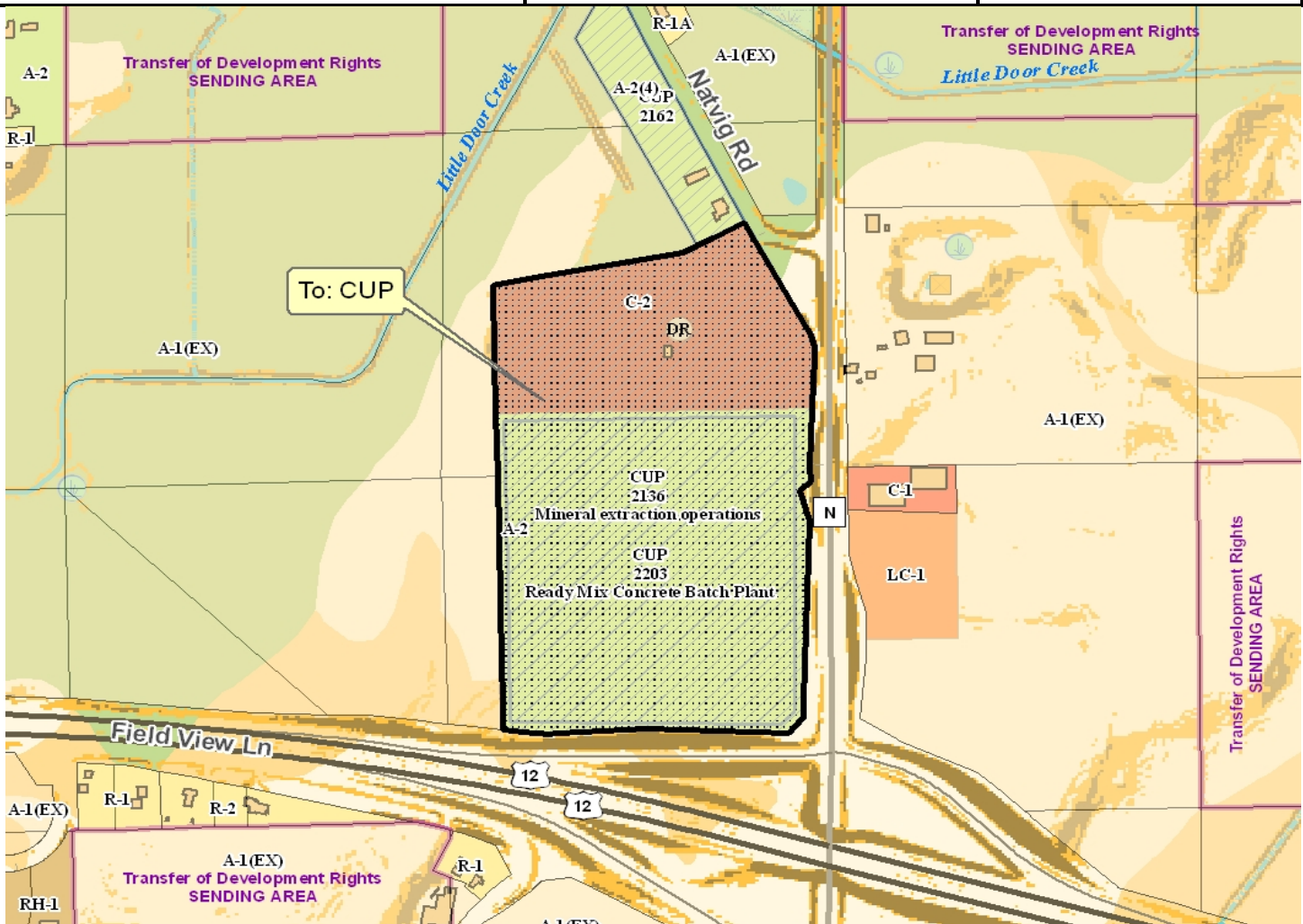
Reason:
Continuation of an existing mineral extraction site

Petition: **CUP 2300**

Town/sect:
Cottage Grove Section 28

Applicant
Huston Living TR, Dale R & Joan M

Location:
3355 County Highway N



PROPOSAL SUMMARY & BACKGROUND

Agent/Applicant: Dennis Richardson, R.G. Huston Co. Inc.

Size, zoning, use of existing parcel: The total CUP area is approximately 45 acres in size, with 15 acres in C-2 and the remaining 30 acres in A2.

Rezone/CUP desired: The applicant wishes to extend the permitted period of the current sand and gravel mineral extraction operation by replacing CUP#2136 which is set to expire this spring.

History: CUP #2136, became effective on May 11, 2010 and will expire on May 11, 2015. CUP #2136 replaced CUP#2003 that became effective on October 24, 2006 and expired on 9/24/2011.

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.

County Highways comments: CTH N is a controlled access highway. The access is from the Town Road. No significant increase of traffic expected due to rezone.

Town Action: The town of Cottage Grove plan commission and board voted unanimously in favor of CUP#2300 with one condition. The condition is as follows:

“Same Conditions as current CUP 2136, EXCEPT that condition #15 regarding no water leaving the site should be changed to state that no high-capacity wells are allowed on the property, since it is thought that was the original intent of the condition, and it may be unintentionally restricting the practice of using water from the retention pond to water the driveway”.

DANE COUNTY PLANNING STAFF COMMENTS

Overview: This petition is for continuation of an existing mineral extraction operation. This request is for an area covering 45 acres for a period of 10 years. The applicant included a list of 16 conditions as part of the proposal. These were based on conditions from previous permits (CUP 2136 and 2003), and feedback from the town of Cottage Grove. These conditions assist the proposal in meeting the six standards of a Conditional Use Permit.

Surrounding Area Characteristics: The surrounding area is a mixture of agricultural and scattered residential uses. The subject property is located at the intersection of US Hwy 12&18 and County Hwy N.

Reclamation Plan: A reclamation plan and reclamation permit (permit #51) already exist for this operation. This permit is based upon a reclamation plan that identifies agriculture as its future land use. Because in the current proposal the applicant states that, *“when completed [the site] will be restored as agricultural land unless sold for commercial use”*, amendment of the reclamation plan may be required at a future date.

Town Plan: The *Town of Cottage Grove Comprehensive Plan* identifies the subject property in the Commercial land use district. The plan states, *“this district is intended to accommodate commercial activities that primarily serve people in the immediate area and provide employment opportunities for Town residents”*. It references a plan exhibit for a list of allowable uses in the commercial district. These include “professional offices, retail, overnight accommodations, gas stations, vehicular service centers and the like”. In addition a “Commercial - Limited” designation lists “distribution centers, light industrial (e.g. machine shops), rental businesses, agribusiness, recreation activities, veterinary services, pet care, utility services, equipment repair, bottling plants, fertilizer mixing or blending plants, sale of new/used recreational, motor vehicle, or contractor’s machinery and equipment and the like”.

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.

Proposed Conditional Use Permit # 2300

In order for an applicant to obtain a Conditional Use Permit, the Zoning and Land Regulation Committee must find that all of the following standards are met for the proposed land use:

1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.
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.
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.
4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made; and
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.

Staff has prepared a list of conditions that may be used in order to meet the six standards as listed above to allow the conditional use on the property. 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.

Please see list of potential conditions on the following page.

POTENTIAL CONDITIONS OF APPROVAL FOR CUP 2136

The following conditions are based on those the ZLR commonly apply to permits for mineral extraction operations, customized to this particular site and operation, including conditions proposed by the applicant and reviewed and approved by the town. They 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. The operator shall develop and operate the site according to the submitted site and operations plan.
3. Operations shall cease no later than ten (10) years from the date of issuance of the conditional use permit.
4. Reclamation shall be completed within one year after operations have ceased, and shall be phased according to the operations and reclamation plan.
5. Reclamation shall meet requirements of Chapter 74 of the Dane County Code of Ordinances (DCCO).
6. The operator shall post and maintain at all times a bond or irrevocable letter of credit in favor of Dane County, as required by Chapter 74 of the DCCO, to ensure compliance with the reclamation plan.
7. Access with be paved a minimum of 150 feet.
8. Hours of operations, except for crushing, screening, and washing shall be from 6 a.m. to 6 p.m., Monday through Friday, and from 8 a.m. to 3 p.m. on Saturday. Crushing, screening and washing shall not occur before 7 a.m. on Monday through Friday and 8 a.m. on Saturday. No operations of any kind shall take place on Sundays or legal holidays. Hours may be extended on a per need basis by approval of the Town Chair/Board, with written notification being given to Dane County Zoning.
9. Trucks shall exit the site onto Natvig Road where they can then access CTH N.
10. The existing right-of-way fence, located to the south and east of the property, shall be maintained.
11. The site shall be signed "no trespassing". When the extraction site is not open, the access road onto CTH N shall have gates securely locked.
12. There shall be no blasting or drilling on the site unless approved by the Township permitting process, and operator provides written evidence of town permit to Dane County Zoning.
13. There shall be no bulk fuel stored on the site.
14. There shall be no high capacity wells on site unless approved through appropriate WisDNR permitting process.
15. No mining shall take place within 300 feet of Little Door Creek.
16. Excavations below the grade of an abutting public street or highway shall be set back from the street or highway a distance at least equal to the distance that is required for buildings or structures under s. 10.17. (42 feet from Right of Way Line of CTH N and US HWY 12/18).
17. No mining or alteration of the natural grade shall take place within 5 feet of any property boundary. Compliance with the provisions of section 10.04(6) *Topography Near Property Lines* is required.
18. The operator shall require all trucks, excavation, crushing, screening and washing equipment to have muffler systems which meet or exceed then current industry standards for noise abatement.
19. The applicant shall meet DNR standards for particulate emissions as described in NR 415.075, Wisconsin Administrative Code.
20. 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.