

DANE COUNTY  
**PLANNING & DEVELOPMENT**

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October 5, 2016

Gryffindor, LLC  
4705 County Highway M  
Middleton, WI 53562

**RE: Denial of Conditional Use Application #2359**

Dear Mr. DeBeck,

Please be informed that the Cottage Grove Town Board has denied your conditional use permit application #2359 to allow a mineral extraction operation in the SW1/4 of Section 31 in the Town of Cottage Grove. Pursuant to Dane County Code of Ordinances Section 10.255(2)(c)2, no further action is required on the petition. The petition is deemed denied.

You have a right to appeal the decision to the County Board within 20 days of the date of this letter under Dane County Code of Ordinances Section 10.255(j).

If you choose to pursue a future application for the property, a new application will need to be filed with the Dane County Zoning Division within the limitations of Dane County Code of Ordinances Section 10.255(k). If you have questions or concerns, please call me directly at (608) 266-9078.

Respectfully,

Roger W. Lane III  
Dane County Zoning Administrator

Cc: Town of Cottage Grove Clerk

Attachment





ATTACHMENT A  
TO TOWN OF COTTAGE GROVE CUP ACTION REPORT 02359 GRYFFINDOR

The minutes from the Plan Commission Meeting dated August 24, 2016 were provided to the Town Board for review prior to the September 6, 2016 meeting. The Town Board not only referenced the Plan Commission considerations in the Town Board's deliberation, but also expressly adopted the Plan Commission's finding that the standards required for issuance of a conditional use permit were not met.

The CUP was denied unanimously by the Plan Commission and the Town Board. The standards that were not satisfied, as well as specific findings therefore, are summarized below and shall be included in the minutes by reference and provided to Dane County as an attachment to the CUP Action Report:

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. FINDING: NOT SATISFIED, for the following reasons:
  - a. The Plan Commission determined that establishment, maintenance and operation of the sand pit as presented would be detrimental to or endanger public health, safety and welfare.
  - b. The applicant was questioned as to whether there was any indication that there was sand or other usable material on the site. The applicant thought there might be, but did not know and had no particular information confirming investigation of the site as a sand pit. The Plan Commission found that the proposed conditional use was far too speculative and that the application appeared to be a pretext for use of the area as a crushing and transfer site. The Plan Commission balanced the lack of evidence that the resource material exists on the proposed site, the existence of numerous other similar sites in the area, and the adverse impacts at the proposed site and concluded that, while there was almost no benefit or need for use of the proposed site as a sand pit, issuing a CUP for the proposed use would be detrimental to public health, comfort and welfare.
  - c. The public interest in safe access to STH 12-18 from the county road adjacent to the proposed sand pit was also considered. Trucks would access the proposed sand pit from STH 12-18 to a county road to a town road. The town road could not withstand loaded truck traffic. The applicant agreed that he would install a new town road between the proposed sand pit and the county road. The county road then connects to an at-grade crossing at STH 12-18. This raised two additional public safety concerns. First, residents provided anecdotal evidence as to the impact of these trucks on the county road and increased traffic flow on the county road. Second, residents raised concerns as to how this type of increased truck traffic would affect the at-grade crossing onto STH 12-18. The Plan Commission found that the proposed use would increase truck traffic considerably and would increase hazards at the at-grade entrance to STH 12-18. The proposed use would negatively affect public safety. The applicant was unwilling to limit the number of trips from the proposed site. Trips at the low end of the range listed in the application was found to be detrimental to public safety and at the high end was found to endanger public safety. The applicant and Plan Commission agreed that access directly to STH 12-18 would not be attainable.
  - d. Concerns were raised regarding dust control, particularly during crushing and transfer of materials. The applicant indicated that there was no source of water on the site to use for dust control, but stated that he would bring in water trucks as needed or use stormwater that accumulated in retainage areas. Without water on site there would be delays in bringing in a water truck to control dust, and allowing unplanned retainage areas to access surface water would mean mosquitoes would breed. The Plan Commission concluded that the approach

presented was rather haphazard and had too much potential for detrimental effects on public health.


- e. The applicant agreed to berm portions of the site but did not agree to fence it. The Plan Commission found that the site could easily become an attractive nuisance, and found that management of the site as proposed would be detrimental to public health, safety and 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. FINDING: NOT SATISFIED, for the following reasons:
- a. A resident adjacent to the proposed site explained that he had cultivated trees for many years as a cash crop, described stormwater patterns and indicated that the additional drainage from the proposed sand pit would increase water to his land and cause harm to his trees. The applicant presented no stormwater drainage plan to defeat the resident's assertion. The Plan Commission concluded that storm water runoff could foreseeably harm the value of the trees as a cash crop.
  - b. As set forth in #1 above, without fencing or some type of enclosure or an on-site caretaker, the site could become an attractive nuisance thereby diminishing public safety and adversely affecting adjacent properties.
  - c. As set forth in #1 above, increased traffic and lack of direct access to STH 12-18 would foreseeably diminish use, value and enjoyment of adjacent properties who must also use the county road to access STH 12-18.
  - d. As set forth #1 above, dust from the crushing and transfer of materials would diminish use, value and enjoyment of adjacent properties.

Approved by the Town Board to be included in the minutes of the Town Board meeting held on September 6, 2016.

TOWN OF COTTAGE GROVE

  
Kris Hampton, Town Chair

Attested by:

  
Kim Banigan, Town Clerk