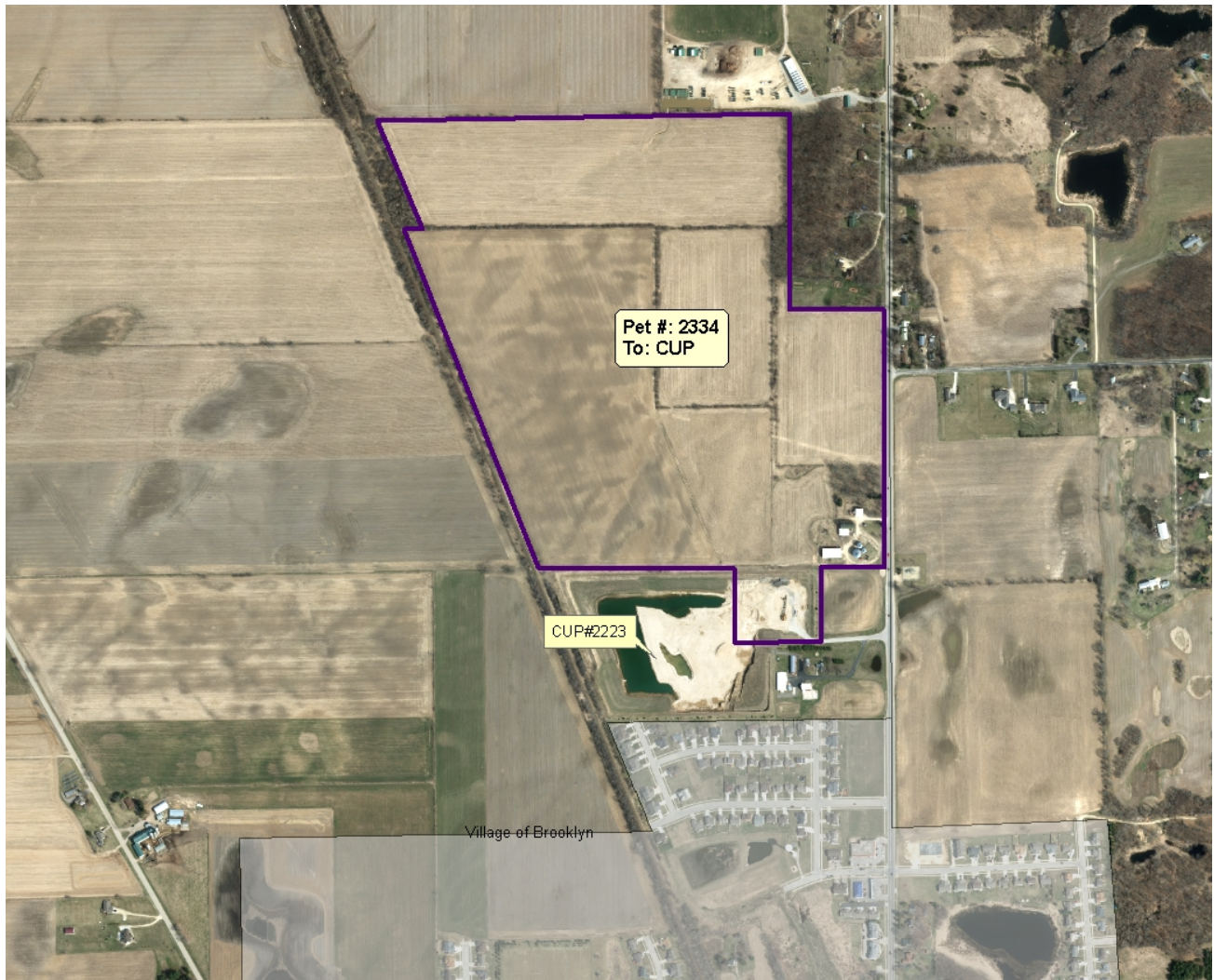


**COMPOSITE REPORT FOR CUP#2334  
MARCH 22, 2016 ZLR COMMITTEE PUBLIC HEARING  
CONDITIONAL USE PERMIT FOR MINERAL EXTRACTION IN THE A-1 Ex & A-2 DISTRICT  
OREGON SECTION 36**



**PROPOSAL SUMMARY & BACKGROUND**

- **Agent/Applicant:** Payne & Dolan, Inc.
- **Owner:** Wingra Real Estate LLC, and Klahn Revocable Trust
- **Size, zoning, use of existing parcel:** The parcels total 143.3 acres, 138.3 of which is zoned A-1 Exclusive, and 4.9 zoned A-2 with a CUP for mineral extraction (CUP#2223).
- **Rezone/CUP desired:** The applicant wishes to continue and expand an existing mineral extraction and processing operation that was permitted as CUP #2223 (often referred to as the "Klahn site"). This proposed CUP covers an approximate 5 acres of the existing Klahn site operation, and will extend northward into the Wingra LLC property. The total permit period requested is 30 years.
- **History:** CUP #1916 became effective on November 9, 2004 with permit period of 10 years, and was renewed via CUP #2223 which became effective 12/11/20102 and is set to expire December 31, 2024. The Wingra Real Estate LLC property is currently registered as a

marketable nonmetallic mineral deposit, via Subchapter VI of Chapter 74 of the DCCO.

- **Other county permits:** An erosion control (Chapter 14) and nonmetallic mining reclamation permit (Chapter 74) are required. There are submitted reclamation and erosion control/storm water plans associated with this operation.
- **Town Action:** On March 1, 2016, the town of Oregon Planning Commission (7:0) and Town Board (5:0) approved CUP#2334 as proposed, including the conditions. Those conditions are incorporated 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. The proposed extraction operation is of sand and gravel – no blasting or drilling is involved. The request is for a CUP area covering 143.3 acres for a period of 30 years. The 5 acres of A-2 property that will be incorporated into CUP #2334, will serve as a point of access and continuation of some facets of the existing operation that will be expanding onto the Wingra LLC property. The remainder of the CUP #2223 (“Klahn site”) will be reclaimed. The applicant included a list of 24 conditions as part of the proposal.

Initial site development includes fencing and extensive berming. The mining direction will work north to south, with mining activity including crushing, draglining (wet operation), and other extractive operations. Final processing will include finish crushing, screening, washing, stockpiling and product loading.

**Surrounding Area Characteristics:** The surrounding area is a mixture of agricultural and residential uses, including one subdivision located directly south of the existing operation. It is also close to the Village of Brooklyn municipal boundary.

**Reclamation Plan:** A reclamation plan was submitted for this site. Because the operation includes an underwater extraction area, the reclaimed land will include a water feature. The planned future land use is agriculture.

### **Town of Oregon Comprehensive Plan:**

**Planned Land Use Map:** The subject property is in the *Agricultural Preservation Area* planned land use district in the Town of Oregon Comprehensive Plan. The overall goal for this area is preservation of productive agriculture and preventing land uses that conflict with agriculture. Mineral extraction was identified in the list of lands to be included in the agricultural preservation category, stating “Mineral Extraction uses must be within an agriculturally planned and zoned area to be considered for approval”.

**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 2334:**

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 Oregon, one of which (#4) that was amended by county staff.

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 applicant shall apply for and receive all other required local, state and federal permits.
3. The operator shall develop and operate the site according to the site/operations and phasing plan dated January 21, 2016.
4. Operations shall cease no later than thirty (30) years from the date of the CUP approval. For the duration of this CUP, primary operation is exclusive to Payne & Dolan, Inc., and Payne & Dolan will perform and/or direct all operations on the site.
5. Reclamation shall meet the requirements of Chapter 74 of the Dane County Code of Ordinances.
6. Reclamation must be completed within 12 months of the termination of the CUP.
7. The driveway accessing the 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.
8. The operator and all haulers shall access the CUP site only through those points designated as entrances on the site/operations plan dated January 21, 2016.
9. 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".

10. Hours of mineral extraction shall be from 6:00 AM to 7:00 PM, Monday through Friday and 6:00 AM to 3:00 PM on Saturdays. No operations of any kind shall take place on Sundays or the following legal holidays: New Years Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day, Christmas Eve or Christmas Day. Maintenance and repairs may occur outside of the aforementioned operating hours. Trucking hours will be from 7:00 AM to 6:00 PM Monday through Friday and 7:00 AM to 3:00 PM on Saturdays.
11. There shall be no blasting or drilling on the site.
12. There will be a safety fence around the entire extraction area at all times. That safety fence shall be a minimum of 5 ft. in height with a single strand of barbed wire on top.
13. The operator shall use spray bars (water) in the crushing process to reduce dust. Use of spray bars is not required when the temperature is below freezing. The operator shall spray the site with water if and when needed to control dust.
14. No water shall be pumped or otherwise removed from the site.
15. Bulk fuel may be stored on site but is limited to no more than 1,000 gallons. Fuel must be stored in containment that meets all applicable state and federal regulations. Operator must have a spill prevention plan in place.
16. All excavation equipment, plants and vehicles shall be fueled, stored, serviced, and repaired on lands above three (3) feet in elevation above highest water table elevation to prevent against groundwater contamination from leaks or spills.
17. The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed current industry standards for noise abatement.
18. The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076.
19. Applicant shall provide claims procedures and bond for private water wells within ½ mile of the site.
20. Berms shall be seeded and planted as described in the site/operations plan.
21. No permanent structures shall be erected.
22. Applicant shall conduct and annual review of the site operations with the Town of Oregon during the 4<sup>th</sup> quarter of each year.
23. Dane County and the Town of Oregon shall be listed as additional insureds on the Payne & Dolan, Inc. 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 reclamation is complete.
24. The zoning administrator or designee may enter the premises of the operation to inspect those premises and to ascertain compliance with those 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.
25. All dump trucks hauling aggregate from the site must tarp their loads.

**(Questions? Contact Pam Andros – 261-9780)**