

Staff Report

Review and Possible revocation of Conditional Use Permit # 2159



HISTORY

The property located at 372 Koshkonong Road has been used for the extraction of non-metallic mineral (limestone) since 1996. Two conditional use permits have been issued for the site over the last twenty years to the landowner, Stanley Lien. The first approval, CUP #1262, in 1996 and the current CUP #2159 in 2011. This permit was approved with 18 conditions with an expiration date of 2026.

APPROVAL 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.

APPROVAL OF CUP #2159

In February of 2011, the Dane County Zoning and Land Regulation Committee held a public hearing regarding conditional permit #2159. The request was made due to the previous conditional use permit, CUP #1262, was about to expire. There was no public opposition at the hearing, the ZLR Committee postponed action due to no town action. In March, the Town approved the CUP with 18 conditions and subsequently, the ZLR Committee approved the CUP with the same 18 conditions. The conditions of CUP # 2159 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 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 submitted site and operations plan.
4. Operations shall cease no later than fifteen (15) years from the date of issuance of the conditional use permit.
5. Reclamation shall be completed within one year after operations have ceased, and shall be phased according to the revised operations and reclamation plan.
6. Reclamation shall meet requirements of Chapter 74 of the Dane County Code of Ordinances.
7. All drive aisles shall be either graveled or paved according to revised operations plans, and shall be maintained in a dust free manner in accordance with local, state, and federal regulations.
8. Open excavation area shall not exceed eight (8) acres.
9. Hours of operations shall be limited to 6:00 a.m. to 9:00 p.m. Monday through Friday and 7:00 a.m. to 12:00 p.m. on Saturday. There shall be no Sunday operations. Crushing of stone shall be limited to 6:00 a.m. to 9:00 p.m., Monday through Friday. Crushing shall not be permitted on Saturday, Sunday or legal holidays.
10. There shall be a minimum of an 80 foot setback from all Township roadway right of way lines, and a minimum of a 200 foot setback from all property lines of other owners.
11. There shall be a safety fence around portions of the extraction area that contains high walls and/or steep slopes. That safety fence shall be a minimum of 5 feet in height with a single strand of barbed wire on the top. For areas that are not high walls or steep slopes, during operations, the edges of the extraction area shall be maintained at a slope no greater than 1:1. The site shall be signed "no trespassing".
12. All blasting shall be performed in strict accordance with State of Wisconsin rules and regulations. No explosives shall be stored on the quarry site.
13. The owner/operator shall notify, in writing, the Town of Christiana Clerk, local utility (Wisconsin Power and Light), and residents living within one-quarter mile of the open excavation area of the quarrying activity, the dates of blasting at the quarry. Said notification shall be provided more than 72 hours prior to blasting.
14. 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.
15. 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.
16. The applicant shall meet DNR standards for particulate emissions as described in NR 415.075, Wisconsin Administrative Code.
17. Owner/operator shall maintain liability insurance coverage in the amount of \$5,000,000 and maintained at that level or greater until the quarry is closed or CUP 2159 expires. Proof of insurance shall be submitted annually to the Township and the insurance Township shall be named as an additional insured.
18. The Dane County 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.

COMPLAINT

On April 14, 2016, Zoning Division Staff received a complaint regarding the operation of the quarry. The complaint expressed concerns on the hours of operation seeing truck traffic all hours of the night and the large area that was open to excavation.

COUNTY INSPECTION

A site inspection was conducted on April 15, 2016. The results of the inspection are as follows:

Condition #1: Violation. The berms along Koshkonong Road have not been stabilized to prevent erosion of soil.

Condition #2: In compliance. However, it appears that the site may exceed the threshold for Ledge rock quarries with actual production of more than 25,000 tons per month on a rolling 12 month average. The site may need an air emissions permit for particulate matter per NR 415.

Condition #3: Violation. The safety fencing was not installed around the open area of the quarry and the open area of the quarry exceeded 8 acres.

Condition #4: In compliance. The conditional use permit expires in 2026.

Condition #5: Violation. The reclamation plan on file does not reflect the actual area that has been excavated. A new reclamation plan will need to be submitted for approval.

Condition #6: Violation. The reclamation plan on file does not reflect the actual area that has been excavated. Approximately 12 acres of land needs to be reclaimed in order to meeting the 8-acre open pit allowance.

Condition #7: In compliance. Appropriate drive path has been installed.

Condition #8: Violation. Approximately 20 acres are currently open, 8-acres maximum allowed.

Condition #9: Violation. Operations shall cease at 9:00pm. The operator has been truck during night hours to supply aggregate to the I-39 improvement project.

Condition #10: In compliance. The open area is approximately 200 feet from a residence and 400 feet away from a public road.

Condition #11: Violation. No fence was observed for fall protection along the high wall.

Condition #12: In compliance. No complaints regarding blasting.

Condition #13: Violation. The landowner has not provided blasting information for a year.

Condition #14: Needs to be verified.

Condition #15: In compliance.

Condition #16: Needs to be verified. Ledge rock quarries with actual production of more than 25,000 tons per month on a rolling 12 month average require an air emissions permit for particulate matter per NR 415.

Condition #17: In compliance.

Condition #18: Dane County Zoning Division conducted a site inspection on April 15th and found 8 of the 18 conditions in violation.

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).

Staff Recommendation

County Staff suggests that a public hearing be held on the revocation of CUP #2159 given the amount of conditions being violated. The hearing could be held at the May 24, 2016 ZLR Committee meeting to evaluate the progress being made to bring the site into compliance.

Staff Update

The operator, Biojn Limestone, has been making significant efforts in bringing the property into compliance with the conditions of approval. A safety fence has been installed, portions of the open pit have been reclaimed, the blaster is notifying the Town for blasts, a revised reclamation plan has been prepared and submitted, and a Conditional Use Permit has been submitted to amend the current conditions.