



Department of Planning & Community & Economic Development

Planning Division

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Date: June 12, 2020

To: Pam Andros, AICP, Senior Planner, Dane County Planning & Development

From: Heather Stouder, AICP, Director, City of Madison Planning Division

Subject: CUP 2020-02500: East of 5423 Reiner Road, Section 23, Town of Burke (parcel 0810-242-9000-3)

Dear Ms. Andros:

The City of Madison has reviewed the Conditional Use Permit requesting approval of mineral extraction and/or mineral extraction accessory use for parcel 0810-242-9000-3, and would like to emphasize several concerns to the Zoning and Land Regulation Committee in advance of the Committee's public hearing on June 23, 2020.

1. The proposed use is inconsistent with the Town of Burke's Comprehensive Plan, which calls for "Planned Neighborhood Development" (PND) on the property on the Future Land Use Map. According to page 91 of the Town's Comprehensive Plan, uses appropriate to the PND category are "a carefully planned mix of single-family residential development including some single-family, two-family, and multi-family residential and a mix of non-residential uses such as neighborhood scale commercial, office, parks, and institutional uses." The Town's Comprehensive Plan includes an "Extractive" future land use, which is not mapped for this site.
2. Section 10.101(7)(d) of Dane County Ordinances contains requirements and standards for conditional use permits, and states that all of the conditions must be found to be met. Sec. 10.101(7)(d)1.g. states that one of the requirements is "that the conditional use is consistent with the adopted town and county comprehensive plans." As noted in #1 above, the project does not meet this requirement.
3. Section 10.101(7)(d)1.c. of Dane County Ordinances states that one of the conditions of approval is "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." Zoning for surrounding property includes a parcel zoned Rural Mixed Use to the north and rural residential to the southeast. The property to the southwest is incorrectly noted in the CUP application as a concrete batch plant. That property is zoned Recreational and includes the Burke Town Hall and Burke Town Hall Park. With regard to planned land use, in addition to the fact that the property in question is planned for "Planned Neighborhood Development," other properties to the east, southeast, and south are planned for the same use. From both existing zoning and planned future land use perspectives, the proposed use does not meet this standard.

4. The materials Wolf Paving & Excavating (WPE) have provided to Dane County state that “at WPE’s location at 5423 Reiner Road the Company operates an asphalt plant including the storing of materials needed for production, the recycling of asphalt and concrete materials, and has an existing office and shop building. The existing site which is undersized from an acreage standpoint for ideal operations.” From this description, it appears that WPE’s proposed project is less for extraction, and more to expand its current asphalt plant operation. However, sec. 10.231(3)(d) states that a conditional use is only allowed for asphalt plants or ready-mix concrete plants “for production of material to be used in construction or maintenance of public roads, to be limited in time to project duration.” The requested approval does not appear to be limited to the above specifications. While stockpiling and processing of concrete for the purposes of recycling are allowed as an accessory use to mineral extraction under Section 10.004(99)(a), the request seems to be primarily to support an expansion of the existing asphalt plant to the west. This would seem to make the use less of an accessory to mineral extraction and more of an expansion of the primary use of an asphalt plant, which is classified as a heavy industrial use under 10.004(71)(b).
5. WPE’s “Plan of Operation” portion of their CUP application contains vague information that could result in undue impacts on the surrounding area with little recourse. The City feels that the lack of information provides insufficient information to judge the impacts of the proposed use against the CUP standards. The lack of information could result in unexpected impacts on existing and planned development. For example:
 - a. “Typical” hours of operation would be from 6:00am-7:00pm Monday through Saturday, but “occasional operations would be necessary at night or on weekends.” What is “occasional”? How would this be enforced?
 - b. “All efforts would be made to minimize any noise, dust, soot, or runoff.” What is included in “all efforts”?
 - c. There is no description of what materials will be stored outside, only that “consistent with neighboring operations, materials and production of materials would all occur outdoors.”
 - d. There is no description of anticipated daily traffic, types and weights of vehicles, or potential road improvements needed to accommodate increased traffic.
 - e. The description provided for outdoor lighting and mitigation of light pollution are vague: “Operations will occur primarily during daylight hours. To the extent that operations are required during non-daylight hours, a portable light kit will be used and all efforts will be made to point light away from surrounding neighbors.” What is “primarily” and what is included in “all efforts”? Provision of temporary lighting can result in more severe impacts to surrounding properties because of the portability of the lighting and the lack of a reviewed and approved lighting plan.
6. The proposed site plan does not acknowledge important aspects of the property that includes steep, wooded slopes, which may contain significant trees. These natural features have been included in a recommended open space/community separation area in intergovernmental agreements between the City of Sun Prairie and the City of Madison dating back to 1991. More importantly, these woods and slopes were specifically identified in the Final Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan that became effective on May 4, 2007 as part of an open space/community separation area. Under the terms of the Cooperative Plan, and Exhibits 11 and 12 thereto, this portion of the property was specifically identified as future permanent open space. As noted in Exhibit 11, Sec. A.2.d.i of the Cooperative Plan: “It is

expressly intended that the wooded hill and steep slopes located east of Reiner Road be maintained in an essentially natural state, free not only from urban development, but from intensive recreational uses that would alter its visual character.” Furthermore, Sec. A.2.d.ii notes that any land uses within the future permanent open space “shall be consistent with permanent open space uses as defined in Chapter 5 of the 1990 City of Madison Peripheral Area Development Plan.” The proposed use of the sloped and wooded portions of the property, for stockpiling or extraction, would be contrary to these provisions of the Cooperative Plan and significantly impact the inclusion of this area as part of the open space/community separation area. See the attached map, which overlays the proposed site plan and Exhibit 12 from the Cooperative Plan.

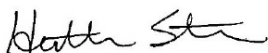
For the above reasons, the City of Madison requests that the Committee deny the requested Conditional Use Permit. If the Committee chooses to approve the application, the City of Madison requests the following conditions:

- Given the proximity to existing and planned residential development, the proposed CUP be limited to a 10-year timeframe.
- The applicant document the existing conditions of the site including topographic contours, a tree survey identifying the type, size and condition of larger trees on the site, and any other important environmental features. Once this information has been established, the applicant revise the CUP application with a site plan that minimizes impacts to these features and is consistent with the open space/community separation area specifically noted in the Cooperative Plan.

Should the permit be granted, the City looks forward to receiving and reviewing the reclamation permit required under sec. 74.122 of Dane County ordinances and further commenting in advance of the hearing required by sec. 74.151. Please include me in any future correspondence concerning the proposed project on this parcel.

Feel free to contact me at 266-4635 or hstouder@cityofmadison.com if you have any questions regarding our concerns.

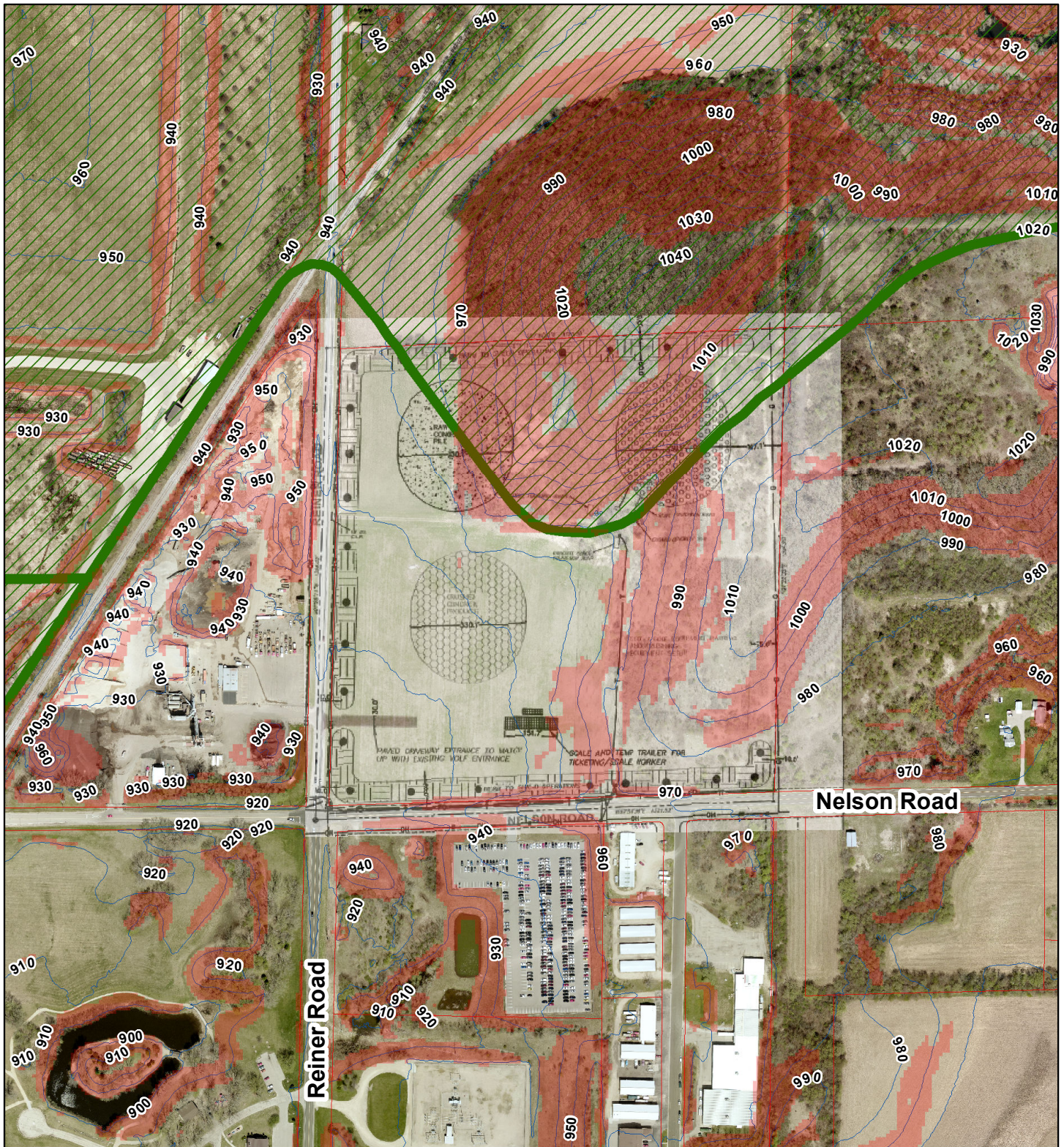
Sincerely,



Heather Stouder, AICP
Director, City of Madison Planning Division

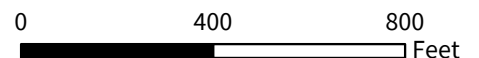
Enclosure: Map of Site

CC (via email): Jerry Bollig, Chair, Dane County Zoning & Land Regulation Committee
Roger Lane, Zoning Administrator, Dane County
Brenda Ayers, Administrator/Clerk/Treasurer, Town of Burke
Satya Rhodes-Conway, Mayor, City of Madison
Leslie Orrantia, Deputy Mayor, City of Madison
Samba Baldeh, District 17 Alder, City of Madison
Ben Zellers, AICP, CNU-A, Planner, City of Madison
Brian Grady, Principal Planner, City of Madison



Proposed Extraction/Asphalt Plant Expansion Site East of 5423 Reiner Road

- $\geq 12\%$ Slope
- Recommended Open Space/Community Separation Area
- Parcel Boundary
- 10 Foot Contour



Sources: City of Madison Planning Division, Dane County, Wolf Paving CUP Submittal

Document Path: \\Gisserver\d\Planning Division\Development Review\Extraterritorial Reviews\2020\Burke_5423 Reiner Road (east of)\SitePlanAnalysis.mxd Date: 6/9/2020