

# Dane County



## Minutes

Tuesday, February 9, 2021

6:30 PM

ZOOM meeting Webinar ID: 858 1974 0959

Virtual meeting

## Zoning & Land Regulation Committee

*Consider:*

*Who benefits? Who is burdened?*

*Who does not have a voice at the table?*

*How can policymakers mitigate unintended consequences?*

The February 9, 2021 Zoning and Land Regulation Committee meeting is being held virtually. The public can access the meeting with the Zoom application or by telephone.

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<https://us02web.zoom.us/j/85819740959>

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If you want to submit a written comment for this meeting, or send handouts for committee members, please send them to [plandev@countyofdane.com](mailto:plandev@countyofdane.com)

**PROCESS TO PROVIDE PUBLIC COMMENT: ANY MEMBERS OF THE PUBLIC WISHING TO REGISTER TO SPEAK ON/SUPPORT/OPPOSE AN AGENDA ITEM MUST REGISTER USING THE LINK ABOVE (even if you plan to attend using your phone).**

Registrations to provide public comment will be accepted until 1 hour prior to the beginning of the meeting.

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## A. Call to Order

Chair Bollig called the meeting to order at 6:31PM.  
Staff present: Allan, Everson, Standing, and Violante  
Youth Governance member present: Baluck Deang

Present 5 - JERRY BOLLIG, STEVEN PETERS, MICHELE DOOLAN, TIM KIEFER, and SARAH SMITH

[2020](#)  
[RPT-758](#)

February 9, 2021 ZLR Registrants

## B. Public comment for any item not listed on the agenda

There were no public comments for items not on the agenda.

## C. Consideration of Minutes

A motion was made by Peters, seconded by Kiefer, to approve the minutes of the January 26, 2021 ZLR Committee public hearing. The motion carried, 4-0 (Doolan abstaining)

Ayes: 4 - BOLLIG,PETERS,KIEFERandSMITH

**Abstain:** 1 - DOOLAN

[2020](#)  
[MIN-420](#)

Minutes of the January 26, 2021 Zoning and Land Regulation Committee meeting

**D. Zoning Map Amendments and Conditional Use Permits from previous meetings**

[11571](#)

PETITION: REZONE 11571  
APPLICANT: REISOP FARMS LLC  
LOCATION: SOUTH OF 5408 LANGER ROAD, SECTION 20, TOWN OF MEDINA  
CHANGE FROM: FP-35 Farmland Preservation District TO RR-4 Rural Residential District, FP-35 Farmland Preservation District TO RR-2 Rural Residential District  
REASON: creating 3 residential lots with a shared access

**A motion was made by Peters, seconded by Doolan, to recommend approval of the zoning petition with the following conditions. The motion carried, 5-0.**

- 1. A deed restriction shall be recorded on the properties to reflect the Town of Medina's animal restrictions.**
- 2. The shared driveway easement shall be shown on the final Certified Survey Map.**
- 3. The approximate location of 100 year floodplain boundary shall be shown on the final Certified Survey Map. All structural development shall occur outside of the environmentally sensitive area.**
- 4. Applicant shall record a shared driveway easement agreement meeting the standards required under section 75.19(8) of the county land division ordinance.**

**Ayes:** 5 - BOLLIG,PETERS,DOOLAN,KIEFERandSMITH

[11621](#)

PETITION: REZONE 11621  
APPLICANT: 4 D FARMS LLC  
LOCATION: 5379 COUNTY HWY V, SECTION 22, TOWN OF VIENNA  
CHANGE FROM: RM-16 Rural Mixed-Use District TO TFR-08 Two Family Residential District  
REASON: separating existing residence (duplex) from the farmland

*In favor: Scott Anderson, Dennis Kelley, Diane Ripp*  
*Opposed: Brent Kelley*

**A motion was made by Kiefer, seconded by Peters, to recommend approval of the zoning petition subject to the following conditions. The motion carried, 5-0.**

- 1. A deed restriction shall be recorded on parcels 0909-221-8560-4, 0909-154-9000-1, and 0909-154-8500-8 to prohibit further residential development on the remaining FP-35 Farmland Preservation zoned land. The housing density rights for the original farm have been exhausted.**
- 2. A deed restriction shall be recorded on the proposed TFR-08 zoned lot prohibiting access to adjoining properties.**
- 3. A note shall be added on the Certified Survey Map for the TFR-08 zoned lot, stating "This property is restricted from providing access to adjoining properties per Dane County Zoning Committee".**

**Ayes:** 5 - BOLLIG,PETERS,DOOLAN,KIEFERandSMITH

[11634](#)

PETITION: REZONE 11634  
APPLICANT: KRANTZ REAL ESTATE LLC  
LOCATION: 2650 N NINE MOUND ROAD, SECTION 16, TOWN OF VERONA  
CHANGE FROM: LC Limited Commercial District TO GC General Commercial District  
REASON: changing zoning district to allow for an additional building to be constructed for an existing electrical contracting business

*In favor: Scott Krantz, Joe Krantz, Tom Mathies*  
*Opposed: None*

**A motion was made by Peters, seconded by Smith, to recommend approval of the zoning petition with the following conditions. The motion carried, 5-0.**

- 1. A deed restriction be recorded on the property to limit the land uses to an electrical/contractor business. The restriction shall limit a maximum of 20 vehicles being parked outside.**
- 2. A site plan, landscaping plan, and lighting plan shall be approved by the Town Board prior to the issuance of a zoning permit for the proposed building.**

**Ayes:** 5 - BOLLIG,PETERS,DOOLAN,KIEFERandSMITH

[11640](#)

PETITION: REZONE 11640  
APPLICANT: DANFORTH REV TR, MARILYN J  
LOCATION: 10317 COUNTY HIGHWAY Y, SECTION 28, TOWN OF  
MAZOMANIE  
CHANGE FROM: RR-4 Rural Residential District TO RR-2 Rural  
Residential District  
REASON: divide an existing residential lot into two lots

*In favor: Jonathan Danforth*  
*Opposed: None*

**A motion was made by Doolan, seconded by Peters, to recommend approval of the zoning petition. The motion carried, 5-0.**

**Ayes:** 5 - BOLLIG,PETERS,DOOLAN,KIEFERandSMITH

[CUP 2510](#)

PETITION: CUP 02510  
APPLICANT: WINGRA REAL ESTATE LLC / PAYNE & DOLAN  
LOCATION: 157 COUNTY HWY MM, SECTION 36, TOWN OF OREGON  
CUP DESCRIPTION: hot-mix asphalt plant

**A motion was made by Peters, seconded by Doolan, to accept the additional written testimony for CUP 2510 that was submitted after the 12/22/20 public hearing. The motion carried, 5-0.**

**Ayes:** 5 - BOLLIG,PETERS,DOOLAN,KIEFERandSMITH

*In favor: Buglass, Johnson, Leitner, Mertes, Shippee, Wallace, Weninger*

*Opposed: Ace, Arndt, Baker, Besser, Bott, Brennum, Brusberg, Dorn, Finnessy, Gerlach, Johnson, Leonard, Prigge, Ruenger-Hanson, Seffrood, Spelter, Zentner*

**A motion was made by Peters, seconded by Kiefer, to approve the Conditional Use Permit with the following conditions. The motion carried, 5-0.**

- 1. The conditional use permit shall expire 15 years from the permit effective date.**
- 2. 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. Payne and Dolan shall be responsible for all conditions included in this conditional use permit.**
- 3. Asphalt production facilities must comply with all requirements of:**
  - a. Chapter ATCP 93, Wisconsin Administrative Code, including spill containment;**
  - b. All current air emission and pollution control permitting standards, including dust and particulate controls, of the U.S. Environmental Protection Agency and the Wisconsin Department of Natural Resources;**
  - c. All applicable state and federal stormwater and groundwater protection regulations and with Chapter 14, Dane County Code;**
  - d. Odor control standards under NR 429, Wisconsin Administrative Code.**
- 4. Hours of Operation:**
  - a. No operations of any kind shall take place on Sundays or the following legal holidays: New Years Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Eve or Christmas Day.**
  - b. The asphalt plant shall operate between 6:00 AM and 7:00 PM, Monday through Friday, and 6:00 AM to 3:00 PM on Saturdays.**
  - c. Start-up activities for the asphalt plant may occur from 5:00 AM to 6:00 AM.**
  - d. Shut-down activities for the asphalt plant may occur from 7:00 PM to 8:00 PM, Monday through Friday, and 3:00 PM to 4:00 PM on Saturdays.**
  - e. Maintenance and repairs may occur outside of the aforementioned operations hours.**
  - f. Trucking of hotmix asphalt will be from 6:00 AM to 7:00 PM, Monday through Friday, and 6:00 AM to 3:00 PM on Saturdays.**
  - g. All activities, including start-up, shut-down, maintenance, repair and trucking operations shall comply with all pollution, noise, odor, traffic and other performance standards required by conditions of this permit.**
- 5. No more than five employees shall operate the asphalt plant.**
- 6. Peak noise levels from all operations at the site, including the mineral extraction operation and the asphalt plant, shall not exceed 75 decibels (dBa scale), as measured from the property line.**
- 7. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, written statement of intent and operations plan submitted with the Conditional Use Permit application and dated October 14, 2020.**
- 8. All operations must conform to all applicable conditions of Conditional Use Permit 2334, associated with the surrounding mineral extraction site. If CUP 2334**

expires, is revoked or terminated, this Conditional Use Permit shall be terminated as well, and all associated uses shall cease. Re-establishment of asphalt batch plant operations after termination shall require approval of a new Conditional Use Permit.

9. The operator must provide to the Zoning Administrator a copy of an operational agreement approved by the Town of Oregon, consistent with applicable standards described in the Town of Oregon / Dane County Comprehensive Plan.

10. Any new and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code.

11. The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.

12. The applicant must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.

13. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan. Truck traffic associated with the asphalt plant shall not exceed 20 trips per hour.

14. Off-street parking for all on-site vehicles, including employees' personal transportation, must be provided, consistent with s. 10.102(8).

15. If the Dane County Highway, Transportation and Public Works Department or the town engineer determine that road intersection improvements are necessary to safely accommodate the conditional use, the cost of such improvements shall be borne by the operator. Costs borne by the operator shall be proportional to the incremental increase in, and nature of, traffic associated with the proposed conditional use.

16. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.

17. The operator must post, in a prominent public place and in a form approved by the zoning administrator, a placard with the approved Conditional Use Permit number, the nature of the operation, name and contact information for the operator, and contact information for the Dane County Zoning Division.

18. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.

19. Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit. The holder of a conditional use permit shall be given a reasonable opportunity to correct any violations prior to revocation.

20. If any use allowed by an approved conditional use permit is abandoned for one year or more, the associated conditional use permit shall be terminated. Future re-establishment of an abandoned conditional use shall require approval of a new conditional use permit.

**Ayes:** 5 - BOLLIG,PETERS,DOOLAN,KIEFERandSMITH

[CUP 2511](#)

PETITION: CUP 2511

APPLICANT: 4 D FARMS LLC / MADISON SAND & GRAVEL

LOCATION: 5379 CTH V, SECTION 22, TOWN OF VIENNA

CUP DESCRIPTION: Expansion of an existing mineral extraction site

**A motion was made by Doolan, seconded by Smith, to accept the additional written testimony for CUP 2511 that was submitted after the 12/22/20 public hearing. The motion carried, 5-0.**

**Ayes:** 5 - BOLLIG,PETERS,DOOLAN,KIEFERandSMITH



*In favor: Donna Kelley, Jacob Taff, Dennis Kelley, Scott Anderson, Diane Ripp*

*Opposed: Brent Kelley, Steven Fox, Carley Young*

**A motion was made by Peters, seconded by Kiefer, to approve the Conditional Use Permit with the following conditions. The motion carried, 5-0.**

- 1) Any conditions required for specific uses listed under s. 10.103 (see list below).**
- 2) The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.**
- 3) New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.**
- 4) The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.**
- 5) Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.**
- 6) Existing onsite wastewater sewage disposal systems, if any, serving the conditional use must be inspected by a licensed plumber to determine its suitability for the proposed or expanded use. Deficient systems must be brought, at the owner's expense, into full compliance with the current requirements for new development of the state plumbing code and Chapter 46, Dane County Code.**
- 7) All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.**
- 8) Off-street parking must be provided, consistent with s. 10.102(8).**
- 9) If the Dane County Highway, Transportation and Public Works Department or the town engineer determine that road intersection improvements are necessary to safely accommodate the conditional use, the cost of such improvements shall be born by the landowner. Costs born by the landowner shall be proportional to the incremental increase in traffic associated with the proposed conditional use.**
- 10) The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.**
- 11) The owner must post, in a prominent public place and in a form approved by the zoning administrator, a placard with the approved Conditional Use Permit number, the nature of the operation, name and contact information for the operator, and contact information for the Dane County Zoning Division.**
- 12) The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.**
- 13) Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit. The holder of a conditional use permit shall be given a reasonable opportunity to correct any violations prior to revocation.**

Standard Mineral Extraction CUP Conditions. The following are conditions for all mineral extraction conditional use permits.

- 1) Topsoil, or appropriate topsoil substitute as approved in a reclamation plan under Chapter 74, Dane County Code, from the area of operation shall be saved and stored on site for reclamation of the area. Topsoil or approved topsoil substitute must be returned to the top layer of fill resulting from reclamation.
- 2) The applicant shall submit an erosion control plan under Chapter 14, Dane County Code covering the entire CUP area for the duration of operations, and receive approval of an erosion control permit prior to commencing extraction operations.
- 3) The Town and Committee will set an expiration date for the conditional use permit based on the quantity of material to be removed and the expected duration of mineral extraction activities.
  - a) Extensions. Due to uncertainty in estimating duration for mineral extraction, conditional use permit holders who have operated without violations, may have the duration of their permit extended for a period not to exceed five years, based on an administrative review by the zoning administrator, in consultation with the town board. No more than one such extension shall be granted over the lifespan of the conditional use permit, and all conditions shall remain the same as the original permit. Further extensions or any modifications of conditions shall require re-application and approval of a new conditional use permit.
- 4) Reclamation shall meet all requirements of Chapter 74 of the Dane County Code of Ordinances. In addition, all reclamation plans must meet the following standards:
  - a) Final land uses after reclamation must be consistent with any applicable town comprehensive plan, the Dane County Comprehensive Plan and the Dane County Farmland Preservation Plan.
  - b) Final slopes shall not be graded more than 3:1 except in a quarry operation.
  - c) The area shall be covered with topsoil and seeded to prevent erosion.
  - d) The area shall be cleared of all debris and left in a workmanlike condition subject to the approval of Dane County
  - e) Highwalls shall be free from falling debris, be benched at the top, and certified by a civil engineer to be stable.
- 5) The driveway accessing the subject site shall either be paved or covered with crushed asphalt for a minimum distance of 100 feet from the public right-of-way. 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.
- 6) 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."
- 7) All surface and subsurface operations shall be setback a minimum of 20' from any property line that does not abut a public right of way.
- 8) 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. 10.102(9). The committee and town board may require greater setbacks where necessary to avoid subsidence, or for consistency with Chapters 11, 14, 17 or 74, Dane County Code.
- 9) The Town and Committee will assign hours of operation appropriate to the particular application. No operations of any kind shall take place on Sundays or legal holidays. The committee and town board may approve limited exceptions to normal hours of operations for projects associated with Wisconsin Department

of Transportation or municipal road projects requiring night work. [Note: Typical hours of operation are from 6:00 a.m. to 6:00 p.m., Monday through Friday, and 8 a.m. to early afternoon on Saturday. If there are residences nearby, hours may be more limited (e.g., start at 7:00 a.m. with no Saturday hours).] See specifics for this operation below.

10) There shall be a safety fence around the entire extraction area at all times. That safety fence shall be a minimum of 4 feet in height.

11) Except for incidental removal associated with dust spraying or other routine operations under this permit, water shall not be pumped or otherwise removed from the site.

12) The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed then current industry standards for noise abatement.

13) The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076, Wisconsin Administrative Code.

14) Dane County and the Town shall be listed as additional named insureds on the operator's 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 commence. The liability insurance policy shall remain in effect until reclamation is complete.

15) At their own initiative or at the applicant's request, the town board and zoning committee may set further reasonable restrictions on a mineral extraction operation, or prohibit any mineral extraction accessory use.

16) Additional conditions for particular circumstances. Where any of the following circumstances apply, the zoning committee and town board shall also impose the following conditions on any approved conditional use permit for mineral extraction:

a) **Blasting:**

(1) **Blasting Schedule.** Blasting shall occur between sunrise and sunset, as required by SPS 307. The zoning committee and town board may set further daily limits on hours when blasting may occur, to minimize impact on neighboring properties. Schedules for blasting need not conform to hours of operation for the overall mineral extraction project.

(2) **Notice of Blasting Events.** Prior to any blasting event, notice shall be provided to nearby residents as described in SPS 307, Wisconsin Administrative Code. In addition, operators will honor the requests of residents within 500' of the mineral extraction site to either receive or stop receiving such notices at any time.

(3) **Other standards.** All blasting on the site must conform with all requirements of SPS 307, Wisconsin Administrative Code, as amended from time to time, or its successor administrative code regulations.

(4) **Fly rock** shall be contained within the permitted mineral extraction area.

b) **Fuel storage.** All fuel storage must comply with ATCP 93, Wisconsin Administrative Code, including provisions for secondary spill containment.

c) **Mineral extraction at or near groundwater.** All excavation equipment, plants, and vehicles shall be fueled, stored, serviced, and repaired on lands at least 3 feet above the highest water table elevation to prevent against groundwater contamination from leaks or spills.

d) In the event that a mineral extraction operation will destroy an existing Public Land Survey Monument, witness monuments must be established in safe locations and a new Monument Record filed by a Professional Surveyor, prior to excavation and disturbance of the existing monument.

Conditions Unique to CUP 2511:

- 1) Operations shall cease no later than 20 years from the date of CUP approval.
- 2) There shall be no blasting, crushing or washing.
- 3) There will be no hauling routes – material must be trucked to the existing operation areas and will not utilize any roads except what is already permissible (crossing Norway Grove School Road) per current operations.
- 4) The operator shall use multi-frequency back-up alarms to minimize disturbance to surrounding properties, and trucks will be routed to avoid unnecessary back-ups, and there shall be an absolute, peak noise level of no more than 75 decibels (DbA) as measured from the property line
- 5) Trees and other plantings shall be maintained, including necessary watering, to ensure intended aesthetic and screening purposes.
- 6) Operator must update reclamation plan (as required by Chapter 74) so that the extraction area shown in the operations plan is consistent with that shown in the reclamation plan.

TOWN ACTION AND CONDITIONS:

1. Madison Sand & Gravel (MSG) will upgrade some of the fencing around the residential property that borders the site to a 4x4 wire mesh;
2. MSG will locate wells for the five homes in close proximity to the site, test the wells prior to the start of operation and test them annually to ensure the safety of the water quality. Homes include: Parcel 0909-221-8002-0; 0909-221-8960-0; 0909-221-8560-4; 0909-154-9270-5; 0909-154-9210-7. MSG will pay full cost to help repair any of the 5 wells located if one fails.
3. There will be seventeen 5-gallon bucket trees planted around the property line.
4. Operation hours will be from 6am to 6pm, Monday-Saturday and no washing, crushing or blasting will take place.
5. Ten 5 gallon bucket trees will be added by the wetland on Highway V, along the berm, as a sound barrier for the house across the road.

Ayes: 5 - BOLLIG,PETERS,DOOLAN,KIEFERandSMITH

**E. Plats and Certified Survey Maps**

**F. Resolutions**

**G. Ordinance Amendment**

**H. Items Requiring Committee Action**

**I. Reports to Committee**

**J. Other Business Authorized by Law**

**Discuss possible use of consent agenda for future meetings.**

*The committee discussed the possibility of using a consent agenda for rezoning petitions that are non-controversial and meet specified requirements as outlined in the committee's rules and procedures. The consensus of the committee was to have staff continue exploring opportunities to improve efficiencies, including possibly grouping non-controversial rezoning applications at the top of the agenda. No action taken.*

**K. Adjourn**

**A motion was made by Smith, seconded by Peters, to adjourn the meeting at 8:15PM. The motion carried by a voice vote.**

**Questions? Contact Planning and Development Staff, 266-4266, or [plandev@countyofdane.com](mailto:plandev@countyofdane.com)**

*NOTE: If you need an interpreter, translator, materials in alternate formats or other accommodations to access this service, activity or program, please call the phone number below at least three business days prior to the meeting.*

*NOTA: Si necesita un intérprete, un traductor, materiales en formatos alternativos u otros arreglos para acceder a este servicio, actividad o programa, comuníquese al número de teléfono que figura a continuación tres días hábiles como mínimo antes de la reunión.*

*LUS CIM: Yog hais tias koj xav tau ib tug neeg txhais lus, ib tug neeg txhais ntawv, cov ntawv ua lwm hom ntawv los sis lwm cov kev pab kom siv tau cov kev pab, cov kev ua ub no (activity) los sis qhov kev pab cuam, thov hu rau tus xov tooj hauv qab yam tsawg peb hnuv ua hauj lwm ua ntej yuav tuaj sib tham.*