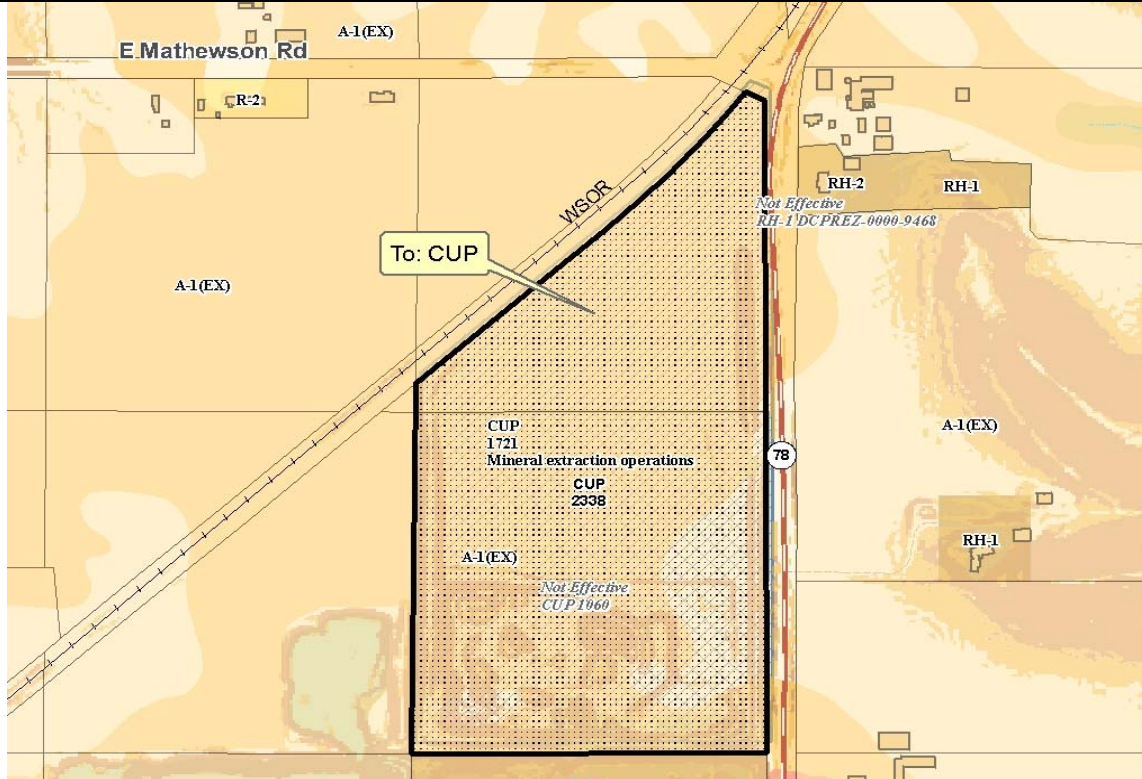




# Staff Report

<b>Zoning and Land Regulation Committee</b>	<b>Public Hearing: May 10, 2016</b>	<b>Petition: CUP 2338</b>
	<b>Zoning Amendment: None</b>	<b>Town/sect: Mazomanie Section 10</b>
	<b>Acres: 59.8</b> <b>Survey Req. No</b>	<b>Applicant: Halfway Prairie LLC</b>
	<b>Reason: Renew conditional use permit for an existing mineral extraction site</b>	<b>Location: 6053 State Highway 78</b>



**DESCRIPTION:** The applicant wishes to expand and continue the existing mineral extraction operation that was permitted as CUP #1721. The proposed CUP area is the same as that of CUP#1721. Existing CUP #1721 is set to expire on 7/24/16. The applicant is now requesting to extend the permit period for an additional 15 years. This proposed CUP area is part of a larger operation that covers sites with legal non-conforming (NC) status. The NC portions of the operation are west and southwest of the subject property.

**OBSERVATIONS:** The surrounding area is a mixture of agricultural and scattered residential uses. No sensitive environmental features observed. The site is outside the resource protection area. There is an abandoned landfill site to the north. There is an existing 250-acre registered non-conforming site directly to the west of the site.

**WI DOT:** Acces to the site has been approved by WI Dot in 2001.

**TOWN PLAN:** The property is located in the town’s agricultural preservation area. Mineral extraction is an acceptable use in this district. See details in staff report.

**SITE INSPECTION:** An inspection was conducted on April 29<sup>th</sup> to verify that the site in compliance with the previous conditions of approval. The inspection revealed that the site conforms to approvals. The berms have been properly installed and vegetation established. The driveway is pave. Operator is using water trucks to reduce dust. Note: Operator will be installing an additional 300 feet of driveway paving to further reduce dust in close proximity to the road.

**STAFF:** See attached staff report and list of recommended conditions of approval. The proposal appears reasonably consistent with applicable town plan policies.

**TOWN:** Approved with conditions. Note that the town conditions have been combined with staff recommended conditions in the attached list.

## Proposed Conditional Use Permit # 2338

In order for an applicant to obtain a Conditional Use Permit, the Zoning and Land Regulation Committee must find that all of the following standards are met for the proposed land use:

1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.
2. 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. 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. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made; and
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.

Staff has prepared a list of 26 conditions that may be used in order to meet the six standards as listed above to allow the conditional use on the property. Please note that the conditions may need to be changed or additional conditions added to address potential nuisances that may come to light during the public hearing.

1. The applicant shall submit an erosion control plan covering the entire CUP area for the duration of operations, that receives approval of an erosion control permit from the the Dane County Land & Water Resources Department.
2. The applicant shall apply for and receive all other required local, state and federal permits before extraction commences and proof shall be on file with both the Dane County Planning and Development Department and the Town of Mazomanie.
3. There shall be no use of any Town of Mazomanie roads by any hauler either for approaching or leaving the subject site, except to deliver material as a final destination to a site in the Town of Mazomanie or by permission of the Mazomanie Town Board.
4. The total disturbed area of the site shall not exceed thirty (30) acres at one time, excluding berms.
5. Operator will create an 10 foot landscaped earthen berm around the opened area of the pit for the purpose of mitigating the noise and for visual and safety concerns of the neighbors. The berm shall be seeded and maintained in a sightly condition and mowed periodically to prevent weed infestation.
6. The operator shall develop and operate the site according to the proposed site and operations plan dated February 1, 2016; and the reclamation plan (sheets 4 and 5 of 5 Wipperfurth/Beuthin Pit Reclamation Plan) dated April 30, 2014.
7. Operations shall cease no later than fifteen (15) years from the date of CUP approval unless review shows that an extension is warranted. For the duration of this CUP, operation is exclusive to Halfway Prairie, Inc. A new CUP will need to be approved in order for a different operator to mine this site.
8. Reclamation shall meet requirements as defined in NR135 and Chapter 74 of the Dane County Code of Ordinances (DCCO). The property shall be reclaimed to farming and agricultural uses. The operator agrees to stockpile the topsoil separately from the overburden and to replace the overburden and topsoil in the proper sequence. Final reclamation of the site shall be completed within twelve (12) months of the expiration of the CUP.
9. The first 300' of the driveway accessing the subject 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.

## Proposed Conditional Use Permit # 2338 (recommended conditions, page 2)

10. The operator and all haulers shall access the CUP site only through the proposed entry indicated on the site plan.
11. 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."
12. Hours of operation shall be as follows:  
6:00 am to 6:00 pm Monday – Friday, and 6:00 a.m. to 2:00 p.m. on Saturdays. There shall be no operations on Sundays or any legal holidays.  
  
These hours of operation may be expanded with the approval of the Town Board if the operations are being solely performed for a public contract of unusual conditions.
13. The only installed/permanent lighting on the subject property will be an exterior scale house light.
14. There shall be no blasting or drilling on the site.
15. There shall be a safety fence around the perimeter of the extraction area at all times. This fence shall be comprised of a basic 39"-48" woven wire with two barbs farm fence with posts placed 12' apart and "NO TRESPASSING" signs at regular intervals. No extraction activities shall take place until after the fence is in place.
16. The operator shall use water spray bars in the crushing process and screening process to eliminate dust and fugitive emissions. The operator shall spray the site with water when needed to control dust. The use of spray bars is not required when the temperature is below freezing. Verified complaints from neighboring landowners of blowing dust and sand will result in immediate corrective actions by Yahara Materials. Yahara Materials agrees to abide by all DNR air quality standards.
17. There shall be no bulk fuel stored on site. In cases where the operator wishes to have bulk fuel stored on site, the operator should indicate why and provide and receive approval from the Dane County Land Conservation Department of a spill containment plan that meets state regulations prior to storing bulk fuel on the site.
18. All excavation equipment, plants, and vehicles shall be fueled, stored, serviced, and repaired on lands five (5) feet above highest water table elevation to prevent against groundwater contamination from leaks or spills.
19. The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed current industry standards for noise abatement.
20. The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076.
21. A hydrological water table study shall be performed before any disturbance at the site. This study must show the underground water movements, particularly in relation to the landfill site nearby and any residences that may be in the path of underground water movement.
22. The mineral extraction site shall be designed so that trucks will maintain a forward direction while entering, loading and leaving whenever possible.
23. Trucks shall not use engine brakes (jake brakes) in the vicinity of the mineral extraction site.
24. Dane County and the Town of Mazomanie 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 may commence. The liability insurance policy shall remain in effect until two (2) years after reclamation is complete. Copies of appropriate insurance policies shall be filed with the Town of Mazomanie.
25. The operator must post a copy of this conditional use permit (#2338), including the list of conditions, on the work site.
26. The zoning administrator or designee may enter the premises of the operation to inspect those premises with reasonable advance notice to ascertain compliance with these conditions or to investigate an alleged violation. Anyone inspecting the property will be escorted by Yahara Materials and will comply with all safety regulations.

## **Proposed Conditional Use Permit # 2338 (page 3)**

**5/10 ZLR:** The petition was postponed due to public opposition. The neighborhood expresses concerns regarding the dust, lack of trees on the berm, noise generation, possibility of well contamination, the size of the active area, additional buffering for residences, and the time limit of the conditional use permit.

**Staff Update:** County Staff has reviewed the concerns and have the following comments:

### Dust

Dust reduction is addressed under condition #16. The operator is required to use spray bars in the crushing operation and on the drive path as needed. The operator has also extend the paved driveway an additional 300 feet to reduce the dust.

### Berms

During the approval of the quarry in 2001, the Committee discussed the berms. It was decided not to place evergreens on top of the berm. The current condition of the berms are fully vegetated and appears to match the roadside in the area.

### Noise

There is no blasting permitted on the site. The hours of operation are limited to 6am to 6pm, Monday through Friday, with limited hours on Saturday. See condition #12. Berms have been installed to mitigate noise. Trucks are prohibited on using jake brakes in the vicinity of the quarry.

### Well Contamination

Vierbicher Associates conducted a hydrological study regarding the quarry operation in 2001. Due to bulk fuel storage being prohibited on the site, there is a very low risk of groundwater contamination from the quarry activity. In 2005, wells in the area were tested and found no contamination. The primary concern for groundwater contamination for the area will stem from the abandoned landfill that is located north of the quarry.

### Open Area of production

Yahara Materials has suggested that 30 acres may be exposed. As the quarry operation continues, most of the area will be occupied by surface water due to the lowest point of the deposit being just below the water table.

### Buffers

The property is bordered by Highway 78 on the east and the railroad and agricultural field to the west. The site is required to have a 10-foot tall berm surrounding the open excavated area. The reclamation plan shows that the quarry operation will be no closer that 350 feet to the nearest resident at the final stages of the operation. Staff feels that adequate measures are in place to minimize the impacts to neighboring residences.

### CUP timeframe

The quarry site has been in operation without complaint for the past 15 years. The Town of Mazomanie has approved the conditional use permit for another 15 years. Staff does not see any issues with the 15-year time frame.

