

Staff Report



Zoning & Land Regulation Committee

Public Hearing: February 25, 2025

Zoning Amendment Requested:

TO CUP: Temporary concrete batch plant

Size: 14.5 Acres

Survey Required:

Reason for the request:

Temporary concrete batch plant (to operate in the Wingra Stone Quarry)

Conditional Use 02651

Town, Section:

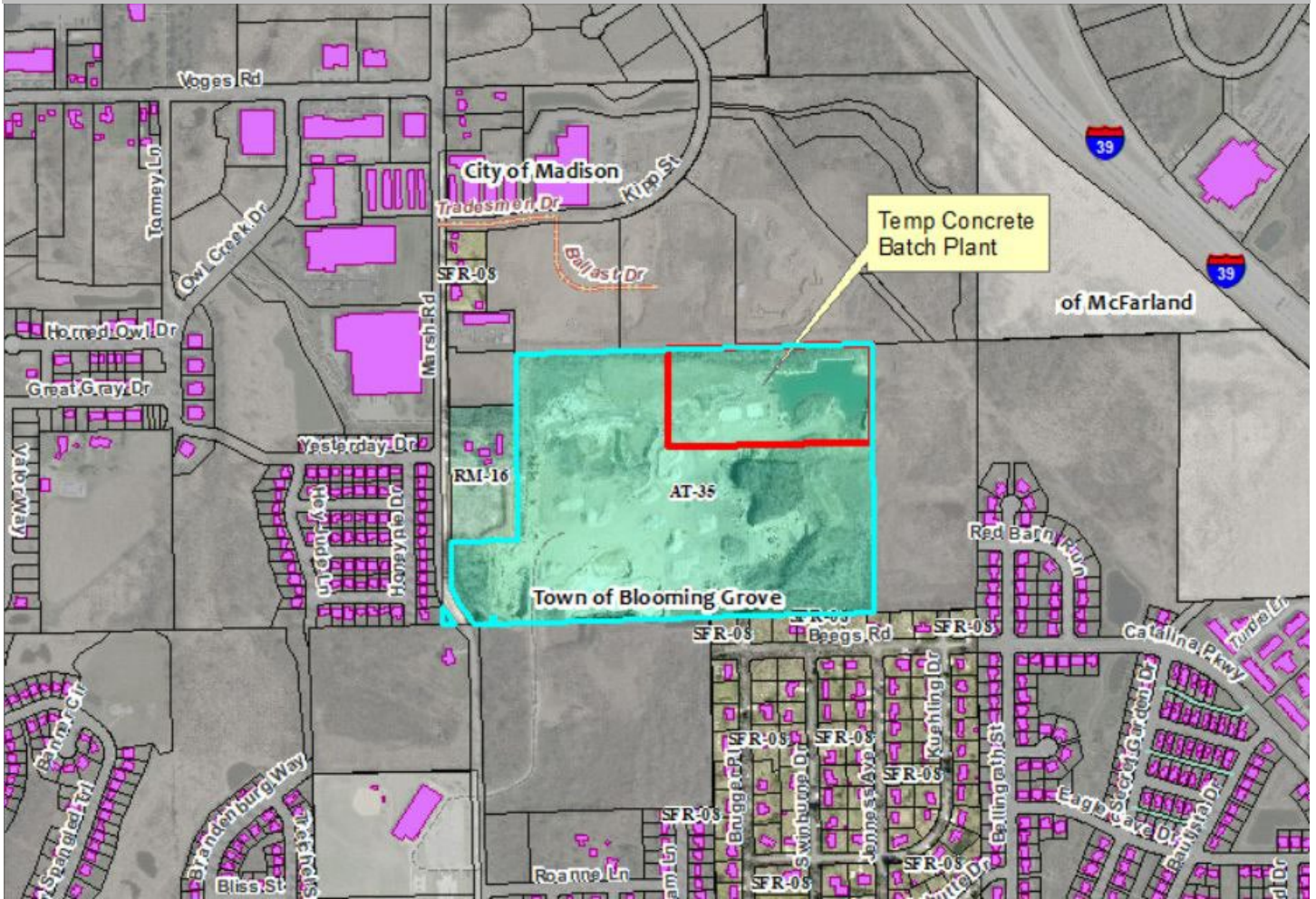
BLOOMING GROVE, Section 26

Applicant:

WINGRA REAL ESTATE LLC

Address:

4381 MARSH RD



**DESCRIPTION:** Applicant Nick Petit of Trierweiler Construction & Supply, on behalf of owner Wingra Real Estate LLC, requests a CUP for a Temporary Concrete Batch Plant on a 14.5-acre portion of the 56.7-acre property that is an active sand and gravel quarry site. They request the permit to operate the plant from March 1, 2025 to December 31, 2026 (almost 2 years), for WisDOT highway repair projects. Specifics of the proposal include:

- **Site improvements:** No buildings or structures other than the mechanical equipment (see untitled map on p.23 and equipment diagrams on p.35-36 of the application packet).
- **Employees:** 3 to 15 (on the batch plant operations team)
- **Time frame:** March 1, 2025 to December 31, 2026
- **Hours of operation:** Generally daytime (6:00am – 8:00pm) on weekdays, plus intermittent operation during weekends “only as project demands necessitate”. (WisDOT sometimes requires nighttime work so the applicants request 24-hour operation to accommodate WisDOT construction schedules, when DOT mandates it.)
- **Outdoor storage:** Aggregate and sand piles on site, with cement materials to be stored in portable enclosed bins and handled so as to minimize dust.
- **Applicable road projects:** Specific project information is unknown, as applicant is still in the bidding stage. WisDOT has several projects scheduled for construction in its Southwest Region.

**OBSERVATIONS/ FACTUAL INFORMATION:** The site is located with a Town of Blooming Grove town island, surrounded by properties in the City of Madison on all four sides, as well as a neighborhood in the Town of Blooming Grove to the south. The lands to the north are large industrial-zoned sites within the City; lands to the east include open space/quarry land and the Secret Places neighborhood (all within the City); to the south is the April Hill neighborhood (in the Town) and additional quarry lands owned by Wingra Stone (in the City); to the west across Marsh Road are other industrial sites and the Lost Creek neighborhood subdivision.

The site is currently zoned AT-35 (was rezoned out of FP-35 Farmland Preservation in 2024). The list of allowable conditional uses in the AT-35 zoning district includes: "Asphalt plants or ready-mix concrete plants, that comply with s. 91.46(5), Wis. Stats., for production of material to be used in construction or maintenance of public roads, to be limited in time to project duration."

The site previously had a temporary batch plant approved under [CUP #2594](#), which was approved in June of 2023 to enable a plant for work on the WisDOT US 12/18 and County AB Interchange construction project. That project was completed and CUP 2594 was closed in June of 2024 (prior to the CUP expiration date). There were no complaints or zoning violations during this time.

The existing driveway access onto Marsh Road is further to the south; Marsh Road is in City of Madison jurisdiction.

**RESOURCE PROTECTION:** There are no sensitive environmental resources on or within 300 feet of the subject property. The existing pond within the proposed CUP boundary area is presumed to be manmade and is not a mapped wetland. The applicant holds a current plant-specific DNR general permit for stormwater runoff, and the site has an erosion control permit through their approved reclamation permit.

Native burial mounds are present on the Wingra property. The proposed batch plant would be located outside of the mound area, so as to not impact the historical site and resources.

**COMPREHENSIVE PLAN:** The Town of Blooming Grove is under an intergovernmental boundary agreement with the City of Madison. The entire town falls under the provisions of the Town of Blooming Grove / City of Madison Cooperative Plan dated April 20, 2006. Under the cooperative plan, the entire town will be attached to the City of Madison by 2027. In the interim, zoning and other development approvals are subject to the approval by the City of Madison, in accordance with City development requirements.

City staff had indicated support for previous [CUP #2594](#) for a temporary concrete batch plant, noting that they "...would look to provide further comment upon any requested CUP extension." See new City staff letter dated February 3, 2025.

For questions about the comprehensive plan, please contact Senior Planner Majid Allan at (608) 267-2536 or [Allan.Majid@danecounty.gov](mailto:Allan.Majid@danecounty.gov).

**CONDITIONAL USE PERMIT DECISION MAKING:** "Conditional uses" are those land uses which, because of unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review.

Prior to granting or denying a conditional use, the zoning committee shall make findings of fact based on evidence presented and determine whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a CUP. Below is the list of the applicable standards from Section 10.101(7)(d) of the Zoning Code, and a summary of the relevant facts including the applicant's testimony with regards to meeting the standards.

- 1. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.***

The CUP application describes the proposed operations plan. The proposal is for (6:00am – 8:00pm) on weekdays, plus intermittent operations on weekends or at night as needed or mandated by WisDOT.

The application ("Written Brief" section) states that the concrete plant will not be a nuisance to neighbors due to noise, dust, or any aspect of public safety. They state that dust will be minimized by the location being away from populated areas and the use of contained storage tanks and water (using water extensively around the site during operations to control the dust from moving trucks). Also that water and sweeping on adjacent roads will control dust and debris tracked onto public roads. They have also provided a Pollution Prevention and Spill Response Plan as part of the application.

Regarding traffic, they state that the location near project sites will serve to limit the amount of time that loaded concrete trucks are on the road and will thus minimize potential conflicts with the travelling public.

Regarding noise, the applicant states that noise generated by the plant would be less than or equal to the noise currently generated by traffic on Interstate 39 to the east. Also that the plant will only operate for approximately 15-20 total days out of the road project duration.

Regarding lighting, the applicant states that if operations occur at night, outdoor lighting will be provided by portable units to provide for employee visibility and safety. The lights would only be on during night-time operations as needed, and would be directed away from property lines, neighboring properties, and roads.

The proposed CUP site is roughly 550' away from the nearest homes to the SE, and roughly 1,300' away from Interstate to the east. As noted above, the applicant holds current stormwater and erosion control permits.

**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.***

The applicant states that this standard will be met since the plant would be set up in an existing gravel pit. The application's "Written Brief" states that the plant will not affect property values of neighboring lands because it is temporary and the property will go back to its current use once construction is completed.

See comments above under standard #1. Also as noted above, the plant would only operate until December 31, 2026 and will only operate for approximately 15-20 total days during the road construction project's duration.

Applicant states that outdoor activities would include the staging, handling, and mixing of materials, loading of delivery trucks, and washout of trucks into internally stored wastewater bins (with waste generated from washing activities to be removed offsite to a disposal facility).

**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.***

This standard pertains to whether the proposed conditional use would affect how the surrounding properties could be developed and improved, considering what they are currently zoned for. The application indicates the plant would be located in a rural area directly near the interstate. The maps they provided show that this property and most of the surrounding properties are already either developed for residential and industrial use, or are open space. One map of DNR Surface Water Data indicates environmental constraints (wetlands and floodplain) on the lands to the east.

County staff contacted staff at the City of Madison for comment on the proposal. City staff expressed support for the CUP, subject to the December 31, 2026 project end date specified in the application being made a condition of approval (see city staff letter dated February 3, 2025).

**4. *That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.***

The applicant states that no accommodations or access roads will be needed as the temporary plant will use existing gravel pit roads. In addition, on-site bathrooms and dumpsters will be rented for use by employees. The utilities, access roads, drainage, and other improvements needed for the proposed use are already in place.

**5. *That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.***

The applicant states that the plant will use the existing access for the gravel pit. The existing access drive for the gravel pit is off of Marsh Road further to the south; Marsh Road is in City of Madison jurisdiction. Applicant

estimates the traffic to be 2 to 5 trucks entering and exiting the site on the days when paving is occurring. They note the trucks will not weigh over the legal weight. The parking requirement for temporary asphalt and concrete production operations is 1 per 1.3 employees at peak shift, plus 1 for every truck, or vehicle on site at peak. There appears to be adequate parking on site.

**6. That the conditional use shall conform to all applicable regulations of the district in which it is located.**

The proposed use conforms to the applicable regulations of the AT-35 zoning district. In this district, the allowable conditional uses include "Asphalt plants or ready-mix concrete plants that comply with s. 91.46(5), Wis. Stats., for production of material to be used in construction or maintenance of public roads, to be limited in time to project duration."

**7. That the conditional use is consistent with the adopted town and county comprehensive plans.**

As noted above, the proposal appears consistent with the Town and County Comprehensive Plans.

**8. If the conditional use is located in a Farmland Preservation Zoning district, the town board and zoning committee must also make the findings described in s. 10.220(1).**

Not applicable.

**POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE:** The potential nuisances that pertain to temporary batch plant operations most often involve dust, noise, and traffic. The applicant's CUP application addresses how these potential nuisances are handled, as noted above.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee. Dane County Zoning Ordinance section 10.103(20) specifies the following special requirements for Temporary batch concrete and asphalt production:

***(a) The zoning committee and town board shall set daily limits on hours for concrete and asphalt production, as necessary to minimize impact on neighboring properties. Schedules for concrete or asphalt production need not conform to hours of operation for the overall mineral extraction project.***

***(b) Operators of concrete or asphalt plants shall be responsible for any conditions placed on such operations.***

***(c) Asphalt production facilities must comply with all requirements, including spill containment, of Chapter ATCP 93, Wisconsin Administrative Code.***

As noted above, the proposed hours for the batch plant are between 6:00am and 8:00pm on weekdays, with intermittent operations on weekends or at night as needed or mandated by WisDOT. The applicants have provided a spill containment plan, which will need to comply with ATCP 93 (Ch. 93 of Wisconsin Administrative Code).

**TOWN ACTION:** The Town of Blooming Grove Town Board has approved this CUP with no conditions.

**STAFF RECOMMENDATION:** Pending any comments at the public hearing, Staff believes the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the hours of operation, a limited number of days, a direct tie to WisDOT road projects during this time period, the proposed location at the north end of the quarry site, the fact that a batch plant was located here in the past two years without violations or incidents, as well as the fact that the proposal is within an existing quarry site that holds current permits for a non-metallic mineral extraction operation.

If the Committee requires additional information on which to base a decision, they could request specific information of the applicant or staff at the public hearing. Staff recommends that the ZLR Committee (1) makes a finding of fact as to whether the proposal meets the CUP standards listed above and (2) we would recommend approval with the conditions listed below.

***CUP 2651 Potential Conditions of Approval:***

*Standard Conditions for all Conditional Use Permits from 10.101(7):*

1. Any conditions required for specific uses listed under s. 10.103 (see 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 borne by the landowner. Costs borne 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 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.
12. 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.

*Conditions specific to CUP # 2651:*

13. The batch plant shall only be used for contracted WisDOT road construction projects.
14. The conditional use permit shall expire on December 31, 2026.

Please contact Rachel Holloway at (608) 266-9084 or [holloway.rachel@danecounty.gov](mailto:holloway.rachel@danecounty.gov) if you have questions about this petition or staff report.