

**COMPOSITE REPORT FOR CUP#2373
MARCH 28, 2017 ZLR COMMITTEE PUBLIC HEARING
CONDITIONAL USE PERMIT FOR MINERAL EXTRACTION IN THE A-1 EXCLUSIVE DISTRICT
ALBION SECTIONS 35&36**



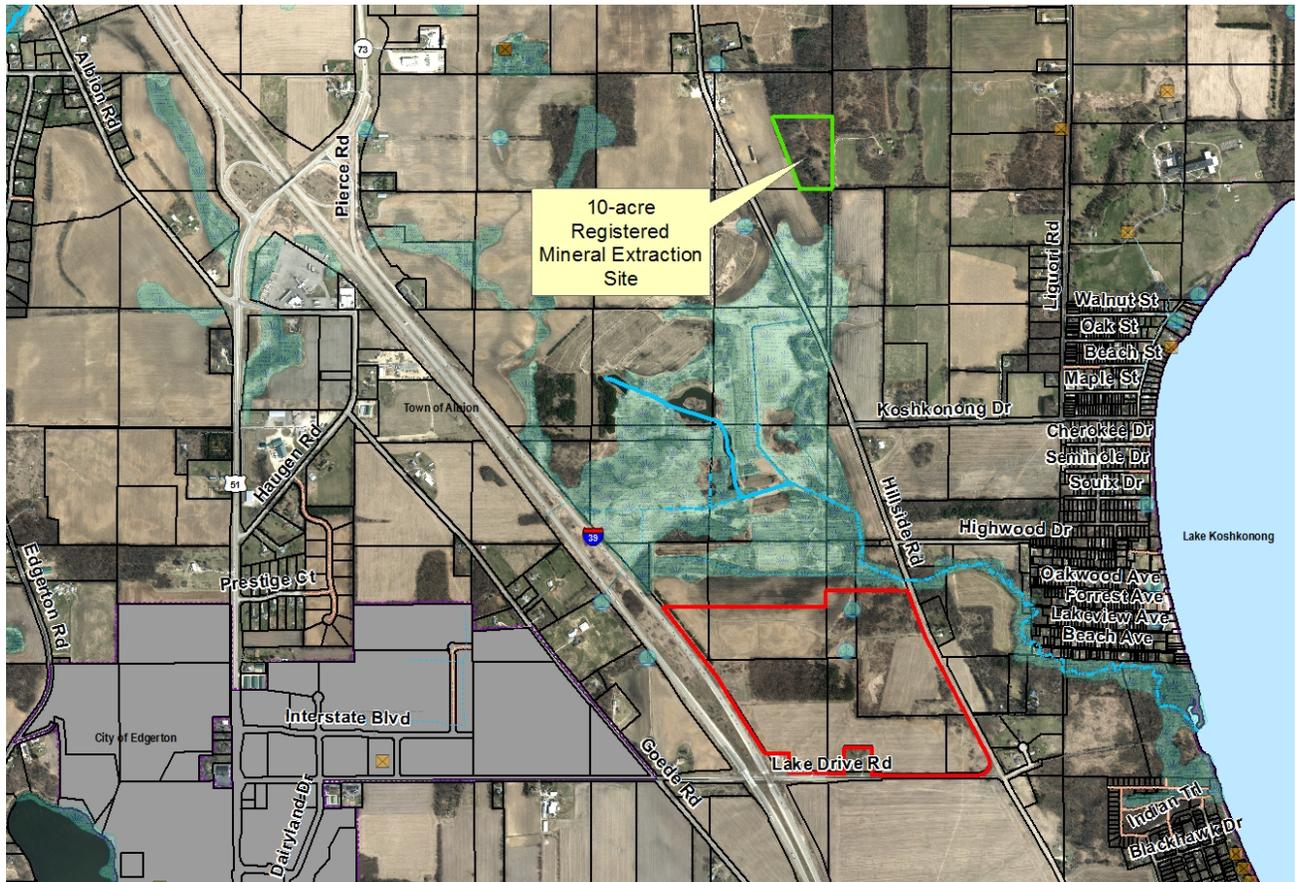
PROPOSAL SUMMARY & BACKGROUND

- **Agent/Applicant:** Hoffman Construction Company
- **Owner:** Eastman Hunting Club Inc.
- **Size, zoning, use of existing parcel:** 112 acres zoned A-1 Exclusive.
- **Rezone/CUP desired:** The applicant wishes to operate a mineral extraction operation to be used exclusively for WisDOT projects associated with the I-39 corridor. Proposed activities include mining of sand and gravel, manufacturing of aggregates through crushing and washing, and production of concrete and asphalt batches. Blasting is not part of the proposed operation.
- **Other county permits:** An erosion control (Chapter 14) and nonmetallic mining reclamation permit (Chapter 74) are required. Reclamation and erosion control/storm water plans have been submitted.
- **History:** Within the proposed CUP boundary is small un-reclaimed gravel pit that was used for construction of I-90 in the early 1960s.
- **Town Action:** The applicant has presented the proposal to the town, but the town has not yet taken action on CUP#2373.

DANE COUNTY PLANNING STAFF COMMENTS

Overview: This petition is for a mineral extraction site and operation to be used exclusively for WisDOT projects associated with the I-39 corridor (contact is for state project 1007-11-75).

Proposed activities include mining of sand and gravel, manufacturing of aggregates through crushing and washing, and production of concrete and asphalt batches. Blasting is not included, and there are no permanent structures associated with this proposal. In addition to this site, the applicant is applying for Chapter 14 & 74 permits for a registered non-conforming (NC) site that is located long Hillside Road across from the Eastman Hunt Club building (487 Hillside Road). Mined sand and gravel from the NC site will be trucked to the proposed CUP site.



Surrounding Area Characteristics: The surrounding area is a mixture of agricultural and scattered residential uses, plus a higher density of residences located east of Hillside Road. DNR mapped wetlands exist above and into the northern portion of the CUP boundary.

Operation: The applicant provided a very detailed and clear operations plan. Approximately 4' – 12' of sands and gravel will be mined over an approximate 45-acre area in phases and stockpiled for processing. Existing topsoils and subsoils will be mined and stockpiled for reclamation. Approximate 13 to 15 acres per phase will be mined. The site will be internally drained during construction with emergency overflow. Sand and gravel from the stockpile will be crushed, washed and stockpiled for concrete and asphalt operations. Approximately 12,000 cubic yards of concrete batch is required for the I-39 project. Asphalt is required for temporary roadways, cross-overs and asphalt shoulders. Access from the batch plant to I-39 will be direct to the right-of-way and/or via lake Drive west to Hwy 73 north to the I-39 interchange. Approximately 600,000 cubic yards of washed sands and gravels will be mined on the CUP site, with an additional 400,000 cubic yards of material from the NC site hauled to the CUP site for processing.

The first of 4 phases, each of 15 acres, will begin in April of 2017. Each phase is followed by reclamation of the 15 acres mined, with reclamation of Phase IV being completed in October of 2017. Crushing and washing will be going on throughout these 4 phases. Concrete and asphalt batch will occur from May through November of 2017 and April through November of 2018.

Materials will be imported from the NC site from January through March of 2018. Concrete and asphalt batching will be completed in November of 2019.

Mining hours of operation will be 6:00 am to 6:00 pm Monday through Friday and occasional Saturdays. Crushing and washing will be 24 hours five days a week Monday through Friday, and occasional Saturdays. Concrete and asphalt batching will be conducted day and night Monday through Saturday and occasional Sundays, as required to meet WisDOT contract requirements.

A freshwater wash pond (groundwater) will be excavated and used as a source of wash water. Two sediment ponds will be used to receive water from the wash plant prior to discharge and recycle freshwater wash pond water for re-use (closed-loop). The freshwater/sediment ponds and stormwater management basins are planned to remain and will be incorporated into the site reclamation plan as wildlife ponds.

Reclamation Plan: A reclamation plan and application for a reclamation permit has been submitted for this site. Land will be reclaimed to support agricultural cultivation and/or revegetation of upland areas and water management features to maintain and enhance wildlife habitat within the CUP area. A reclamation plan has also been submitted for the NC site located in Section 26.

Town of Albion Comprehensive Plan: The town comprehensive plan uses 'planning areas' and land use districts [plan pages 5-4 – 5-6]. Future Land Use Plan Map: The subject property is in the "Agricultural Preservation Area", and is also identified as "Protected Open Space" and "Environmentally Sensitive Area (generalized)". The plan includes "specifically approved non-metallic mineral extraction and processing (quarries, cement batch plants and asphalt plants)" in the list of allowable uses associated with the "Agriculture and Rural Land Uses" planning area. Under "Public and Private Permanent Open Space" it states "In the case of the Eastman Hunting Club tract, located between I-39/90 and Lake Koshkonong, the Town may decide to pursue funding to acquire the land or some easement on the land, in order to keep the property as permanent open space". The town has not purchased an easement. Under "Environmentally Sensitive Areas", the plan explains that "Within these areas, the Town has a policy of rejecting any development proposal or any regulated land disturbing activity, unless the petitioner is able to satisfactorily demonstrate to the Town Board and Town Plan Commission that they have the capability and commitment to follow the most stringent management practices to protect these areas from degradation". This proposal, including proposed environmental protection measures, is consistent with the comprehensive plan.

Compliance with County Ordinances: Mineral extraction operations must meet requirements found in Chapters 10, 14 and 74 of the Dane County Code of Ordinances. The applicant submitted all of the required information as described in **10.191(2)**. The applicant has submitted an erosion control plan/storm water management plan as required by Chapter 14 of the Dane County Code of Ordinances (DCCO), and a reclamation plan as required by Chapter 74. Chapter 10 provides six standards for granting a CUP in Section **10.255(2)(h)**, 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; and
6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

10.123(5) Standards for conditional uses in the A-1 Exclusive Agriculture zoning district.

In addition to the requirements of s. 10.255(2)(h), the zoning committee must find that the following standards are met before approving any conditional use permit in the A-1(exclusive agriculture) zoning district.

- (a) The use and its location in the A-1 Exclusive Agriculture zoning district are consistent with the purposes of the district.
- (b) The use and its location in the A-1 Exclusive Agriculture zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (c) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- (d) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- (e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

POTENTIAL CONDITIONS OF APPROVAL FOR CUP 2373:

Conditions are based on those the ZLR commonly applies to permits for mineral extraction operations, customized to the particular site and operation, including conditions proposed by the applicant and reviewed by the town. The following list reflects the conditions included in the proposal blended with the county's standard set of conditions.

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 site/operations and phasing plan dated January 19, 2017.
4. Operations shall cease no later than November 30, 2020, unless WisDOT is delayed in awarding contracts for the pending reconstruction of I-39/90. In that case, operations shall cease no later than November 30, 2025. Operator must provide documentation from WisDOT if there is such a delay.
5. Reclamation shall meet requirements of Chapter 74 of the Dane County Code of Ordinances.
6. The driveway accessing the subject site shall be paved, at a minimum, a distance of 100 feet from the public road. 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.
7. The operator and all haulers shall access the CUP site only through those points designated as entrances on the Site/Operations Plan dated January 19, 2017.
8. 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."
9. There shall be a minimum setback of 20' from the property line. Berms may be contained within this setback area.

10. Hours of operation shall be as follows:
 - Mining: 6:00 a.m. to 6:00 p.m. Monday – Friday, and occasional Saturdays.
 - Crushing & washing: 24/5 Monday – Friday, and occasional Saturdays.
 - Concrete & asphalt batching: day or night as required to meet WisDOT contract requirements, Monday – Saturday, and occasional Sunday.
11. There shall be no blasting on the site.
12. For securing the site, the operator shall maintain the existing fence (within the WisDOT ROW) along the western boundary of the site. Control gates will be installed as shown on the operations site plan. An earthen berm will be installed to screen and secure the site along the street frontages of Lake Street and Hillside Road. Along the northern boundary of the site, the edge of the extraction area shall be maintained at a slope of no greater than 1:1.
13. 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.
14. No water shall be discharged from the site.
15. A fuel containment plan is required for any fuel stored on site.
16. The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed then current industry standards for noise abatement.
17. The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076.
18. Excavation below the elevation 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 section 10.17 of the DCCO.
19. Dane County and the Town of Albion shall be listed as additional named insureds on the Hoffman Construction Company 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.
20. The owner/operator must post a copy of this conditional use permit #2373, including the list of all conditions, on the work site.
21. 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. Unless the operation is in reasonable compliance with these terms of this approval, such approval is subject to amendment or revocation.
22. If any portion of these conditions is held invalid the remainder of these conditions and provisions shall not be affected thereby.

(Questions? Contact Pam Andros – 261-9780)