



Notice of Public Hearing

Zoning and Land Regulation Committee

Public Hearing: **September 26, 2017**

Zoning Amendment:
**TO CUP: DUMPING OF CLEAN
FILL.**

Acres: 34

Survey Req.

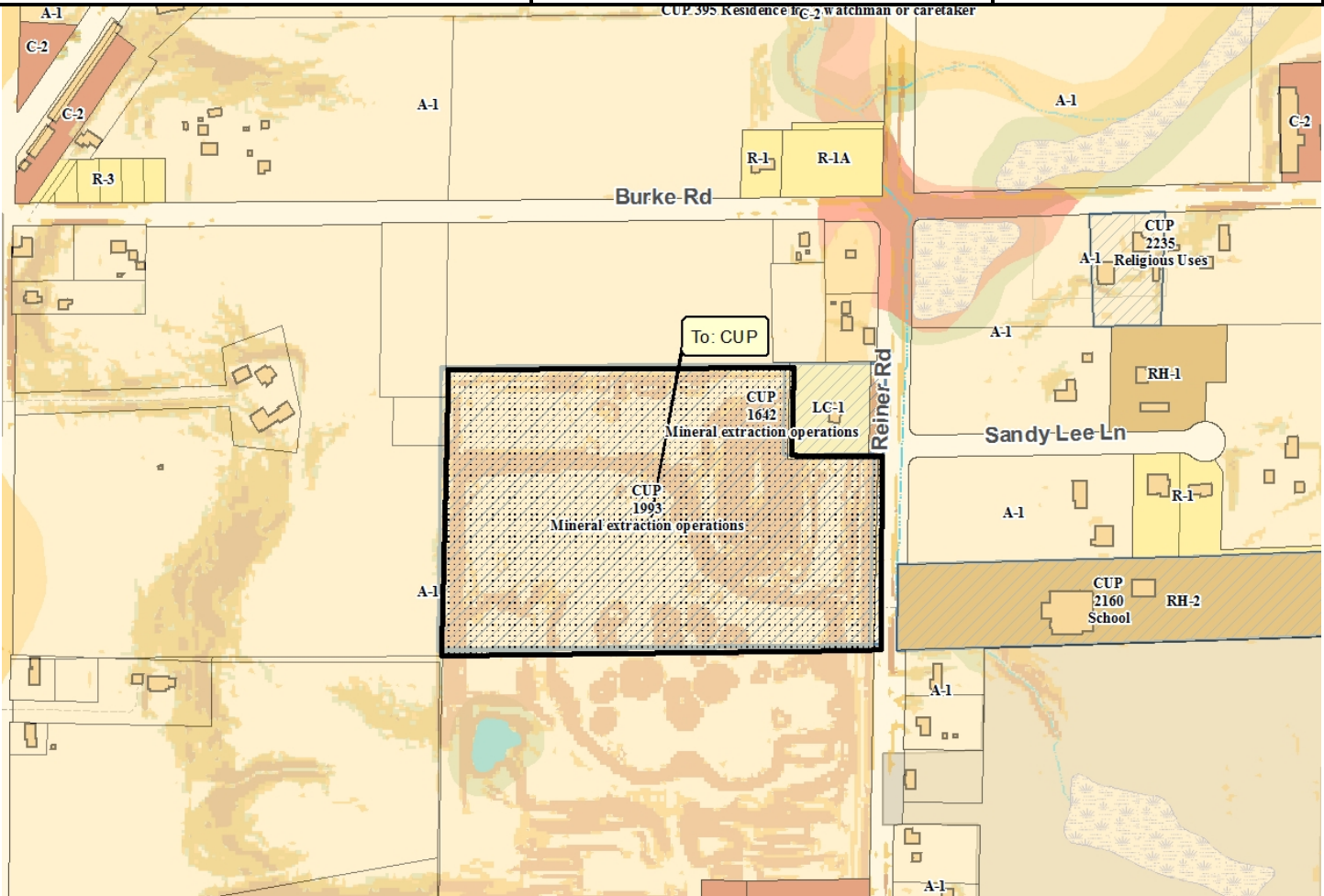
Reason: CUP for dumping of clean fill into a site
previously used for extracting minerals.

Petition: **CUP 02388**

Town/sect:
BURKE, Section 26

Applicant
**CHRISTINE Z
BORCHERS**

Location:
**REINER ROAD JUST
SOUTH OF BURKE
INTERSECTION**



DESCRIPTION: The applicant wishes to operate a clean fill site as allowed as an accessory to mineral extraction [10.12(3)(d)].

OBSERVATIONS: This petition relates to a previous one (CUP#2362) that was denied by the town. Unlike the past petition, this one is for a clean fill operation. It is located to the north of a non-conforming (NC) mineral extraction site.

TOWN PLAN: The Future Land Use map (dated 11/19/2013) of the Town of Burke Comprehensive Plan shows the subject property as a mixture of low to high density residential, park space and commercial/retail. The property is also located in the Boundary Adjustment Area – Madison (BAA-M) of the Town of Burke, Village of De Forest, City of Sun Prairie and City of Madison Cooperative Plan (adopted 2006).

RESOURCE PROTECTION:

STAFF: Conditions as described at the end of the detailed staff report.

TOWN: The Town of Burke has approved the CUP with conditions. The conditions have been incorporated into this report.



DANE COUNTY ZONING STAFF COMMENTS / BACKGROUND

Owner/Applicant: Christine Borchers is the property owner and operator, and Madison Crushing & Excavating is the agent.

Size, zoning, use of existing parcel: 43 acres, zoned A-1 Agricultural with an expired CUP for mineral extraction.

Rezone/CUP desired: Conditional use permit for a clean fill site located within an existing inactive mineral extraction site.

History: There is a long history of mineral extraction operations at this location. Just south of the subject property is a non-conforming (NC) site that was registered in 1969. This site had a mining permit for a 25.8 that was issued in 1980 (permit M80-4). In 1988, years after the rules changed to require conditional use permits, CUP#643 was issued replacing permit M80-4. In 1990 CUP#788 was approved for expansion of the NC site into 17.5 acres to the south. CUP#1159 replaced CUP#643 in 1994, and then CUP#1159 was replaced with CUP#1642 in 2000, and then CUP#1642 was replaced with CUP#1993. CUP#1672 replaced CUP#788. CUP #1672 expired during 2016.

Most recently, a petition was made for a CUP for mineral extraction that would have covered the entire site – the NC in the center, and CUP renewal/expansion to the north and south. The operator for that petition was Madison Crushing & Excavating Company, Inc. That petition was denied by the town.

DANE COUNTY PLANNING STAFF COMMENTS

Operations Plan: The proposed use is a clean fill site. This will allow Madison Crushing & Excavating to accept clean fill to reduce the height of the vertical sidewalls of the quarry during the reclamation process. The final land use of the site will be open space. The anticipated filling of the former quarry area will occur in a

single phase. Fill placement will occur along the vertical sidewall along the site perimeter and will be graded to 3:1 slopes from the quarry floor to the top of the vertical sidewalls. Overburden will be stored on site in stockpiles. The active fill areas will be screened from viewing by the general public. Equipment is stored and parked at designated locations on-site.

There will be no employees at the site, but on-site equipment operators will be on-site to spread and grade clean fill placement. Customers will include, but not be limited to, contractors, builders, private homeowners, municipalities and others whom require clean fill disposal from construction projects.

Hours of Operation: The hours of operation will be 6:00 am – 7:00 pm Monday through Friday, and Saturday 6:00 am to 12:00 noon. No operations will occur on Sundays or legal holidays, except snow plowing activities which include hauling and disposal of snow.

Surrounding Area Characteristics: The surrounding area is a mixture of single family residences, agricultural fields, and to the south, numerous platted vacant residential lots. The City of Madison boundary reaches along the western and eastern boundaries of the CUP area, with Reiner Road running along the eastern boundary.

Town Plan: The *Future Land Use* map (dated 11/19/2013) of the *Town of Burke Comprehensive Plan* shows the subject property as a mixture of low to high density residential, park space and commercial/retail. The property is also located in the Boundary Adjustment Area – Madison (BAA-M) of the Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan (adopted 2006).

Town Action: The county has not yet received a Town Action Report.

Compliance with County Ordinances: The applicant will have to meet requirements of Chapter 74, Nonmetallic Mining Reclamation, and Chapter 14 (Stormwater and Erosion Control) of the Dane County Code of Ordinances (DCCO).

Chapter 10 (Zoning) provides six standards for granting a CUP in Section 10.255(2)(h) of the zoning ordinance are 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.

RECOMMENDED CONDITIONS

The following list of conditions contains many conditions that are traditionally used for mineral extraction operations in Dane County, customized for this specific site and proposal. Any conditions requested by the town of Burke, via the Town Action Report, have been incorporated into this list.

POTENTIAL CONDITIONS OF APPROVAL FOR CUP 2385:

- 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 filling 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 proposed site operations plan.
- 4) Operations shall cease no later ten (5) years from the date of the CUP approval.
- 5) Only clean filled is allowed. Hazardous material, garbage, etc. is prohibited.
- 6) Reclamation shall be completed as required by Chapter 74 of the DCCO and NR135.
- 7) All driveways shall be paved a minimum of 100 feet from road. "Paved" can include recycled asphalt applied over graveled drive. 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.
- 8) The operator and all haulers shall access the CUP site through the existing access points on the site.
- 9) The access to the driveways shall have gates securely locked when the site is not in operation. The site shall be signed "NO TRESPASSING."
- 10) There shall be no blasting or further excavation of sand or gravel on this site.
- 11) Hours of operation shall be as follows:
 - a. Operations may occur at 6:00 am through 7:00 pm Monday through Friday.
 - b. Saturday operations may occur from 6:00 am through 12:00 pm.
 - d. No operations shall take place on Sundays or legal holidays.
- 12) There shall be a safety fence around the entire area at all times. This fence shall be comprised of a basic farm fence with posts and "NO TRESPASSING" signs at regular intervals of at least 100 ft. around the entire perimeter of the anticipated disturbed area.
- 13) The operator shall spray the site with water if and when needed to control dust.
- 14) There shall be no bulk storage fuel tanks on site. The operator may only bring in temporary bulk fuel tanks on site during fill placement operations.
- 15) All equipment and vehicles shall be fueled, stored, serviced, and repaired on lands three (3) feet above highest water table elevation to prevent against groundwater contamination from leaks or spills.
- 16) The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed 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) Dane County and the Town of Burke 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 reclamation is complete. Copies of appropriate insurance policies shall be filed with the Town of Burke.

19) The zoning administrator or designee may enter the premises of the operation to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. If the operation is not in reasonable compliance with the terms of this approval, such approval is subject to amendment or revocation.

20) An annual road maintenance fee in the amount of \$2,000 shall be paid to the Town of Burke.

[Questions? Contact Pam Andros – (608) 261-9780]