

Staff Report



Zoning & Land Regulation Committee

Public Hearing: April 22, 2025

Zoning Amendment Requested:

TO CUP: TEMPORARY CONCRETE BATCH PLANT FOR DOT ROAD PROJECTS

Size: 16.5 Acres

Survey Required:

Reason for the request:

TEMPORARY CONCRETE BATCH PLANT FOR DOT ROAD PROJECTS

Conditional Use 02659

Town, Section:

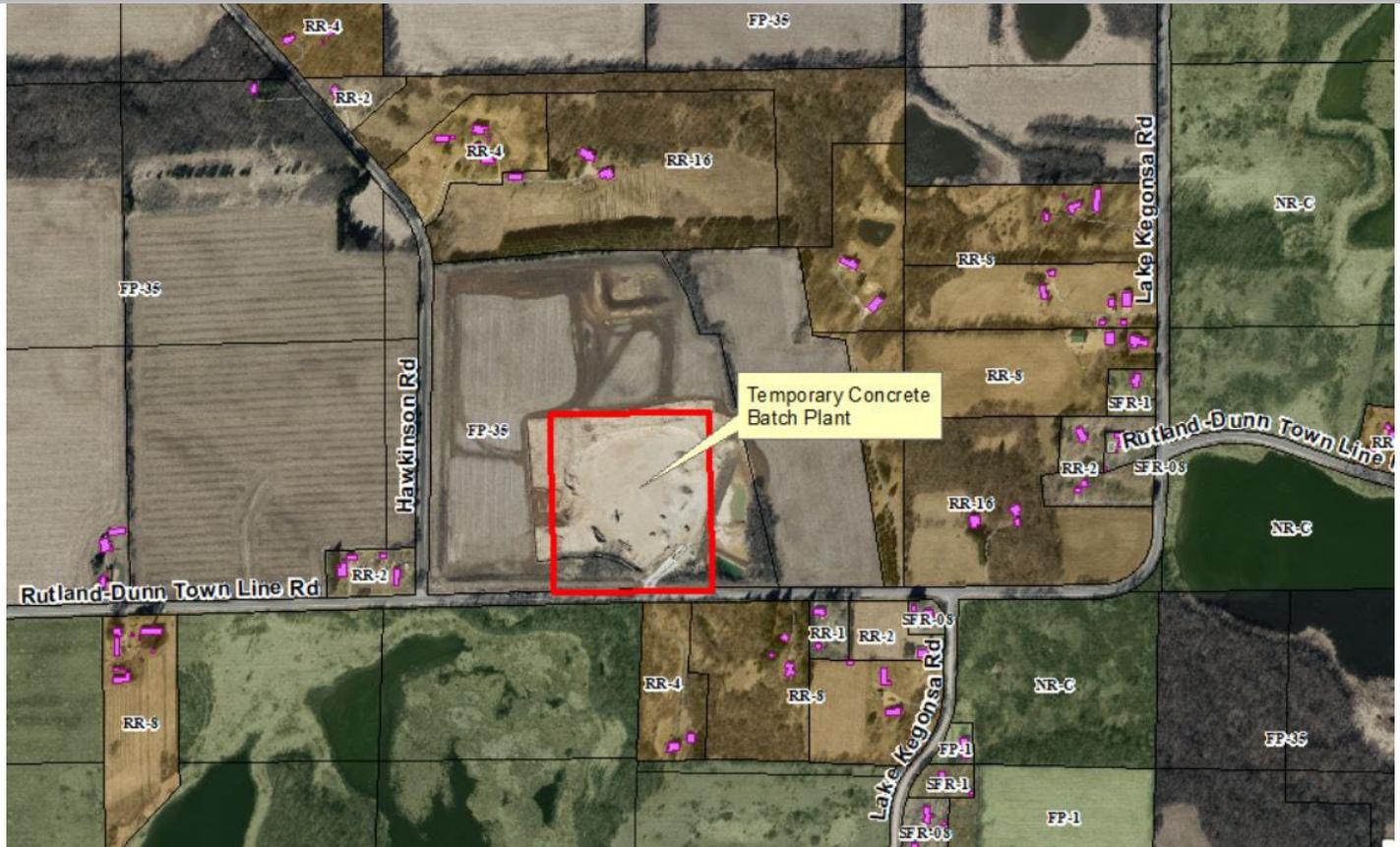
DUNN, Section 34

Applicant:

WINGRA REAL ESTATE LLC

Address:

3690 RUTLAND-DUNN TOWN LINE RD



DESCRIPTION: Applicant Michels Road & Stone Inc. requests a conditional use permit (CUP) to locate a temporary concrete batch plant within an existing sand and gravel quarry site owned by Wingra Real Estate LLC (known as the “Hawkinson Pit”). The CUP boundary area contains 16 acres, though the plant would use up to 7 acres within that area. They request the plant for six months for two Wisconsin DOT highway projects. Specifics of the proposal include:

- **Site improvements:** No buildings or structures other than the mechanical equipment (see p.18 of application).
- **Employees:** 3 (for on-site batch plant operations, excluding truck drivers)
- **Time frame:** early summer 2025 (completion within 6 months from start date of concrete paving)
- **Hours of operation:** Monday to Saturday 6:00am to 8:00pm (daytime hours, no nighttime or Sunday hours anticipated unless project emergencies or demands necessitate)
- **Outdoor storage:** Aggregate piles (stone, sand), supporting materials and equipment.
- **Applicable road projects:** WisDOT USH 51 Projects #5845-16-72/79 and #5845-16-77 (covering 2.5 total miles of roadway, from Spring Rd to Fifth St, and from Larson Beach Rd to Voges Rd).

OBSERVATIONS/ FACTUAL INFORMATION: The larger property is roughly 80 acres in size. It contains gently rolling terrain that includes cropland and a non-conforming nonmetallic mineral extraction pit that has been in operation since the 1960s. The proposed CUP area is surrounded by Wingra’s crop land with FP-35 zoning. The properties to the west are in agricultural use with one home site zoned RR-2. Lands to the north and east are zoned and used for rural residential purposes. Lands to the southwest are publicly-owned conservancy lands zoned NR-C. The nearest homes are roughly 1,100 feet to the north, 1,000 feet to the east, 425 feet to the south, and 990 feet to the west.

The list of allowable conditional uses in the FP-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.”

RESOURCE PROTECTION: There are no sensitive environmental features on the subject property. There are resource protection corridors (wetlands and floodplain) to the south across Rutland-Dunn Town Line Road; however, the proposed batch plant is not expected to affect these areas.

COMPREHENSIVE PLAN: The Town of Dunn Comp Plan lists CUPs that “based upon their nature and well-known or anticipated impacts, the Town believes could be reasonably consistent” with the Comp Plan. Temporary Concrete Batch Plant in the FP-35 zoning district is not listed in the Town’s Comp Plan as a CUP that could be reasonably consistent with the Plan. However, the Town Plan states that all applications will be evaluated to determine compliance with the County’s Zoning Ordinance. The Town will also consider conditions to mitigate potential impacts from a CUP in order to bring the CUP closer to being consistent with the Town’s Comp Plan.

The temporary concrete batch is being proposed in an existing quarry and Dunn lists non-metallic mineral extraction as a CUP that could be “reasonably consistent” with the Comp Plan. The applicant states that they chose this site because temporary batch concrete plants are often located in quarries to reduce truck trips and better screen the plant behind existing berms and within a lower pit elevation. Pending any concerns raised at the ZLR public hearing, or by the Town of Dunn in the course of its review, it appears that mitigation could be potentially accomplished with suitable conditions that address hours of operation, noise, lighting, trucking, and an expiration date. For questions about the town plan, contact Senior Planner Majid Allan at (608) 267-2536 or 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. Applicant states that the site will be used for a temporary batch plant for the two WisDOT projects, for 6 months, and is governed by existing DNR permits.

Applicants state that erosion and sediment control are governed by Wingra Stone’s Wisconsin Pollutant Discharge Elimination System Permit (WPDES). The nonmetallic mining industry has a general permit that combines the Stormwater and Wastewater discharges from nonmetallic sites. The operation of a concrete batch plant is an allowed activity under that permit. Michels will comply with Wingra’s erosion and sediment control plan and comply with all the conditions of the WPDES permit. The equipment meets all of the Department of Transportation and Department of Natural Resources dust control specifications

They state that concrete trucks will wash out and clean up on the WisDOT project site, but a washout area will be installed on site per the site plan. Also that trucks and equipment on site will be equipped with White Noise Backup Alarms, and trucks will limit their backing movements by installing a circular haul road in the site.

Staff recommends a condition of approval to limit site lighting, which (if needed) is typically portable in nature for batch plants. By ordinance, any lighting must be directed downward and away from adjacent properties and public roadways, and minimize ambient light spill. There are four residences within 1,000 feet of the plant.

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 temporary concrete batch plant operations are commonly conducted within existing nonmetallic mining sites. Existing berms are in place, and the pit floor elevation is lower than that of the

neighboring areas. Both increase the screening of the site and help to minimize noise to the neighboring property owners and the public. They also indicate that a water truck and mechanical broom will be on site at all times to control dust and maintain clean and safe roadways during construction operations. The site will be watered as required for dust control.

See comments above under CUP standard #1. As noted above, the plant would only operate for six months in 2025 during the Highway 51 road reconstruction projects.

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.*

The applicant states that this standard would be met because the operation is temporary and limited to two WisDOT projects. Staff notes 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*. This property and most of the surrounding properties are in some form of agricultural use, and lands to the east and southeast are in rural residential use. The proposed conditional use is not expected to impact the ability of surrounding properties to be developed or improved.

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

The applicant states that no modifications to the site are required. Michels will provide portable toilet facilities for employees per OSHA standards. Staff concurs that the utilities, access roads, drainage, and other improvements needed for the proposed use are 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 traffic from the plant will be consistent with what is expected from a nonmetallic mine site. They state the parcel is in close proximity to the two WisDOT projects Michels will be constructing, which will reduce the overall trucking demands on roads. The plant will use the existing access point onto Rutland-Dunn Town Line Road. The proposed haul routes are shown on pages 13-14 of the application.

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 FP-35 zoning district. A concrete batch plant is an allowable conditional use in the FP-35 district. Applicant states the operations are designed to comply with all application regulations.

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. Applicant states that operations will take place within an existing nonmetallic mine site and is temporary.

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).*

- a. *Explain how the use and its location in the Farmland Preservation Zoning District are consistent with the purposes of the district***
- b. *Explain how the use and its location in the Farmland Preservation Zoning district are reasonable and appropriate, considering alternative locations***
- c. *Explain how the use is reasonably designed to minimize the conversion of land from agricultural use or open space use***
- d. *Explain how the use does not substantially impair or limit the current or future agricultural use of surrounding parcels zoned for agricultural use***
- e. *Explain how construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible***

Applicant response to the first standard states that operations are being conducted within an existing nonmetallic mine site, and that the other standards (8b-8e here) are not applicable. Staff concurs they are not

applicable because the batch plant would be located within the quarry, not on agricultural land. No impacts to agricultural lands are anticipated with the proposed use.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The potential nuisances that pertain to temporary batch plant operations most often involve dust, noise, and truck traffic. The 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 Monday-Saturday, with operations at night or Sundays only if mandated by WisDOT.

TOWN ACTION: The Town Board has approved the CUP with conditions (incorporated into recommendations below).

STAFF RECOMMENDATION: Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the hours of operation, a limited duration of 6 months, a direct tie to two specific WisDOT road projects, and the location within an existing quarry pit with only one home within 500 feet of the proposed plant. 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.

Pending any comments at the public hearing, Staff recommends that (1) the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards and (2) we recommend approval subject to the conditions below.

CUP 2659 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 # 2659:

13. The Conditional Use Permit shall only be valid for a parcel of land located in Section 34 and Section 35 of the Town of Dunn, within the area described in the CUP petition legal description until December 31, 2025, and shall become void prior if concrete operations are concluded by Michels Road & Stone LLC, if the property is sold by Wingra Real Estate LLC, or if the following conditions below are not followed.
14. General hours are 6:00 AM to 7:00 PM Monday through Saturday.
15. The maximum number of trucks per hour at any given time shall be 25.
16. The route of truck traffic shall be limited to Rutland Dunn Townline Road and Lake Kegonsa Road in order to access Highway 51 or State Road 138.
17. Trucks may not be parked or stored within the road right-of-way.
18. All outdoor lighting for the concrete operations shall be directed downward and away from adjacent properties and public rights-of-way, and no light shall spill over neighboring property lines.
19. Water trucks shall be used, as necessary, to limit dust formation from stockpiles and access roads.
20. All trucks and equipment shall only use white or grey noise backup alarms.
21. Noise from the CUP operation shall be limited to 70 dBA measured at the property line.
22. Wingra Real Estate LLC or Michels Road & Stone LLC must provide appropriate dumpsters for proper waste disposal.
23. Wingra Real Estate LLC or Michels Road & Stone LLC must provide sanitary facilities per OSHA standards.
24. All requirements and conditions of Wingra Real Estate LLC's and Michels Road & Stone LLC WPDES permit must be complied with.
25. Upon the expiration of the CUP permit or cessation of concrete operations, Wingra Real Estate LLC or Michels Road & Stone LLC shall restore the site to its pre-concrete operation condition, by removing all concrete batch plant equipment, materials, and structures.
26. Where applicable and as necessary, the site shall be re-graded and free of debris or contamination.
27. Wingra Real Estate LLC or Michels Road & Stone LLC shall notify the Town of Dunn in writing a minimum of two weeks prior to starting concrete operations for the 2025 Highway 51 DOT projects. Both the Town Highway Department and Wisconsin Department of Transportation (DOT) shall subsequently inspect the road conditions of the truck routes before the start of the CUP activities.
28. Wingra Real Estate LLC or Michels Road & Stone LLC shall notify the Town of Dunn in writing within two weeks of completion of the 2025 Highway 51 DOT projects. Both the Town Highway Department and Wisconsin Department of Transportation (DOT) shall subsequently inspect the road conditions of the truck routes.
29. Any road damage(s) resulting from the CUP activities must be promptly repaired by Wingra Real Estate LLC or Michels Road & Stone LLC.
 - a. If the damage is hazardous, repairs should be made immediately.
 - b. For minor damages, repairs must be completed within four weeks of the completion of the 2025 Highway 51 DOT projects.
30. Michels Road & Stone LLC shall provide emergency contact information to the Town and neighbors within 300 feet of the parcel and shall respond within 30 minutes to calls from these neighbors regarding CUP violations.

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