
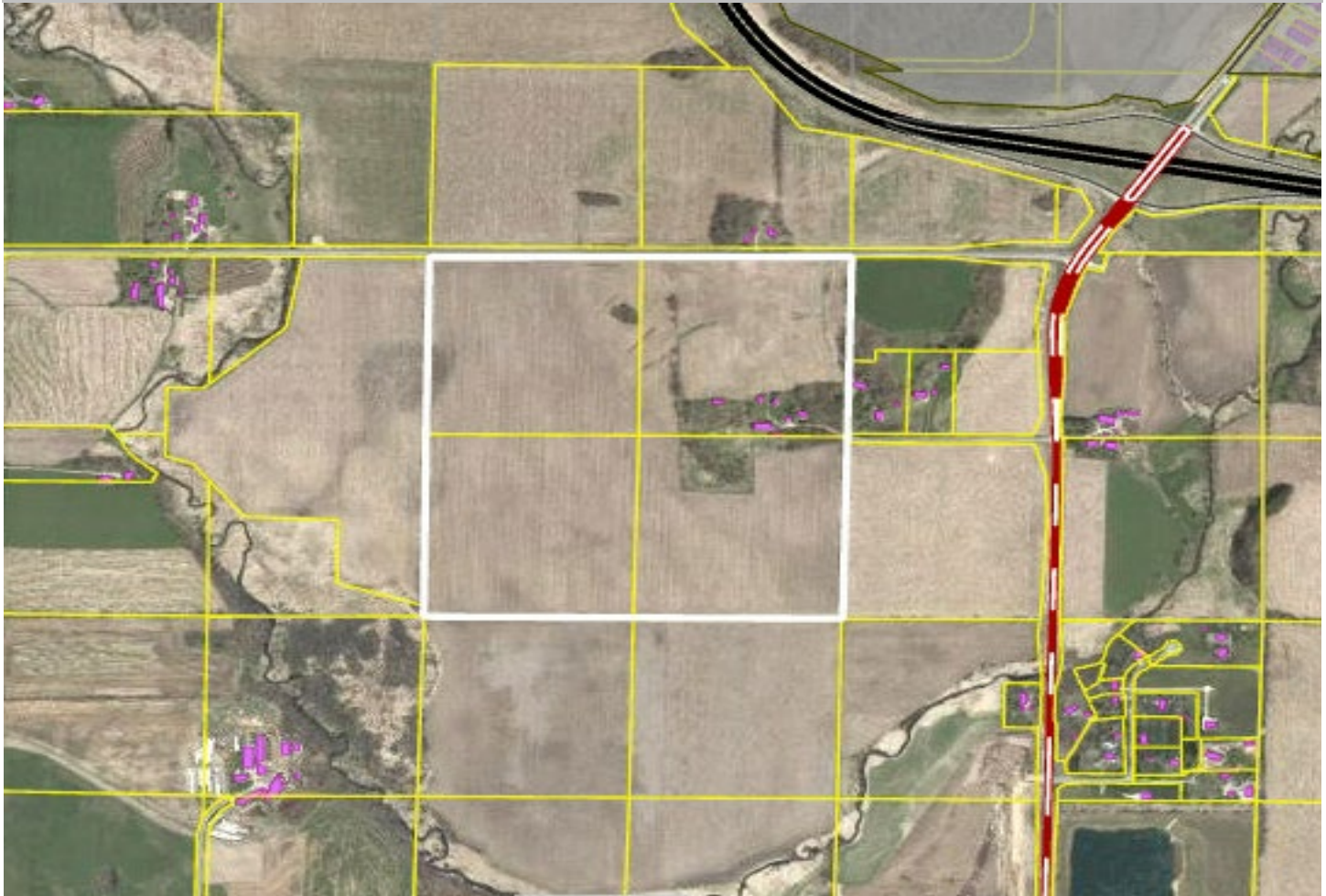


Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> August 27, 2024		CUP 02629
	<i>Zoning Amendment Requested:</i> TO CUP: Non-metallic mineral extraction operation		<i>Town/Section:</i> VERONA, Section 28
	<i>Size:</i> 159.21 acres	<i>Survey Required:</i> <i>n/a</i>	<i>Applicant</i> JMM LLC (Mike Marquette)
	<i>Reason for the request:</i> Operate a new non-metallic mineral extraction site.		<i>Address:</i> 7228 PINE ROW ROAD



DESCRIPTION:

JMM LLC, (Michael Marquette) would like to obtain a Conditional Use Permit to operate a non-metallic mineral extraction site located on approximately 159 acres on lands under the ownership of SOUTHWEST INVESTMENTS LLC.

The proposed site is just west of 7228 Pine Row Rd in the town of Verona. The deposit is a glacial outwash consisting of sand and gravel with reserves of approximately 20 to 25 million tons and may operate for 35 years. Operational hours are proposed to be Monday through Friday 6:00 am to 6:00 pm and Saturday 8:00 am to 2:00 pm.

Mining will occur below the water table, resulting in the creation of a lake that will increase in size and depth as the mine is developed. Final reclamation is being proposed as uplands surrounding a 70-acre lake.

OBSERVATIONS/FACTUAL INFORMATION:

The land is currently being leased and utilized for crop production. Mined material will be processed by crushing, screening, and washing, then temporarily stockpiled until sold or used.

The processing area and mine entrance will be developed on the northeastern portion of the Site. Mining will commence in the northwest area and overburden from the processing and initial mine area will be used to construct berms along Valley Road and the northeastern and northwestern boundaries. As mining expands south, the overburden will be used to create additional berms, be sold, and used to reclaim mined areas.

After approximately 1 acre of open water is created, or if the ground is suitable after stripping the overburden, the mining operation will transition to dredge mining. Dredge mining will pump sand and gravel, which will be discharged near the processing plant and allowed to drain. The dredge mining operation will extend vertically to the bottom of the sand and gravel deposit, generally at a depth of 70 to 90 feet. No blasting is anticipated. The anticipated maximum depth of the pit is 90 feet. Areas of the site not involved in the extraction or processing operations will remain in agricultural use.

Site access will be about 1500 feet west of the intersection of State Highway 69 and Valley Road. Traffic to and from the mine will generally follow Valley Road to STH 69. According to the submittal, improvements to Valley Road will be based on discussions with the Town of Verona Public Works Director. There is a short dead end road that runs west of STH 69 and east of the proposed site. Currently, there are two homes along the north side and the house and farm buildings at the west end of Pine Row Road are proposed to be demolished. There are no residences along Valley Road adjacent to the proposed site. SSM Health (WINGRA BUILDING GROUP) has purchased the parcels to the north of the proposed site and are in the planning stages of constructing a medical campus, a multi-phase project that will provide care for southern Dane County and surrounding areas. SSM Health anticipates groundbreaking in early 2025.

The applicant is required to submit a reclamation plan under Chapter 74 requirements and an artificial lake is being proposed as the final use. A water body can be an acceptable achieved use after mining ceases, but there are technical requirements with final grading and slopes. As per Chapter 74.115 STANDARDS; when the approved post-mining land use includes a body of water, the approved final grade at the edge of the body of water shall extend vertically six feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

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 ZLR Committee shall make findings based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the eight standards to obtain a conditional use permit. Below is the list of the eight standards and the applicant’s response to those sections.

1. 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 proposed use will be on private property with no public access allowed during non-operating hours. The mining operation must comply with strict United States Department of Labor Mine Safety and Health Administration (MSHA) and State of Wisconsin safety and health regulations, and United States Department of Environmental Protection (USEPA) and Wisconsin Department of Natural Resources (WDNR) environmental regulations. Concerns raised by the public, Township, or County regarding public health and safety and harm to the general welfare of occupants on adjacent properties will be addressed. Construction aggregate mining is governed by statutes and laws, rules, and regulations, and local ordinances established by a multitude of government and regulatory agencies at the federal, state, and local levels. The magnitude and depth of regulatory control and oversight of nearly every aspect of nonmetallic mining that includes land use, environmental protection, and public safety, provide the matrix within which mining is performed sustainably and safely. The regulations are designed to prevent widespread negative effects no different than those applicable to every other industrial, agricultural, and commercial enterprise. Decades of research by experts in health, safety, environment, and other areas, and the application of existing rules and regulations in nonmetallic mining operations demonstrate that nonmetallic mining is one of the most highly regulated industrial businesses*

in the United States. Potential known impacts on the environment and public health, safety, and welfare are addressed by existing laws, regulations, and additionally on the CUP permitting process through the Dane County Zoning and other Ordinances. Balancing the demands of every community through adherence to the complex regulatory control and oversight of the nonmetallic mining industry results in a sustainable and reliable source of construction aggregate for Dane County.

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.

- The proposed use will, in no foreseeable manner, impair or diminish any of the uses, values, and enjoyment of other properties in the neighborhood for purposes already permitted. The adjacent land and neighborhood are agricultural with a density of two to three residences per square mile. Other land use near the Site includes:*
- The property adjacent to the southeast that is permitted for nonmetallic mining and is also used for agriculture;*
- Sugar River Natural Resource Area, which abuts the Site to the south is primarily agricultural, but includes segments of the Sugar River and Badger Mill Creek; and*
- Sugar River Wetlands State Natural Area to the north, across Valley Road also includes agricultural land use within the portions nearest the Site.*

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.

- Nonmetallic mining is a conditional use within the AT-35 zoning district and will not impeded the normal and orderly development and improvement of the surrounding property for uses that may be permitted by the County. Development and improvement of surrounding property will benefit from the nonmetallic minerals that will be produced at the proposed mine.*

4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;

- The Site includes the necessary utilities for the proposed use. Electricity is provided by Alliant Energy. Liquefied petroleum gas (LPG) and septic systems also serve the Site and neighboring properties. Site access will be from Valley Road. The access road into the mine property will be adequately sized to accommodate incoming and outgoing truck traffic. Drainage on the Site is limited to sheet flow across agricultural land toward adjacent agricultural land to the southwest, south, and southeast. There are no drainage features physically present on the Site and none are evident on aerial photographs from 1937 and 1974 through 2024. No drainage features, ephemeral, intermittent or perennial streams, are mapped on the United States Geological Survey (USGS) Quadrangle maps, the Dane County DCiMap, or the WDNR Surface Water Data Viewer. The Dane County DCiMap includes three short lines representing "surface drainage network" that were apparently added based on an interpretation of topographic contours drawn with a contour interval of 2 feet. The surface drainage network shown on the DCiMap does not correspond to physical drainage features at the Site and none of them lead to similarly drawn "drainage network" or streams beyond the Site boundary. As the mine is developed, surface water drainage will remain the same until mine development diverts water into the mine.*

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

- Site access will be from Valley Road. The mine entrance will be designed to meet Town of Verona design standards. Neighboring traffic patterns will not be impacted.*

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

- The proposed nonmetallic mine is designed to be compliant with the applicable regulations of the AT-35 zoning district, in addition to the statutes, laws, rules, and regulations established by the government and regulatory agencies at the federal, state, and local levels. The magnitude and depth of regulatory control and oversight of nearly every aspect of nonmetallic mining, including land use, environmental protection, and public*

safety, provide the matrix within which mining is performed sustainably and safely. The regulations are designed to prevent widespread negative effects as with every other industrial, agricultural, and commercial enterprise.

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

- *The Site is included in the Dane County Comprehensive Plan Mineral Resources Map with “High Potential Sources of High Quality Sand & Gravel”. The County Comprehensive Plan recognizes the importance of mineral resources and established a goal to “Identify and protect as much of the county’s nonmetallic mineral resources as is practicable, in the context of environmental, residential and other land use planning objectives, to supply local and regional needs.”*

The Town of Verona Comprehensive Plan recognizes “the importance of mineral extraction sites as a source of construction material, agricultural lime and the risks this activity entails.” The Town Comprehensive Plan provides for the establishment of new sites provided criteria are met. Those criteria are consistent with the requirements of the Dane County zoning ordinance (Chapter 10) and Non-Metallic Mining Ordinance (Chapter 74).

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. The current zoning district is AT-35, Agricultural Transition. A zoning district for transitioning agricultural land near urban developing areas.**

- *The Site is not located in a Farmland Preservation Zoning district.*

- b. The use and its location in the Farmland Preservation Zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.**

- *The Site is not located in a Farmland Preservation Zoning district.*

- 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.**

- *The Site is not located in a Farmland Preservation Zoning district.*

- 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.**

- *The Site is not located in a Farmland Preservation Zoning district.*

- e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.**

- *The Site is not located in a Farmland Preservation Zoning district.*

POTENTIAL NUISANCES ASSOCIATED WITH MINERAL EXTRACTION

Mineral extraction has potential nuisances that pertain to blasting, truck traffic, dust, noise and aesthetics. The applicant has submitted information regarding how those potential nuisances are handled as part of their application.

APPLICABLE COMPREHENSIVE PLANS

Town/County Comprehensive Plan

The site is located within a Transitional Agriculture Area under the adopted [Town of Verona / Dane County Comprehensive Plan](#). The plan states: “The primary intent of this classification is to conserve rural use lands that may someday be used for rural residential development or lot splits in the next 20 years.” Prior to considering proposals for more intensive use, the development must meet the following criteria:

- a. The property owner or developer shall submit a conceptual development plan for the entire property.*
- b. The proposed development will have a positive fiscal impact on the Town.*
- c. The property owner has met with nearby property owners and made a good faith effort to address their concerns.*
- d. The proposed development will consider ways to minimize impact on the rural character of the Town.*
- e. Units/lots will be determined by the type of development.*
- f. The proposed development will not have a significant negative impact on ongoing farming operations within any farmland preservation area.*

The policies specific to the Transitional Agriculture Area are silent on non-residential uses, but the plan does include general policies for new or expanded mineral extraction sites:

- a. *The Town may allow the opening or expansion of approved sites, or the establishment of new sites with a plan amendment, provided the following criteria are met:*
- b. *Compatibility with Neighboring Existing Uses - The establishment, maintenance, or operation of the site shall not conflict with adjacent approved uses, subject to appropriate discussion and review.*
- c. *Preservation of Public Health and Safety - The establishment, maintenance, or operation of the site shall not be detrimental to or endanger the public health, safety, comfort, or general welfare.*
- d. *Positive Cost-Benefit Analysis - The establishment, maintenance, or operation of the site shall balance the risk with the positive business of employment, tax revenue, and need of natural resources for all citizens.*
- e. *Compatibility with Proposed Uses - The establishment, maintenance, or operation of the site shall not impede the planned and orderly development of the surrounding properties for uses permitted in the area.*
- f. *Protection of Wetlands and Water Quality - Operation of the site shall meet and satisfy all State and County criteria regarding wetlands and water quality impacts of the proposed extraction operation.*
- g. *Protection of Air Quality - Operation of the site shall meet all applicable State and Federal air quality standards.*
- h. *Required Maintenance of the Site - Adequate access roads, drainage, noise and dust controls, visual barriers, and other site improvements shall be provided by the landowner, renter, or lessee.*
- i. *Required Operational and Reclamation Plans - Site operation plans and specific, detailed reclamation plans shall be provided by the landowner, renter, or lessee.*
- j. *Transportation analysis - Applicant will be required to provide for a traffic impact study and impact on roads. If there is potential damage to Town roads, the applicant will be required to cover the repair of the road.*

Intergovernmental Agreement

The site is also subject to the [City of Verona and Town of Verona Intergovernmental Agreement \(2016-2026\)](#). The northern 78 acres of the property (PINs 0608-282-8000-6 and 0608-282-8500-1) fall within Area A, while the southern 79 acres (PINs 0608-282-9000-4 and 0608-282-9500-9) fall within Area B ([see map](#)). The agreement designates Area A as the City of Verona's "primary growth area," where development is expected to occur within the lifespan of the agreement. Area B is the "city-town interest area," where development is expected to occur beyond the lifespan of the agreement. In both Area A and Area B, the Town of Verona agrees that it shall not take any action that conflicts with the relevant sections of the agreement, or that "undermines the area as being a future growth area for the City." The agreement also establishes a joint planning commission for the review of "lot splits, land divisions and rezones," and states that "among other actions," the Town shall not approve and shall oppose such applications if they conflict with the agreement.

City of Verona Southwest Neighborhood Plan

The Verona City Council adopted the [City of Verona Southwest Neighborhood Plan](#) in 2009 as part of the *City of Verona Comprehensive Plan* to provide "specific details for future urban development" to replace and supersede more general language in the Comprehensive Plan (see e-mail discussion with City of Verona Planning Director Lucas Sivertsen in Legistar). The Southwest Neighborhood Plan shows the site of the proposed mineral extraction operation as planned for "non-residential" uses, and notes:

"Additionally, this area is characterized by very flat land and a high water table. These attributes of the area lend themselves to nonresidential development—which unlike residential development does not require basements and which is less well-suited to hilly land with significant amounts of topographic variation."

Specific planned land uses include: "a mix of office, business-park, research, educational, light industrial, corporate campus, service, and retail businesses." Any nonresidential development in this area must comply with the City of Verona's [Resource Assessment and Development Analysis for the Upper Sugar River and Badger Mill Creek Southwest of Verona, WI](#).

Application Deficiencies

The materials provided in the CUP application are insufficient to determine consistency with some of the standards of the adopted town/county comprehensive plan. Prior to approval of any CUP application, the applicant should provide additional information to determine whether the following plan standards are met.

- *Positive Cost-Benefit Analysis -The establishment, maintenance, or operation of the site shall balance the risk with the positive business of employment, tax revenue, and need of natural resources for all citizens.*
 - Please provide an appropriate cost-benefit analysis.
- *Protection of Wetlands and Water Quality - Operation of the site shall meet and satisfy all State and County criteria regarding wetlands and water quality impacts of the proposed extraction operation.*
 - Although the aerial photo-derived Wisconsin Wetland Inventory shows only small wetlands on the site, there are approximately 23 acres of hydric soils in the northwestern portion of the site. Such soils are indicative of wetland conditions. Field-verified [wetland delineations](#) will be necessary to determine the actual extent of wetlands on the site and any impact from the proposed use.
 - The applicant should obtain a Preliminary Review Letter under section 14.09, Dane County Code from the Water Resource Engineering Division of the Dane County Land and Water Resources Department to ensure that county stormwater and erosion control standards can be reasonably met.
- *Transportation analysis - Applicant will be required to provide for a traffic impact study and impact on roads. If there is potential damage to Town roads, the applicant will be required to cover the repair of the road.*
 - The application includes a very general discussion of road impacts resulting from mineral extraction operations, but does not include any site-specific analysis of the roads and transportation network at this location. The applicant should provide a site-specific traffic and road impact analysis that meets the current technical standards of the [Wisconsin Department of Transportation](#), the Dane County Highway and Transportation Department and both the City of Verona and Town of Verona Engineers. The report should identify any existing roadways or intersections inadequate to safely handle projected traffic and include estimated costs for improvements.

Inconsistency with Planned Land Uses

If approved, the CUP would allow for a quarry anticipated to continue operation for 35 years. Once all the material is extracted, 70 acres of the site will be reclaimed to an artificial lake. Such temporary and long-term uses are fundamentally inconsistent with the purposes and supported land uses described in the *City of Verona Southwest Neighborhood Plan / Comprehensive Plan* (“office, business-park, research, educational, light industrial, corporate campus and retail businesses”).

TOWN ACTION: Pending

STAFF RECOMMENDATIONS

The contents of this staff report summarizes information provided by the applicant. As part of the conditional use permit process, the public has an opportunity to provide additional information and raise concerns. Concerns raised will need to be addressed by the application. Staff has identified several items of concern regarding this proposal:

Erosion Control, Stormwater Concerns and Sensitive Environmental Concerns:

1. There is a culvert that runs under Valley Road that directs the natural drainage from the northerly land to the site. Once on site, the drainage continues south. The proposal does not address how the natural drainage from the north will be handled on the site. It appears that a driveway will be placed at the culvert location. The applicant will need to address natural drainage flow coming onto the site and how it is treated.
2. The plan proposes to have a 25-acre processing area on the northeast corner of the property. The area is shown to have a 6% to 8% grade flowing to the southwest. It appears that the surface storm water from the processing area will run directly into the proposed subsurface excavation area (exposed groundwater) without any buffer. The applicant will need to provide information on how the contaminates, debris, sediments, from the vehicles and equipment operating in the processing area will be removed or filtered prior to entering the open water.

3. The plan identifies that there is a mapped floodplain area with the presence of wetlands adjacent to the west. No information has been provided to show how this area will be protected from filling or land disturbance. Wetland delineations will be necessary to determine the actual extent of wetlands on the site and any impact from the proposed use.
4. The applicant should provide evidence that the proposed operation and the final reclaimed land use will comply with the standards of the City of Verona [*Resource Assessment and Development Analysis for the Upper Sugar River and Badger Mill Creek Southwest of Verona, WI.*](#)

Local Access and Truck Traffic Concerns:

5. Given that Valley Road is a town road, the Town of Verona has jurisdiction and maintains the quality of the roadway. Valley Road has limitations being used as a haul route for dump trucks. Currently, the roadway width is 20 to 21 feet and may not meet minimum road width standard noted for Wisc. Stats. 82 for the anticipated traffic load. A traffic impact study and impact on roads shall be completed as per planning comments.
6. The Town of Verona will need to approve an acceptable access point on Valley Road. The Town may want to shift the access point (along with processing area to the west to provide additional buffering to residents to the east.
7. Staff is concerned with the lack of detail with a truck route and would suggest truck traffic to only be to and from STH 69, which is about 1/3 of a mile to the east.
8. Information will be needed from State DOT identifying that the STH 69 and Valley Road intersection is designed to handle the anticipated traffic volume produced from the quarry.

General Concerns:

9. The proposed use appears to conflict with the overall land use policies of the City of Verona Southwest Neighborhood Plan.
10. An appropriate cost-benefit analysis is to be submitted as per planning comments.
11. Under the General Description the plan states that Excavated bedrock from areas of shallow bedrock will also be accepted from properties within 2 miles of the Site. The CUP application and possible conditions are for this subject property only. Clarification should be defined with regards to this statement.

Pending any comments at the public hearing and action by the Town of Verona, the Committee will need to make findings of fact as to whether the proposed CUP will meet the applicable CUP standards outlined above in the decision making section. However, at this time, the town of Verona has yet to take action and staff recommends postponement to allow for the applicant to continue to work with the town and address the concerns listed above.

Any questions about this petition or staff report, please contact Dan Everson at (608) 267-1541 or email at everson.daniel@countyofdane.com