
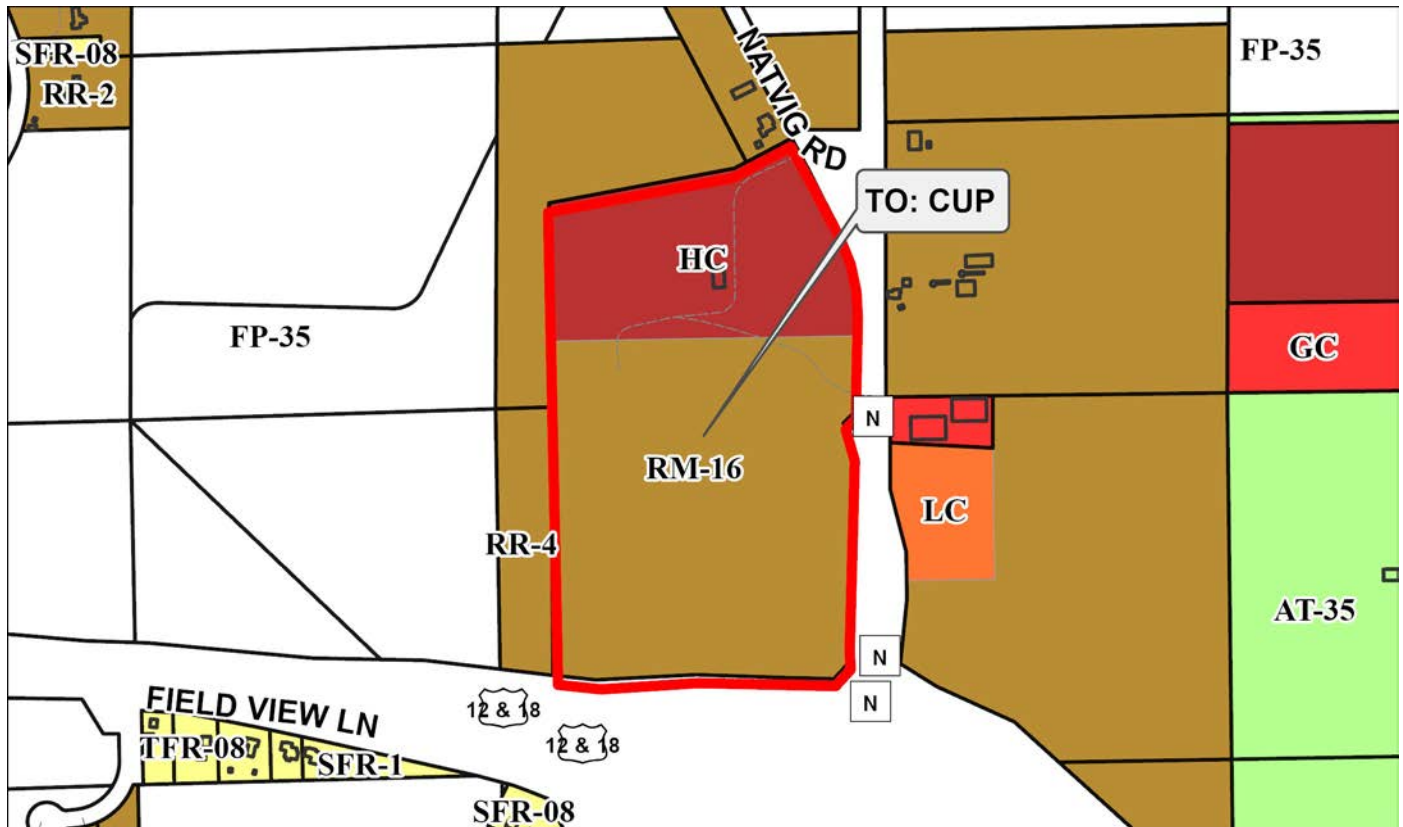


Staff Report  Zoning & Land Regulation Committee	<u>Public Hearing:</u> November 19, 2024		Conditional Use 02642
	<u>Zoning Amendment Requested:</u> TO CUP: Non-metallic mineral extraction (extend existing permit)		<u>Town, Section:</u> COTTAGE GROVE, Section 28
	<u>Size:</u> 45.3 Acres	<u>Survey Required:</u>	<u>Applicant:</u> SKAAR PIT LLC
	<u>Reason for the request:</u> Non-metallic mineral extraction (extend existing permit)		<u>Address:</u> 3355 COUNTY HIGHWAY N



DESCRIPTION: Applicants request a conditional use permit (CUP) to obtain a 10-year time extension for an existing mineral extraction (quarry) site. The existing sand and gravel pit has been in operation since 1998. The business involves the mining, recycling, processing of aggregates for local construction projects including residential homes, commercial sites, local roads and highways. The current permit ([CUP #2300](#)) expires in February of 2025.

OBSERVATIONS/ FACTUAL INFORMATION: The property is roughly 45 acres in size. The neighboring land uses are primarily in agricultural and rural residential use, with a commercial building restoration business to the east across Highway N, US Highway 12 & 18 to the south. A self-storage business and a handful of residential lots are to the south across Highway 12 & 18. The property is also home to a composting operation that has operated since 2016, and processes agricultural farm waste to produce a product used for soils used in landscaping projects.

The property was originally split into two parcels with C-1 and A-2 zoning, so the northern C-1 parcel could contain both the quarry and composting operations. Under the zoning ordinance that was rewritten in 2019, the most suitable zoning to match the current uses is MI Manufacturing and Industrial zoning district. The applicants have submitted a petition to rezone the property to MI zoning, with restrictions to limit the range of allowable land uses. [Rezone petition #12109](#) was recommended for approval by the ZLR Committee after its public hearing on October 22nd and will go before the County Board on November 7th. The proposal will unify the property into a single lot and single zoning district. Mineral extraction is listed as an allowable conditional use in the MI zoning district.

Specific aspects of the operation include:

- Equipment: Typical equipment used in the mineral extraction operation would be a hydraulic backhoe, loader, dozer, haul trucks, dump trucks, semis, portable screening plants, portable crushing plants, portable washing plants, scales, etc.
- Site improvements: No new site improvements proposed or needed.
- Current and proposed hours of operation (no change proposed):
 - Monday thru Friday: 6 am to 6 pm
 - Saturday: 8 am to 1 pm.
 - Sunday & Holidays: no work
 - Special hours with notification/ acknowledgement by Town chairman.
- Employees: Typically 1 to 3 full-time employees on site depending on whether equipment is brought in to process material. Processing usually takes place over a few weeks, then the equipment is moved off site.

RESOURCE PROTECTION: The site does not contain any sensitive environmental features. Little Door Creek, a perennial stream, is located roughly 300 feet away to the northwest of the property. Mapped regulatory floodplain is located on the property and development within the floodplain is subject to floodplain development standards.

COMPREHENSIVE PLAN: The property is located in the town's commercial planning area. There are no explicit town plan policies regarding mineral extraction uses in this area. The quarry has been in operation for decades, with several permit extensions occurring since its inception in 1998 under previous CUP #1476. Approval of prior CUP 2300 in 2015 extended operations for 10 years, and the current application seeks another 10-year extension. Staff is unaware of any concerns raised with regards to the ongoing mineral extraction and have received no formal complaints within the past 10 years.

Pending any concerns raised during the ZLR Public Hearing, the proposed conditional use appears reasonably consistent with comprehensive plan policies and staff would recommend approval with conditions similar to those imposed on prior CUP 2342. For questions about the comprehensive plan, please 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. The applicant states that the site already meets these measures and will continue to do so. They state the roadway turn lanes are already installed, with signage as required by law, and that all equipment use on site has muffler systems that meet or exceed industry standards for noise. They state the site is under permit and meets DNR standards for particulate emissions, and that the existing storm water detention ponds (separate ponds for the composting and mineral extraction operations) will be maintained.

They also note that the site is currently permitted by DNR and Dane County for dust and stormwater management, and they will continue to use water as needed to control dust. Noise is controlled based on the elevation (down in a hole for the most part) and rural location of the operation, and all mufflers will be maintained in proper working order.

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 the site already meets these measures and will continue to do so. They note the operation will continue to have no impact on the surrounding agricultural properties, no impact on the commercial business to the east, that they own the rural homestead to the east, and the home to the north is owned by a company employee.

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 applicant states that the operation will continue to meet this standard. They note they are changing the zoning to coincide with future commercial development of the property, which is in line with the current Town of Cottage Grove land use plan that plans this area for a future town business park.

As noted above, most of the surrounding properties are currently under agricultural and rural residential use, with some commercial sites already in existence. Most land to the west is zoned Farmland Preservation, with some undeveloped adjacent land zoned Rural Residential; most land to the east is zoned Rural Mixed Use.

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

The utilities, access roads, drainage, and other improvements needed for the operation are already in place. The applicant states that roadway improvements to County Highway N (turn lanes) have been installed, and Natvig Road was realigned by the county years ago. They note the storm water detention ponds follow all applicable county standards and will be maintained as they currently are. Porta-potties are used for sanitary facilities.

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.*

Off street parking is provided on site within the pit and composting area. The applicant states that roadway improvements were already done, and the on-site driveway is asphalt surfaced, 24 feet wide and approximately 675 feet long. Daily truck volumes vary greatly depending on projects and other local contractors/customers, but on seasonal average they see zero to ten trucks per hour (which includes the composting operation). They do not expect any changes to the current operation and still anticipate traffic to fluctuate as it does now.

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 proposed MI zoning district. MI zoning allows mineral extraction operations with an approved conditional use permit.

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: Mineral extraction has potential nuisances that pertain to truck traffic, dust, noise, and aesthetics. (This quarry does not involve blasting rock as some operations do.) 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. Common topics include, but are not limited to, hours of operation, screening, duration, site access, and identification of haul routes. Under Dane County Zoning Ordinance section 10.103(15), there are special requirements for mineral extraction operations. In addition to the conditions required for all CUPs, the Town Board and zoning committee shall impose, at a minimum, the following conditions:

1. Topsoil shall be saved and stored on site for reclamation of the area.
2. The applicant shall receive approval of an erosion control permit prior to commencing extraction operations.

3. The Town and Committee will set an expiration date for the conditional use permit based on the quantity of material to be removed. (See suggested conditions below)
4. Reclamation of the site shall meet all requirements of Chapter 74 of the Dane County Code of Ordinances.
5. The driveway access shall be paved or covered with crushed asphalt for a minimum distance of 100 feet.
6. The access to the driveway shall have gates securely locked when the extraction site is not in operation, with “no trespassing” signage.
7. All excavation shall be set back a minimum of 20’ from any property line.
8. All excavations below grade of an abutting road shall be set back to match the building setback requirements.
9. The Town and Committee will assign hours of operation appropriate to the particular application. (See suggested conditions below)
10. There shall be a safety fence with a minimum 4-foot height around the entire extraction area at all times.
11. Discharge of water from a site is limited. (See staff suggested condition #4 below)
12. All trucks and excavation equipment to have muffler systems that meet current industry standards for noise abatement.
13. The operator shall meet DNR standards for particulate emissions.
14. The operator shall carry liability insurance with Dane County and the Town listed as additional named insureds.
15. The town board and zoning committee may set further reasonable restrictions on a mineral extraction operation. (See staff suggested conditions below)
 - a. All excavation equipment, plants, and vehicles shall be fueled, stored, serviced, and repaired on lands at least 3 feet above the highest water table elevation to prevent against groundwater contamination from leaks or spills.
 - b. In the event that a mineral extraction operation will destroy an existing Public Land Survey Monument, witness monuments must be established in safe locations and a new Monument Record filed by a Professional Surveyor, prior to excavation and disturbance of the existing monument.

TOWN ACTION: On October 9, 2024 the Town Board approved this CUP, to extend for 10 years with the same conditions as the expiring CUP #2300. (See recommended conditions 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 information summarized above for the existing site improvements and business operation, and is also reflected in the town’s findings and approval conditions.

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 findings of fact as to whether the proposal meets the CUP standards listed above, and (2) we recommend approval with the conditions listed below. This list includes the conditions on the previous CUP #2300 as well as the specific conditions required by the Zoning Ordinance as it was rewritten and adopted in 2019.

CUP 2642 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 #2642:

13. 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.
14. Operations shall cease no later than ten (10) years from the date of issuance of the conditional use permit.
15. Topsoil shall be saved and stored on site for reclamation of the area. Reclamation shall be completed within one year after operations have ceased, and shall be phased according to the operations and reclamation plan.
16. Reclamation shall meet requirements of Chapter 74 of the Dane County Code of Ordinances (DCCO). The current reclamation plan on file with Dane County will need to be modified as per DCCO Ch. 74.231.
17. The operator shall post and maintain at all times a bond or irrevocable letter of credit in favor of Dane County, as required by Chapter 74 of the DCCO, to ensure compliance with the reclamation plan.
18. Hours of operations, except for crushing, screening, and washing shall be from 6 a.m. to 6 p.m., Monday through Friday, and from 8 a.m. to 1 p.m. on Saturday. Crushing, screening and washing shall not occur before 7 a.m. on Monday through Friday and 8 a.m. on Saturday. No operations of any kind shall take place on Sundays or legal holidays. Hours may be extended on a per need basis by approval of the Town Chair/Board, with written notification being given to Dane County Zoning.
19. Access will be paved a minimum of 150 feet.
20. Trucks shall exit the site onto Natvig Road where they can then access CTH N.
21. There shall be a safety fence with a minimum 4-foot height around the entire extraction area at all times. The existing right-of-way fence, located to the south and east of the property, shall be maintained.
22. The site shall be signed "no trespassing". When the extraction site is not open, the access road onto CTH N shall have gates securely locked.
23. There shall be no blasting or drilling on the site unless approved by the Township permitting process, and operator provides written evidence of Town permit to Dane County Zoning.
24. There shall be no bulk fuel stored on the site.
25. There shall be no high-capacity wells on site unless approved through appropriate WisDNR permitting process.
26. No mining shall take place within 300 feet of Little Door Creek.
27. All excavation shall be set back a minimum of 20' from any property line. Excavations below the grade 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 DCCO s. 10.17 (42 feet from Right of Way Line of CTH N and US HWY 12/18).

28. The operator shall require all trucks, excavation, crushing, screening and washing equipment to have muffler systems which meet or exceed then-current industry standards for noise abatement.
29. The applicant shall meet DNR standards for particulate emissions as described in NR 415.076, Wisconsin Administrative Code.
30. All excavation equipment, plants, and vehicles shall be fueled, stored, serviced, and repaired on lands at least 3 feet above the highest water table elevation to prevent against groundwater contamination from leaks or spills.
31. In the event that a mineral extraction operation will destroy an existing Public Land Survey Monument, witness monuments must be established in safe locations and a new Monument Record filed by a Professional Surveyor, prior to excavation and disturbance of the existing monument.
32. CUP to become effective only upon Rezone Petition #12109 first becoming effective.
33. This CUP is limited to RG Huston only and is not transferrable to a different operator.

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