
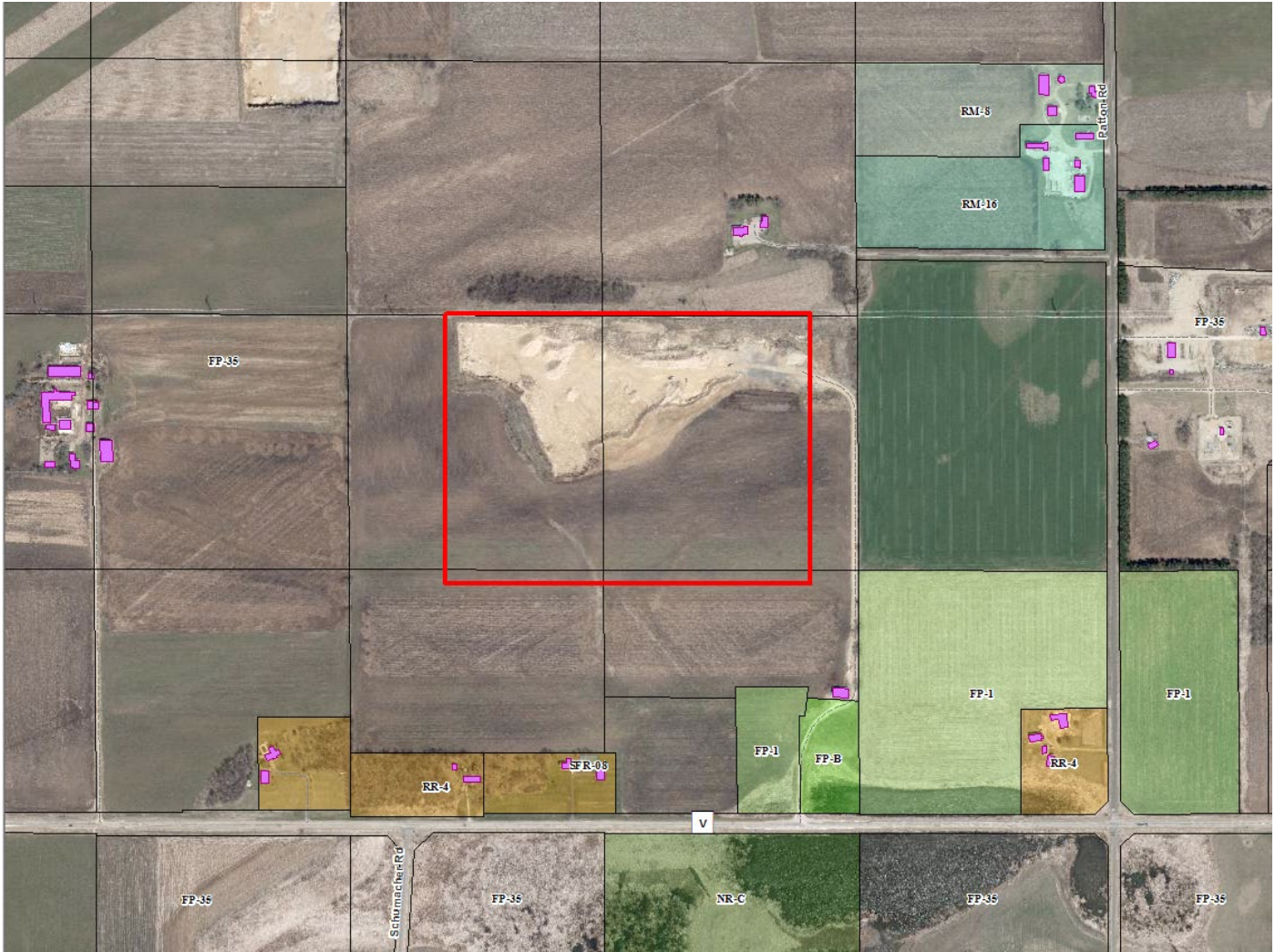


Staff Report  Zoning & Land Regulation Committee	<u>Public Hearing:</u> June 18, 2024 Report updated for the July 9, 2024 ZLR Meeting	Conditional Use 02621	
	<u>Zoning Amendment Requested:</u> TO CUP: 10.222(3)(d) Temporary Concrete Batch Plant for public road projects	<u>Town, Section:</u> VIENNA, Section 16	
	<u>Size:</u> 59 Acres	<u>Survey Required:</u> NO	<u>Applicant:</u> ROCK CROP LLC
	<u>Reason for the request:</u> 10.222(3)(d) Temporary Concrete Batch Plant for public road projects		<u>Address:</u> 5626 COUNTY HWY V



DESCRIPTION: Tri County Paving would like to obtain a conditional use permit to operate a temporary batch plant within an existing quarry located north of County Highway V. The concrete plant would be used for public road projects when they occur. The quarry will supply materials for concrete production.

CUPs are generally approved for specific highway projects. However, the applicant would like to obtain a general 10-year approval to locate a temporary batch plant in this location. The CUP would reduce repetitive approvals and provide guarantees for siting. Due to the time constraints of the DOT bidding process, contractors find it extremely difficult to obtain approvals to support the siting of temporary concrete batch plants.

OBSERVATIONS: This site obtained conditional use approval under CUP #1981 in 2006 for mineral extraction. The quarry’s hours of operation are from 6:00am to 4:30pm, Monday through Friday. Blasting is permitted on the site. The extraction operation is allowed for 50 years. The application for the proposed temp concrete plant is requesting activity hours extending to 8:00pm, Monday through Friday.

There is one single-family residence located 800 feet from the site. The hillside on the northern edge of the property provides a natural buffer for this house. There are six other residences in the area, however, they are over 2,000 feet from the proposed batch plant.

The quarry is located approximately ½ mile north of County Highway V. The driveway follows the edge of the property line south, avoiding productive agricultural fields. There is a small wetland area abutting the county highway that the existing driveway bisects. The existing drive entrance has been designed to meet DOT B1 access standards.

COMPREHENSIVE PLAN: In the Town of Vienna, operational agreements between the operator and the Town of Vienna will be required for all new or expanding quarrying operations. Failure to enter into an agreement will result in an unfavorable recommendation from the Town Plan Commission and Town Board to Dane County through the Conditional Use Permit review process. Additionally, these policies would apply:

1. That it is not an activity that will limit the use of surrounding land for agricultural purposes.
2. That it is not an activity which will conflict with agricultural operations subject to a farmland preservation agreement (or zoning certificate) on the subject property.
3. That it is not an activity that will conflict with 1) existing agricultural operations on other properties, 2) existing or planned residential uses, or 3) existing or planned commercial uses.

For questions about the town plan, contact Senior Planner Curt Kodl at (608) 266-4183 or kodl.curt@danecounty.gov

RESOURCE PROTECTION: The batch plant is proposed to be located on the floor of the existing quarry. The site is interior drained, meaning that all storm water remains inside the actual pit. There are no sensitive environmental features surrounding the quarry area.

Wetlands are present in an area adjacent to County highway V. No further driveway improvements are proposed that would cause impacts to the wetland area.

CONDITIONAL USE PERMIT DECISION MAKING: “Conditional uses” are those land uses which, because of their unusual nature and/or potential for impacts on neighboring lands, 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 conditional use permit. Below are the standards that are required to be met. A summary of the applicant’s testimony accompanies 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 applicant states that berming and visual screening has been installed as part of the existing mineral extraction operation. The existing features provides an adequate buffer for the proposed use. The existing quarry entrance and drive path will be used for the proposed use. Dust control and pollution prevention measures are in place and will continue as part of the quarry requirements.

- 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 there is only one residence that is approximately 500 feet away for the site. The concrete batch plant will share the same driveway as the quarry. The concrete batch plant will be on the property intermittently.

- 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 that the proposed batch plant will be located within the confines of an existing quarry. The surrounding land use is agricultural production. The concrete batch plant will be temporary in nature.

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

The applicant states that concrete trucks will use the existing quarry driveway. Storm water and utilities have all been addressed as part of the quarry operation.

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 there is an existing 24-foot wide private driveway leading to the proposed location. Acceleration/deceleration lanes have been installed at the highway access point. The County Hwy V/private drive intersection has been designed to meet B1 access point requirements.

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

The temporary concrete batch plants will be used for highway projects exclusively.

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

The proposed location has been approved for a mineral extraction site. The proposed land use will meet the requirements of the FP-35 Zoning District if a CUP is approved.

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 use and its location in the Farmland Preservation Zoning District are consistent with the purpose of the district.*

The proposed land use is temporary in nature (10-year). The land will be returned to agricultural purposes as part of the mineral extraction reclamation plan.

b. *The use and the location are reasonable and appropriate, considering alternative locations.*

The site is not being used for agricultural production due to the existing quarry operation.

c. *The use is reasonably designed to minimize the conversion of land.*

The site is not being used for agricultural production due to the existing quarry operation.

d. *The use does not substantially impair or limit the current or future agricultural use of the land.*

The temporary concrete batch plant land use is temporary in nature. The land will be turned back into agricultural production once the mineral extraction site is terminated.

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

The site will be returned back into agricultural production as part of the mineral extraction reclamation plan.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The potential nuisances that pertain to batch plant operations most likely involve dust, noise, and possibly truck traffic. 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. Under Dane County Zoning Ordinance section 10.103, there two other special requirements for batch plant operations.

1. The ZLR Committee or Town shall set limits on the hours for concrete production.
2. Operator of the batch plant shall be responsible for CUP condition compliance.

TOWN ACTION (updated): On June 10, 2024 the Town Board approved the Conditional Use Permit conditioned upon the applicant following the parameters that are found in the contents of the application. After concerns were raised by neighbors the Town reconsidered its action at a subsequent public meeting. On July 1, 2024 the Town Board approved the CUP conditioned on reducing the hours of operation from 6am to 8pm, to 6am to 6pm as allowed for regular operation of the existing quarry site.

June 18th ZLR HEARING: After its public hearing, the ZLR Committee postponed action due to concerns raised by the public regarding the hours of operation, in accordance with the committee's adopted rules and procedures. Since the public hearing, the Town approved the petition with modified hours of operation.

STAFF RECOMMENDATION (updated): Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. In addition, the modified conditions of approval approved by the town reflect the response to specific concerns raised.

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.

Staff recommends that the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards. Staff is suggesting that if the application is found to meet the standards, the following conditions are imposed to mitigate the potential nuisances:

CUP 2621 Potential Conditions of Approval:

Standard Conditions for all Conditional Use Permits from 10.101(7):

1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan, and phasing plan.
2. 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.
3. 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.
4. 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.
5. 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.
6. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
7. Off-street parking must be provided, consistent with s. 10.102(8).
8. 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.
9. 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.
10. 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.
11. 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 # 2621

12. The hours of operation shall be between 6:00am to 6:00pm, Monday through Friday. Intermittent operations during weekends or outside normal operating hours may occur only if contractually required by the Wisconsin DOT road project. The Town of Vienna shall be notified of the operations one week prior to occurrence.
13. The installation and operation of the temporary concrete batch plant shall be limited exclusively to public road projects. The batch plants shall be removed from the site after the project has been completed. The temporary concrete batch plant shall not be used for any purpose other than the specific public road project. Using the batch plant for general construction projects shall render the CUP null and void and cause for the immediate removal of the batch plant.
14. The Conditional Use Permit shall be terminated 10 years after the date of approval.

Please contact Roger Lane at (608) 266-9078 or lane.roger@danecounty.gov if you have questions about this petition or staff report.