

Amendatory Ordinance 5-422

To the Honorable Iowa County Board of Supervisors:

Whereas a petition for a land use change has been made by Dyersville Ready Mix Inc d.b.a. Bard Materials;

For land being in Sections 13 and 14, Town 6N, Range 1E in the Town of Eden affecting tax parcels 010-0084, 010-0085, 010-088.A, 010-0095, 010-0097, 010-0098 and 010-0109;

And, this petition is made to rezone 218.32 acres from AB-1 Agricultural Business and A-1 Agricultural to all AB-1 Agricultural Business.

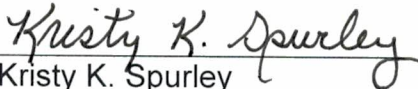
Whereas notice of such petition has been properly advertised and notice has been given to the **Clerk of the Town of Eden,**

Whereas a public hearing, designated as zoning hearing number **3244** was last held on **March 24, 2022** in accord with said notice, and as a result of said hearing action has been taken by the Iowa County Planning & Zoning Committee to **approve** said petition with the condition that the associated nonmetallic mining reclamation plan is revised and approved within 6 months.

Now therefore be it resolved that official county zoning map be amended as recommended by the Iowa County Planning and Zoning Committee.

Respectfully submitted by the Iowa County Planning & Zoning Committee.

I, the undersigned Iowa County Clerk, hereby certify that the above Amendatory Ordinance was X approved as recommended approved with amendment denied as recommended denied or rereferred to the Iowa County Planning & Zoning Committee by the Iowa County Board of Supervisors on **April 19, 2022**. The effective date of this ordinance shall be **April 19, 2022**.


Kristy K. Spurley
Iowa County Clerk

Date: 4-19-2022



IOWA COUNTY OFFICE OF PLANNING & DEVELOPMENT

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Planning & Zoning Committee Recommendation Summary

Public Hearing Held on March 24, 2022

Zoning Hearing 3244

Recommendation: **Approval**

Applicant(s): Dyresville Ready Mix Inc; dba Bard Materials

Town of Eden

Site Description: S13&14-T6N-R1E also affecting tax parcels 010-0084; 0085; 0088.A; 0095; 0097; 0098; 0109

Petition Summary: This is a request to zone 218.32 acres from AB-1 Ag Bus & A-1 Ag to all AB-1 Ag Bus. Included is a Conditional Use Permit request to allow nonmetallic mining on 135.9 of those acres.

Comments/Recommendations

1. This is an active, permitted nonmetallic mine site that was first approved in 1981, then enlarged in 2004. The mining activity is expanding beyond the area zoned AB-1 in 2004. The application is to zone the entire property to AB-1 but to only apply the CUP for nonmetallic mining to 135.9 acres at this time (tax parcels 010-0097; 0098; 0085; 0088.A; 0109; 0110.A)
2. The approval of the zoning change would only allow agricultural cropping as a permitted use. The intended nonmetallic mining use is reviewed as a CUP.
3. Per Section 11.0 of the Iowa County Zoning Ordinance, the following standards are to be considered when deciding a zoning change:
 1. The petition is consistent with the Iowa County Comprehensive Plan and the comprehensive plan of any Town affected by said petition.
 2. Adequate public facilities and services (including sewage and waste disposal, water, gas, electricity, schools, police and fire protection, and roads and transportation, as applicable) will be available as required by the petition while maintaining adequate levels of service to existing development.
 3. Provisions of public facilities to accommodate the petition will not place an unreasonable burden on the ability of affected local units of government to provide the.
 4. The petition will not result in significant adverse impacts upon surrounding properties or the natural environment, including air, water, noise, stormwater management, soils, wildlife and vegetation.
 5. The land associated with the petition is suitable for the proposed development and said development will not cause unreasonable soil erosion or have an unreasonable adverse effect on

- rare or irreplaceable natural areas.
6. The petition will not be used to legitimize a nonconforming use or structure.
 7. The petition is the minimum action necessary to accomplish the intent of the petition, and an administrative adjustment, variance, or Conditional Use Permit could not be used to achieve the same result.
 8. The petition will not result in illegal "spot zoning" (i.e. use is inconsistent with surrounding properties and serves only a private, rather than public interest).
4. Section 4.5 of the Iowa County Zoning Ordinance has the following minimum standards for nonmetallic mining:

Nonmetallic mining sites may be permitted under this section only if it is determined that the site is in the public interest after consideration of the following:

- a) The nonmetallic mining site complies with all provisions of this ordinance, the Iowa County Nonmetallic Mining Reclamation Ordinance, and Wis. Admin. Code Ch. NR135.
- b) The establishment, maintenance, or operation of the mining use shall not endanger the public health, safety, or general welfare, nor impair significant aesthetic, scientific, educational, or agricultural values.
- c) The establishment, maintenance, or operation of the mining use will not substantially affect the existing use of adjacent properties and will not have a substantial adverse effect on the most suitable long term future use for the area.
- d) That adequate utility, access roads, drainage, traffic plans, and other site improvements are or will be provided.
- e) That the mining use shall conform to all government regulations and standards pertaining to the activity, including air and water quality standards and storm and waste water permit discharge requirements.
- f) That the noise, vibration, and dust levels be within the standards as established by the state.
- g) That an undeveloped buffer zone adjacent to extraction operations, extending not less than 50 feet from a property line into the mining site, or up to any other distance as the Committee finds necessary for the protection and safety of adjacent properties from mineral extraction sites, with a stable angle of repose being provided along property lines.
- h) That the reclamation plan, which shall similarly be imposed as a condition of approval, will be enforceable and, as enforced, will result in the property being in a final conditional which is reasonably safe, attractive and, if possible, conducive to productive new uses for the site.
- i) That the operation and reclamation shall be conducted in a manner that meets groundwater quality standards pursuant to Wis. Admin. Code ch. NR140.
- j) That the operations and reclamation shall be conducted in a manner that does not cause a permanent lowering of the groundwater table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater available for reasonable use to future users.

5. The ordinance further includes the following potential conditions that may be imposed with approval:

- a) Vegetative screening. An earthen bank, berm, solid fencing or vegetative screen shall be constructed and maintained to screen the mining operation from view.
- b) Safety standards. The mining site shall be enclosed by at least a 3-strand barbed wire fence, maintained at all times, with warning signs posted to indicate the presence of a nonmetallic mining site at intervals agreeable to the affected town and the County. Fencing and signs shall be installed prior to commencement of operations.
- c) Water from site dewatering and washing operations will meet the conditions of the required Wisconsin Pollution Discharge Elimination System (WPDES) permit from the Wisconsin Department of Natural Resources.
- d) Any noise shall comply with all applicable OSHA standards. Verification of this requirement shall be provided to the Office upon written request.
- e) Blasting shall, at a minimum, comply with the provisions listed in SPS 307, Wis. Administrative Rule. At sites where there is a principal structure on neighboring property within 500 feet of the shared property line with the mining site, blast charges may be required to be reduced in size as blasting activity nears the property line.
- f) Any conditions reasonable to protect public health, safety, and welfare, including the factors listed above, may be imposed as part of the permit.

6. A granted CUP shall be in effect for not more than 5 years, and may be renewed by application to the County. All permitted operations may be inspected at least once every year by the Office and may be inspected at the time a request for renewal is submitted for the purpose of determining if all conditions of the operations are being complied with. Renewed permits shall be modified to be in compliance with all state, county, and local law in effect at the time of renewal. Permits may be amended on application to the Committee to allow extensions or alterations in operations under new ownerships or managements.

7. If approved, the associated reclamation plan will be required to be revised to include the newly approved area. The process is described in the Iowa County Non-Metallic Reclamation Ordinance.

8. Section 4.0 of the Iowa County Zoning Ordinance, the following standards are to be considered for a CUP:

1. The proposed use complies with all applicable provisions of this Ordinance.
2. The proposed use is compatible with adjacent legal uses in terms of scale, site design, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust and other external impacts).
3. There are no significant anticipated measurable adverse impacts to the surrounding legal uses and environment resulting from the proposed conditional use.
4. Any adverse impacts resulting from the use will be mitigated or offset to the maximum practical extent.
5. Public safety, transportation, services and utility facilities exist or will be available to serve the subject property while maintaining sufficient levels of service for existing development.
6. Adequate assurances by the applicant of continuing maintenance are provided.
7. The proposed use is consistent with the Iowa County Comprehensive Plan.

Town Recommendation: The Town of Eden is recommending approval.

Staff Recommendation: Staff recommends approval with the following conditions:

- 1) All standards of Section 4.5 of the Iowa County Zoning Ordinance must be adhered to.
- 2) The associated revision of the reclamation plan must be approved (as required by NR135 WI Adm Code) within 6 months of the County Board approval of the zoning change.

