

RESOLUTION NO. 2023-33

**VILLAGE OF YORKVILLE
RACINE COUNTY, WISCONSIN**

A RESOLUTION APPROVING A CONDITIONAL USE REQUEST TO CONTINUE A NON-METALLIC (CLAY) MINING OPERATION, INCLUDING THE CRUSHING AND RECYCLING OF CONCRETE AND ASPHALT AT 17108 COUNTY LINE ROAD (CTH KR), SEC. 33, T3N, R21E, VILLAGE OF YORKVILLE, RACINE COUNTY, WISCONSIN (PARCEL ID # 194-03-21-33-016-010); PINE HAVEN ENTERPRISES, LLC, OWNER; NICK WILLKOMM, APPLICANT/AGENT

THE VILLAGE BOARD OF THE VILLAGE OF YORKVILLE, RACINE COUNTY, WISCONSIN, RESOLVES AS FOLLOWS:

WHEREAS, Applicant/Agent requested conditional use permit approval to continue a non-metallic (clay) mining operation, including the crushing and recycling of concrete and asphalt at 17108 County Line Road (CTH KR), Sec. 33, T3N, R21E, Village of Yorkville, Racine County, Wisconsin (Parcel ID # 194-03-21-33-016-010), and,

WHEREAS, the Village of Yorkville Plan Commission recommended approval of the request, subject to the conditions attached hereto as Exhibit A and the performance standards attached hereto as Exhibit B, for the following reasons:

1. The proposed use is allowed by underlying zoning through the conditional use process;
2. The M-3 Heavy Industrial District allows for crushing and recycling of concrete and asphalt, while the M-4 Quarrying District allows for non-metallic mining.

NOW, THEREFORE, BE IT RESOLVED, by the Village Board of the Village of Yorkville, that the requested site plan review set forth above is hereby approved for the same reasons set forth above and subject to the same conditions and contingency imposed by the Village of Yorkville Plan Commission.

This Resolution was adopted by the Yorkville Village Board on December 11, 2023.

VILLAGE OF YORKVILLE

Ayes: 5

Nays: 0

Abstentions: 0

Absences: 0

By: 
Douglas Nelson, President

Attest: 
Michael McKinney, Administrator/Clerk

EXHIBIT A - CONDITIONS

Pine Haven Enterprises, LLC, Owner
Nick Willkomm, Applicant/Agent

1. **Zoning Permit.** The applicant must obtain a zoning permit card from this office after paying the required \$1,017.50 fee (\$950.00, plus \$15.00 per acre). This card must be displayed in a prominent location at the project site, and a copy of these conditions must be kept at the project site at all times until the project has been completed.
2. **Private Onsite Wastewater Treatment System.** Prior to the issuance of a zoning permit, sanitary approval must be obtained from the Racine County Development Services Department. Please contact their office at (262) 886-8440. Industrial wastes and wastewater may not be introduced into a plumbing drain system that is served by a POWTS unless approved by the Wisconsin Department of Natural Resources (WDNR) under chapter 214 regulations.
3. **Financial Assurance.** The current financial assurance bond of \$30,000.00, which expires November 7, 2024, currently meets the requirements of NR 135.40 of the Wisconsin Administrative Code (W.A.C.). **A new financial assurance bond meeting the requirements of NR 135.40 of the W.A.C. is required to be submitted prior to November 7, 2024.**
4. **Compliance.** Failure to comply with the terms and conditions stated herein could result in the issuance of citation(s) and/or revocation of this permit.
5. **Binding Effect.** These conditions bind and are applicable to the Property Owner, Applicant, and agents of the Property Owner (collectively referred to herein as "Applicant" or "Property Owner") with respect to the uses on the Property.
6. **Expiration.** This is a two-year approval, which expires on December 11, 2025. The applicant must request a conditional use prior to the deadline of this permit if the clay removal and site restoration is not completed by that time. Once clay extraction is completed, the applicant must rezone the site out of the M-4 District.
7. **Annual Fee.** The Wisconsin Department of Natural Resources requires that a non-metallic mining fee be paid on an annual basis, in conjunction with a required report of non-metallic mining activity. By way of this approval, you are hereby notified that in the 4th quarter of 2023 and 2024 you will receive an invoice and a request for non-metallic reporting from this office. This office then must prepare a countywide report and submit a fee to the State of Wisconsin. Note that this fee is separate from the zoning fee indicated in Number 1 of these conditions.
8. **Plans.** The proposed project shall be located, constructed, and utilized in accordance with the plans and documents received by the Racine County Development Services Office on November 7, 2023, unless otherwise amended herein.
9. **Performance Standards.** The applicant must comply with the provisions of Article VII, Division 4, Performance Standards of Chapter 20, Zoning, Racine County Code of Ordinances, as applicable to the Village of Yorkville (copy attached).
10. **Property Requirements.** This site must be kept neat and orderly at all times, with all refuse dumpsters out of view of passersby. All disposed items must be done in an environmentally safe manner. The continued positive appearance of buildings and property is dependent upon proper maintenance attitudes and procedures. Maintenance programs must be established that include watering, maintaining, and pruning all landscape planting areas; cleaning up litter and emptying

trash containers in a timely fashion; sweeping, cleaning, and repairing paved surfaces; replacing broken and vandalized parts; replacing burned out light bulbs; and cleaning, painting, and repairing windows and building facade.

11. **Concrete/Asphalt Storage.** Storage of concrete and asphalt to be crushed for recycled materials shall be located on the area designed as future parking lot use.
12. **Final Grading.** Once final excavating and grading is complete, topsoil will need to be spread and the site will need to be seeded. Once seeded, erosion control netting will need to be placed across the steep slopes to prevent erosion during the establishment of grass.
13. **Tracking Pads.** Tracking pads must be used to minimize the amount of soil that leaves the site on truck and trailer tires. The applicant will have to work with the Racine County Public Works Department to ensure that County Line Road (CTH "KR") is kept clean after each day of hauling of clay from the site.
14. **Loading Requirements.** Adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public ways and so that all vehicles need not back onto any public way. Reference Section 20-1087, Chapter 20, Zoning, Racine County Code of Ordinances, as applicable to the Village of Yorkville.
15. **Hours of Operation.** The hours of operation for this project will be Monday through Friday 7:00 a.m. to 7:00 p.m. and on Saturday 7:00 a.m. to 12:00 p.m. Should the Village of Yorkville or Racine County receive substantiated reports that hauling is occurring outside of approved hours, the Village of Yorkville could re-visit the conditional use permit and impose more restrictive hours and/ or days of operation.
16. **Erosion Control.** To help prevent sediment from entering onto an abutting property, drainage way, or road ditch, prior to any earth disturbance activities, temporary diversions must be installed as directed by the Village Engineer. Maintain existing seeded areas to prevent soil from eroding off site.
17. **Drainage.** Do not block or create surface water discharge problems on the adjacent properties. Drain tiles exist on site and may need to be relocated or replaced to maintain drainage on the and neighboring properties. Tile size, elevations, and drainage areas need to be taken into consideration before disturbing the existing tile system.
18. **Stormwater Requirements.** The property owner or designated agent must contact the Village of Yorkville regarding stormwater regulations for the site. Compliance with all regulations and requirements, as determined by the Village of Yorkville is required. **The Village of Yorkville must review and approve any drainage plans for this site prior to clay extraction.**
19. **Operation Requirements.** The operation shall not locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash or be harmful to human, animal, plant or aquatic life. Any oil or other hazardous fluids must be stored in a designated containment area that complies with all Wisconsin Department of Natural Resources (WI-DNR) regulations.
20. **Exterior Lighting.** Any changes to the existing exterior lighting on the property shall meet the provisions of Section 20-1065 of Chapter 20, Zoning, Racine County Code of Ordinances, as applicable to the Village of Yorkville. Any exterior lighting installed prior to December 15, 2022

must remain in conformance with the approved exterior lighting plan on record. If any exterior lighting installed prior to December 15, 2022 was not part of an approved exterior lighting plan, the exterior lighting must continue to be arranged, oriented, or shielded in a manner that direct radiation or glare from such source does not penetrate adjacent or nearby parcels or the public right-of-way, and will not endanger the safety of pedestrian or vehicular traffic.

21. **Signs.** Any advertising sign on this property must conform to Racine County Ordinance standards and will require a separate zoning permit(s) prior to installation. Contact the Racine County Development Services Office at 262-886-8440 for further information regarding sign permits.
22. **Drain Tiles.** Do not break or damage any underground tile. If encountered, any underground agricultural tile line must be rerouted or fixed. If any underground tile is encountered that has anything but clean water flowing through it, contact Racine County Development Services at (262) 886-8440 to investigate.
23. **Access.** The applicant must allow any Racine County or Village employee full and unlimited access to the project site at a reasonable time to investigate the project's construction, operation, or maintenance.
24. **Compliance with Law.** The applicant is responsible for obtaining all necessary federal, state, and local permits, approvals, and licenses. The applicant is required to comply with all applicable local, state and federal regulations.
25. **Fire Alarm and/or Sprinkler Plan Review.** If this approval is for an activity that requires fire alarm and/or sprinkler system plan review, written confirmation shall be provided to the Village Administrator/Clerk by Fire Safety Consultants, Inc. stating that the applicant and/or agent has submitted acceptable fire alarm and/or sprinkler system plans to Fire Safety Consultants, Inc. for review pursuant to Chapter 26 of the Village of Yorkville Municipal Code. No building or zoning permit shall be issued for this activity until such time as said confirmation is provided. For the purposes of this condition, the term "building permit" shall mean any permit including, but not limited to, site preparation, building, electrical, plumbing, HVAC, and erosion permits. The applicant must first obtain Fire Safety Consultants, Inc. fire alarm and/or sprinkler system plan approval prior to submitting those plans to the State of Wisconsin for state review. Failure to abide by any part of this condition shall not constitute a basis for an appeal to the Village Board of any sprinkler system and/or fire alarm requirements contained within Chapter 26 of the Village of Yorkville Municipal Code. The building inspector may issue a stop work order if, in his/her opinion, construction cannot proceed any further without impeding the installation of the required fire alarm and/or sprinkler systems.
26. **Amendments to Conditional Use Permit.** No additions, deletions, or changes may be made to the project, site plan, or these conditions without the Village of Yorkville's prior approval. All addition, deletion, and/or change requests must be submitted to the Village of Yorkville or the Racine County Development Services office in writing. A minor change to the conditions of this permit, as deemed by the Zoning Administrator, may be made at a staff level, if authorized by the Zoning Administrator.
27. **Liability.** Racine County and the Village of Yorkville does not warrant that the plans for this project are functionally and/or structurally adequate. Racine County and the Village of Yorkville does not certify that the design is adequate for this site and Racine County and the Village of Yorkville accepts no liability through this approval.

28. **Reimburse Village Costs.** Applicant shall reimbursement to the Village all costs incurred by the Village for review of this conditional use including but not limited to engineering, legal and planning review that occurred prior to permit issuance and during the implementation of the plans and construction of the improvements.
29. **Agreement.** Your accepting the conditional use approval/zoning permit and beginning the project means that you have read, understand, and agree to follow all conditions of this approval. Therefore, Pine Haven Enterprises, LLC, Nick Willkomm, their heirs, successors, and assigns are responsible for full compliance with the above conditions.
30. **Subsequent Owners.** It is the property owner's responsibility to inform any subsequent owner or operator of these conditions.
31. **Plans Required.** The applicant shall submit a complete stormwater management plan meeting Village requirements for review and approval by the Village Engineer at the applicant's expense.
32. **Recording.** The Village shall have the resolution approving this request recorded with the Racine County Register of Deeds at the applicant's expense.

EXHIBIT B - PERFORMANCE STANDARDS

Pine Haven Enterprises, LLC, Owner
Nick Willkomm, Applicant/Agent

DIVISION 4. - PERFORMANCE STANDARDS [15]

Footnotes:

--- (15) ---

Cross reference - Schedule of deposits for violation of the provisions in this division, § 5-3.

Sec. 20-1061. - Compliance.

This chapter permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. All structures, lands, air and waters shall hereafter, in addition to their use, site and sanitary, floodland and shoreland regulations, comply with the following performance standards.

(Code 1975, § 7.091)

Sec. 20-1062. - Water quality protection.

No residential, commercial, industrial, institutional or recreational use shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate or wash or be harmful to human, animal, plant or aquatic life. This section shall not apply to uses other than those enumerated in it.

(Code 1975, § 7.092)

Sec. 20-1063. - Noise.

All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

(Code 1975, § 7.093)

Sec. 20-1064. - Radioactivity and electrical disturbances.

No activity shall emit radioactivity or electrical disturbances so as to endanger the use of neighboring premises.

(Code 1975, § 7.094)

Sec. 20-1065. - Exterior lighting.

Any lighting source on any use, lot or parcel which is for the purpose of illuminating any structure exterior, sign, parking lot or outdoor area shall be established in a manner which satisfies the following conditions:

- (1) Such lighting shall be arranged, oriented or shielded in such a manner that direct radiation or glare from such source does not penetrate adjacent or nearby parcels or the public right-of-way.

- (2) The source of such illumination shall be arranged, oriented or shielded in a manner which will not endanger the safety of pedestrian or vehicular traffic.

(Ord. No. 86-86, § 7.095, 8-26-86)

Sec. 20-1066. - Maintenance.

Any fence, wall, hedge, yard space or landscaped area required by this chapter or grant of variance or conditional use shall be kept free of an accumulation of refuse or debris. Plant materials must be well kept in a healthy, growing condition; and structures, such as walls and fences, shall be maintained in sound conditions, good repair and appearance at all times.

(Ord. No. 86-86, § 7.096, 8-26-86)

Sec. 20-1067. - Odors.

No residential, commercial, industrial, institutional or recreational use shall emit an odor of such nature or quantity as to be offensive or unhealthful which is detectable at the lot line. The guide for determining odor measurement and control shall be Chapter NR 429 of the Wisconsin Administrative Code and amendments thereto.

(Ord. No. 93-3, 5-11-93)

Cross reference - Outdoor burning, § 13-51 et seq.

Sec. 20-1068. - Reserved.

Editor's note - Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-1068 which pertained to floodproofing and derived from Ord. No. 94-155, § 11, adopted Nov. 10, 1994.

Secs. 20-1069 - 20-1085. - Reserved.