

**Lane, Roger**

---

**From:** Planning & Development  
**Sent:** Tuesday, February 28, 2023 1:58 PM  
**To:** Lane, Roger; Holloway, Rachel  
**Subject:** FW: Opposition of CUP 2582

Thank you,  
Sam Haack  
Planning and Development  
Clerk IV  
608-266-4253

-----Original Message-----

From: Jennifer Jo Anderson <andersonsonthego@hotmail.com>  
Sent: Tuesday, February 28, 2023 1:53 PM  
To: Planning & Development <plandev@countyofdane.com>  
Subject: Opposition of CUP 2582

!-----|  
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!-----|

Hello,  
We are Rob and Jennifer Anderson. Town residents of Rutland.  
We are in opposition of the above CUP.  
Refer to our prior letter dated January 2023 for our reasons.

Thank you,  
The Anderson's

Sent from my iPhone

**Lane, Roger**

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**From:** Planning & Development  
**Sent:** Monday, February 27, 2023 7:54 AM  
**To:** Lane, Roger; Holloway, Rachel  
**Subject:** FW: CUP 2582 K&D Stone, Kevin Hann

Thank you,  
Sam Haack

Planning and Development  
Clerk IV  
608-266-4253

**From:** Eric Bachhuber <ericfbachhuber@gmail.com>  
**Sent:** Sunday, February 26, 2023 8:18 PM  
**To:** Planning & Development <plandev@countyofdane.com>  
**Subject:** CUP 2582 K&D Stone, Kevin Hann

**This Message Is From an External Sender**

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Hello,

This message is to address concerns with the letter dated 2/8/23 from the zoning commission regarding the CUP for K&d Stone/Kevin Hann. I would like to touch on a few of the areas I do not feel are accurately depicted in the letter.

**Review of CUP** - This should be done annually to help ensure compliance with all conditions. The operator has not executed previous requirements as requested.

**Property Values** - This is a major concern and specifically fails to meet Standards 1, 2, and 3. The reason for the requested expansion of the pit is because the existing 8 acre pit has a very limited lifespan. When people purchased properties in the area there was an understanding that there was a small old pit that was rarely used and had limited life left. This continues to be true. If approved, this new larger quarry would change that reality. There would now be a large quarry operation that would be expected to remain for several decades. The size, scope, and expected remaining life of a quarry has a substantial impact on property values. The more substantial a quarry is, results in the more substantial the negative impact on neighboring property values.

The appraisal service the township uses for tax appraisals stated that the expanded new quarry would negatively impact property values. I believe that that opinion is substantially stronger than the opinion the CUP applicant Kevin Hann, who paid for his report with the goal of having the CUP approved. The data and comparables used in the CUP applicant's report are cherry picked and designed to mislead. Home buyers use common sense, so should the planning commission.

The many residents who live near this proposed new quarry should in no way be financially negatively impacted by an approved CUP. Neighbors should not be forced to carry a financial burden so that Kevin Hann can expand his business operation. It is not right, in addition, this fails to meet standard 2.

I would like to address the following statement by the staff - **Given the existence of a quarry, the property values for the area should already reflect proximity to a quarry. Staff feel that the continuation of an existing land use (mineral extraction) will not have a significant effect on property values in the area.** - I believe there is no continuation of existing land use. The land in question is a farm field, not a new quarry. There is a massive difference between an old 8 acre close to exhausted pit and a new 37 acre quarry that will remain in heavy use for decades. Remember - the reason Kevin Hann requested the CUP is because the existing 8 acre pit is near the end of its viable life. The difference between what exists now and what would be if the CUP was approved is massive.

The closure and reclamation of the old 8 acre pit due to the end of its viable operations will have a positive impact on property values. Neighbors should not be prevented from realizing this appreciation in property values. Preventing future appreciation by approving this CUP is financially harmful to neighbors of the current 8 acre pit. This fails standard 2.

I can not highlight enough the difference in impact between an old nearly exhausted pit that would soon close and be reclaimed and a new 37 acre quarry that will go on for decades.

The negative financial impact on neighbors of the existing quarry does not meet several of the standard. Specifically Standards 1, 2, & 3.

**Standard 1** - Negatively impacting the financial well being of neighbors reduces health, safety and comfort.

**Standard 2** - Negatively impact value of neighbors. There are splits available for building lots across near the proposed CUP in addition to many neighbors. Facts, data, and common sense states that there is a significant reduction in value of neighboring properties.

**Standard 3** - A negative impact on neighboring property and buildable lot values will impede normal development

**Truck Traffic** - Approval of this CUP will produce more truck traffic for a longer duration of time. The fact that there is already truck traffic in the area does not change this fact. Higher truck traffic volume fails standard 1, 2, and 3.

It will further endanger health , safety, and comfort - Standard 1.

Heavy traffic will reduce property values - Standard 2

Heavy traffic will impede normal development - Standard 3

The standards do not have an exception that allows negative impacts if it is only enhancing and worsening an existing issue. Existing truck traffic can not be used as a rationale to meet a standard to approve a CUP that would otherwise fail to meet the standards due to the negative impacts of increased truck traffic.

Staff notes that truck traffic already exists in the area. That fact does not change the negative impact of increased truck traffic.

Also important to note, the additional truck traffic caused by the proposed new quarry is of other hauling companies that Kevin Hann has no control over. He can not impose rules or dictate their actions.

**Noise Limitation** - The impact of noise produced by a quarry operation is not comparable to the impact on neighbors by agricultural equipment. This is common sense. Also, The operators of the agricultural equipment are not requesting a CUP. This comparison is disingenuous. The noise produced from a quarry operation creates decibel levels at neighboring property lines that fails to meet Standard 1 and 2 by negatively impact health and enjoyment.

**Backup Alarms** - MSHA requires these devices. Most if not all hauling companies are equipped with them. I do not believe this is something that can be eliminated. Inability to correct the issue does not remove the burden. The decibel level of these devices at neighboring property lines cause a failure to meet Standard 1 and 2 by negatively impact health and enjoyment.

Above I addressed a few of the many concerns I have regarding this CUP. The CUP fails repeatedly to meet several of the standards that it is required to meet. The neighbors of the existing quarry should not be forced to carry the burden (financial and otherwise) of Kevin Hann's business choices.

The voracity of pushback by neighbors on the proposed CUP clearly demonstrates the many levels in which it fails to meet the standards.

I would ask the planning commision if they would personally want to live next to a brand new 37 acre quarry operation. If you the planning commission members would prefer not to live near such a quarry, the choice on this is clear. The standards are broad and must be met. This CUP fails to meet them. I believe no conditions are able to overcome the massive issues causing the failure to meet the standards. It is a mining operation. It is negatively impactful. The reason for the CUP is the current pit is almost exhausted. Saddling neighbors with a new pit for decades is wrong and fails to meet standards 1, 2, &3.

Thank you

--

Eric Bachhuber  
423-202-8200

## Lane, Roger

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**From:** Trublic, Amy on behalf of Planning & Development  
**Sent:** Monday, February 27, 2023 10:13 AM  
**To:** Lane, Roger; Holloway, Rachel  
**Subject:** FW: CUP 2582 K&D Stone, Kevin Hann

Good Morning,

Please see the email below.

Thanks!

Amy Trublic  
Clerk I-II  
Dane County Planning and Development  
[Trublic.Amy@countyofdane.com](mailto:Trublic.Amy@countyofdane.com)

**From:** Liz Bachhuber <elizabethcbachhuber@gmail.com>  
**Sent:** Monday, February 27, 2023 9:48 AM  
**To:** Planning & Development <plandev@countyofdane.com>  
**Subject:** CUP 2582 K&D Stone, Kevin Hann

### This Message Is From an Untrusted Sender

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Hello,

This message is to address concerns with the letter dated 2/8/23 from the zoning commission regarding the CUP for K&d Stone/Kevin Hann. I would like to touch on a few of the areas I do not feel are accurately depicted in the letter.

**Review of CUP** - This should be done annually to help ensure compliance with all conditions. The operator has not executed previous requirements as requested.

**Property Values** - This is a major concern and specifically fails to meet Standards 1, 2, and 3. The reason for the requested expansion of the pit is because the existing 8 acre pit has a very limited lifespan. When people purchased properties in the area there was an understanding that there was a small old pit that was rarely used and had limited life left. This continues to be true. If approved, this new larger quarry would change that reality. There would now be a large quarry operation that would be expected to remain for several decades. The size, scope, and expected

remaining life of a quarry has a substantial impact on property values. The more substantial a quarry is, results in the more substantial the negative impact on neighboring property values.

The appraisal service the township uses for tax appraisals stated that the expanded new quarry would negatively impact property values. I believe that that opinion is substantially stronger than the opinion the CUP applicant Kevin Hann, who paid for his report with the goal of having the CUP approved. The data and comparables used in the CUP applicant's report are cherry picked and designed to mislead. Home buyers use common sense, so should the planning commission.

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I would like to address the following statement by the staff - *"Given the existence of a quarry, the property values for the area should already reflect proximity to a quarry. Staff feel that the continuation of an existing land use (mineral extraction) will not have a significant effect on property values in the area."* I believe there is no continuation of existing land use. The land in question is a farm field, not a new quarry. There is a massive difference between an old 8 acre close to exhausted pit and a new 37 acre quarry that will remain in heavy use for decades. Remember - the reason Kevin Hann requested the CUP is because the existing 8 acre pit is near the end of its viable life. The difference between what exists now and what would be if the CUP was approved is massive.

The closure and reclamation of the old 8 acre pit due to the end of its viable operations will have a positive impact on property values. Neighbors should not be prevented from realizing this appreciation in property values. Preventing future appreciation by approving this CUP is financially harmful to neighbors of the current 8 acre pit. This fails standard 2.

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Above I addressed a few of the many concerns I have regarding this CUP. The CUP fails repeatedly to meet several of the standards that it is required to meet. The neighbors of the existing quarry should not be forced to carry the burden (financial and otherwise) of Kevin Hann's business choices.

The voracity of pushback by neighbors on the proposed CUP, which clearly demonstrates the many levels in which it fails to meet the standards, should be taken into account by our elected county officials. There is a LARGE number of local residents who are additionally opposed to this CUP.

I would ask the planning commission if they would personally want to live next to a brand new 37 acre quarry operation. If you the planning commission members would prefer not to live near such a quarry, the choice on this is clear. The standards are broad and must be met. This CUP fails to meet them. I believe no conditions are able to overcome the massive issues causing the failure to meet the standards. It is a mining operation. It is negatively impactful. The reason for the CUP is the current pit is almost exhausted. Saddling neighbors with a new pit for decades is wrong and fails to meet standards 1, 2, &3.

Thank you

Liz Bachhuber

**Lane, Roger**

---

**From:** Planning & Development  
**Sent:** Tuesday, February 28, 2023 10:54 AM  
**To:** Lane, Roger; Holloway, Rachel  
**Subject:** FW: CUP 2582 significant error in appraisal report

Thank you,  
Sam Haack

Planning and Development  
Clerk IV  
608-266-4253

**From:** Kathy Becker <KathyB77@gmx.com>  
**Sent:** Tuesday, February 28, 2023 10:28 AM  
**To:** Planning & Development <plandev@countyofdane.com>  
**Subject:** CUP 2582 significant error in appraisal report

**This Message Is From an Untrusted Sender**

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Dear ZLR Committee,

The appraisal report on page 92 of the application for CUP 2582 is for a smaller area than the area in the application!

Is it too much to ask applicants to provide accurate locations?

Sincerely,

Kathy Becker  
Rutland

**Feb. 26, 2023**

**To: Roger Lane and ZLR Committee, County of Dane**

**From: Bill Boerigter, Center Rd, Town of Rutland Resident**

**RE: CUP 2022-02582 (quarry)**

Dear Mr. Lane:

Your memo dated Feb 8, 2023 to K&D Stone discussed several issues related to the 8 CUP standards.

Please let me respond to the Staff comments on "Property Values", which follows in italics:

*Staff: Information has been presented that shows property values not being affected, as well as, a loss in property values due to the quarry. The proposal is to allow the expansion of an existing quarry which has been in operation since the 1930's. Given the existence of a quarry, the property values for the area should already reflect proximity to a quarry. Staff feel that the continuation of an existing land use (mineral extraction) will not have a significant effect on property values in the area.*

1. Your statements above implicitly acknowledge that property values are impacted by proximity to quarries. I am glad you agree with this position. It is completely logical and squares with the evidence presented at the January 24 ZLR meeting (the Marquette County study, data on past Rutland properties near the quarry, etc.). It even squares with the Applicant's report when you correct the original list price of the most proximate property (10% value reduction). Essentially, the data supports and we all agree proximity to an operating quarry reduces property values.
2. Staff comments further assert that residents have already been impacted by the existence of the small 7 acre quarry, and thus a 32 acre expansion does no further harm.
3. I think this conclusion is flawed for at least 3 reasons, described in 4, 5, and 6 below.
4. The CUP expands the quarry operation boundary and will be even closer to several properties. At least two new properties will now be directly adjacent to the quarry operation. They are not adjacent at the present time. These properties are "buffered" due to distance and by your logic have experienced less of an impact of the existing quarry. The granting of the CUP changes their status from buffered to proximate and thus they will suffer the full impact (which you acknowledge is real. If your position is that "proximity reduces value", how does expanding the quarry operation by 32 acres and closer to two currently non-adjacent properties not hurt them? Standard 2 is not met.
5. Your statement that the existing quarry "has been in operation since 1937" is missing context and has been repeated often by the Applicant and his team to create the illusion that "residents have become accustomed" to an operating quarry. This quarry has not been "in operation" since 1937. The existing quarry has been nearly 100% dormant for a generation, except for the last 5 years of the Applicant's activity starting ~2018. *Dormancy* is what the residents are accustomed to. *Dormancy and the expectation of reclamation* is what buyers pre-2018 have been accustomed to. The only properties purchased adjacent to the existing quarry (since 2018 and the intense re-starting of operations and use of the CUP site under DOT rules) are by the quarry operator himself. You have been provided evidence that owners are selling at a

significant discount to market. It is the intensity of the operation and the threat of another 80 years under the CUP that will substantially hurt property values, not the existence of the old nearly played-out pit. It is just too simple to say “the quarry has been here since 1937 and therefore attitudes and values have adjusted to it”. Staff can surely understand that a 7 acre dormant site, quiet for years, is far different to residents and property values than a 32 acre operating site with 80 years of operations in front of it.

6. Two different persons provided evidence at the ZLR that the Applicant’s report on this issue was misleading. (They used improper listing prices on the most proximate property to create the illusion of minimal value reduction when in fact the value reduction was 10%). At the very least, the Applicant should be asked to submit a corrected report lest they continue to submit a misleading report.

I ask you to reconsider your property value position. This CUP will significantly impact property values, particularly for the properties which are not now adjacent, but will be if the expansion is allowed. It does not meet standard 2.

Thank you,

Bill Boerigter, Center Rd, Town of Rutland

**Lane, Roger**

---

**From:** Planning & Development  
**Sent:** Tuesday, February 28, 2023 7:45 AM  
**To:** Lane, Roger; Holloway, Rachel  
**Subject:** FW: CUP #2582

Thank you,  
Sam Haack

Planning and Development  
Clerk IV  
608-266-4253

**From:** Mary Celley <becharm@aol.com>  
**Sent:** Monday, February 27, 2023 5:39 PM  
**To:** Planning & Development <plandev@countyofdane.com>  
**Subject:** CUP #2582

**This Message Is From an Untrusted Sender**

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Dear ZLR members and Dane County Zoning Staff, I am writing once again to oppose this CUP. It does not meet the 8 standards according to our towns comprehensive plan. I can no longer enjoy my country property on Old Stage Rd. I can't be in my front yard, back yard, bee yard, in my fields without hearing the roaring of 500 to 600 dump trucks a day. The speed and weight of these trucks every 30 seconds is deafening. Old Stage Rd has become the road to you know where! I have lived here for 42 years and often have thought of moving. I, however, could never duplicate my farm in this day and age.

The Hahn quarry bought out the people's home next to the quarry because no one else would buy it. He also has said he would sell 10 acres to Francisco who owns the historic home next to the historic graveyard. As of now it is my understanding this has not taken place. He has also tried to buy out other neighbors surrounding pit. Francisco used to be against the quarry but hoping to get these 10 acres has now remained silent.

I can't even imaging the pit being 20 feet from the graveyard and only a 3 foot berm. How will anybody have a proper burial and funeral ever again in that cemetery? The original pit is such a mess with who knows what's in all the barrels stored. I worry it's an environment disaster just waiting to happen. If that pit gets 20 feet from graveyard and one can see all that junk stored it will be a total disgrace to all those buried and those who will be buried in the future.

The fact that Kevin Hahn will not concede to work from 7 to 4 and not on weekends like every other quarry does tells you how he has no respect for the people that live near the quarry. That reason alone should be a denial. This is NOT being a good neighbor.

This CUP if allowed needs to be annually reviewed.

You also need to know that the petition that was presented to you by Kevin Hahn most those people do not live in Rutland. They have no stake in this. The petition that was signed in opposition were ALL Rutland residents.

Kevin Hahn claims he cares about wildlife there. Well, then why does he allow people to come in and shoot Doves? This just adds to more frustration for the residents.

I'm asking that the staff and ZLR members get a tour of this pit and what we are talking about before going forward. You need to see the eyesore, the environmental concerns we all have and witnessed the truck traffic which will be starting up soon. Nothing has been done to improve the existing quarry. Why would I believe he will do anything to make the new pit appealing?

Another concern, what about toxic materials being brought into this pit? Are there any stipulations on preventing this? An example is the toxic train derailment in Ohio. Where are they going to take that stuff? If it happened here would we have to worry it could end up in this pit?

Thank you for considering all these concerns,

Mary Celley

P.S. I really don't think any of you would want to be subject to this.

**Lane, Roger**

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**From:** Planning & Development  
**Sent:** Tuesday, February 28, 2023 2:17 PM  
**To:** Lane, Roger; Holloway, Rachel  
**Subject:** FW: No New Quarry, Rutland. Attention ZLR

Thank you,  
Sam Haack

Planning and Development  
Clerk IV  
608-266-4253

**From:** tom eugster <tmeugster@hotmail.com>  
**Sent:** Tuesday, February 28, 2023 2:16 PM  
**To:** Planning & Development <plandev@countyofdane.com>  
**Subject:** No New Quarry, Rutland. Attention ZLR

**This Message Is From an Untrusted Sender**

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To Whom It May Concern, ,

My Name is Tom Eugster. I live at 4058 Old Stage Road. The Eastern border of my property line is directly adjacent to the quarry. The front door of my home is approximately 400 yards from the current quarry. With the proposed quarry expansion my home front door, in time it could be less than 150 yards of the quarry. I currently deal with the noise of trucks, dust, digging and when there is blasting my home shakes. It is discouraging to think of how much worse this will be with the proposed expansion. I have worked hard my whole life farming. My property value is my financial security. I have consulted with real estate experts and have been advised that my property value will be significantly reduced if the current quarry expansion is approved. I also have three possible land splits on my property. If I choice to subdivide my property it will be difficult to sell the lots due to these issues with the new quarry. My property is not the only property within close proximity to the quarry. Many others, are and will be as negatively impacted as I will be. You have heard multiple residents testify to the near accidents between the dump trucks, and vehicles and pedestrians. The rural roads in this area are not wide enough, and do not have enough space between the deep ditches and the side of the road. I have a daughter that is near driving age. I am horrified to think of her driving on these roads with the current circumstances, which will only be worse with this new quarry. I appreciate free enterprise, but should this be at the expense of the other hard working property owners that are near the quarry. I ask that the Dane County Planning Board hear and try to fully appreciate the concerns that the Rutland Township Residents have voiced. The proposed new quarry does not meet most of the standards for a quarry that have been outlined. It is a gross misrepresentation to conclude that it does. Lastly, Kevin Hahn and his son have not been the good neighbors that the represented themselves to be. They do not maintain the quarry operation hours as the agreed to, they use the quarry after hours for parties and as a shooting range.

I ask that when you are making decisions regarding the quarry expansion, that you place yourselves in the position of the quarry neighbors and the Rutland residents.

Thank you for you consideration of my concerns.

Sent from [Mail](#) for Windows

**Lane, Roger**

---

**From:** Planning & Development  
**Sent:** Monday, February 27, 2023 7:55 AM  
**To:** Lane, Roger; Holloway, Rachel  
**Subject:** FW: CUP 2022-02582  
**Attachments:** ZLR letter re CUP 2022-02582.docx

Thank you,  
Sam Haack  
Planning and Development  
Clerk IV  
608-266-4253

-----Original Message-----

From: Aristotle Georgiades <ageorgiades@wisc.edu>  
Sent: Sunday, February 26, 2023 12:57 PM  
To: Planning & Development <plandev@countyofdane.com>  
Subject: RE: CUP 2022-02582

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**RE: CUP 2022-02582 (quarry)**

Dear Mr. Lane:

Your memo dated Feb 8, 2023 to K&D Stone discussed several issues related to the 8 CUP standards.

Property values

Staff: *"The proposal is to allow the expansion of an existing quarry which has been in operation since the 1930's."*

1. I object to the characterization of this gravel pit as an "expansion" in regard to your notes on property values. Your interpretation of the effect of this CUP on property values is based on the 8-acre pit. Combined with the addition of the 37 acres of this new pit, **our neighborhood is now looking at dealing with a 45-acre operation** rather than the small, nearly exhausted current pit. This will be a completely different experience for residents to cope with in terms of vastly increased noise, truck traffic, enjoyment of our property, safety concerns, and all of the related issues pointed out by residents.
2. Citizens have maintained all along that this is not an expansion but rather a new quarry site. The new site was not a part of the 8 acre, non-conforming quarry site parcel. The proposed new quarry is (and was) a separate parcel. In fact, the new site requires a CUP in order to mine this property, a clear indication that this is a new quarry operation.
3. Any adjustments that properties in the vicinity have made to this pit will not be relevant to this new site, therefore it is not an EXPANSION but a new entity. It should be evaluated, according to your own instructions, "for negative impacts to adjacent properties ...and compatibility with surrounding properties."

Road repair Costs:

Applicant: none

Citizens: \$25,000

Porter: \$15,000

Staff: The Town has a right to impose impact fees on development if the Town can substantiate the direct impact of the development. Per Wisconsin Statutes, the Town must provide evidence (assessment study) to show if there is an impact and to what extent (amount). In the past, there have been some quarry operations that have agreed to provide Towns compensation for Town road use. Staff feel that, to ensure that these fees are defensible and not arbitrary, they should be supported by an impact fee study and initiated by the Town. The County cannot impose impact fees or other requirements on town roads.

I disagree with your assessment that the town is responsible for substantiating the direct impact on our roads from the truck traffic. We have shown that the quad axel dump trucks when loaded do far more damage to the roads than most other vehicles included heavy garbage trucks. As was submitted previously, Benjamin Jordan, a local engineer and director of the Transportation Information Center at the U.W. Madison who specializes in road fatigue, provided a comparison study of gravel trucks to garbage trucks in relationship to a quarry. The gravel trucks in his comparison do 100 times more damage to the roads than garbage trucks. A 1979 US Government Accountability Office report says that these trucks do several thousand times the damage a car does. Certainly, the Town of Rutland does not have the budget to contract for further evaluation of the impact on the roads. Residents pay far more taxes per acre than the quarry does and are in effect subsidizing the quarry operation by maintaining the roads for them.

**Lane, Roger**

---

**From:** Planning & Development  
**Sent:** Tuesday, February 28, 2023 10:54 AM  
**To:** Lane, Roger; Holloway, Rachel  
**Subject:** FW: CUP 2582

Thank you,  
Sam Haack

Planning and Development  
Clerk IV  
608-266-4253

**From:** Craig Hinline <chinline@aeieng.com>  
**Sent:** Tuesday, February 28, 2023 10:53 AM  
**To:** Planning & Development <plandev@countyofdane.com>  
**Subject:** CUP 2582

**This Message Is From an External Sender**

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ZLR Committee,

I've spoken in opposition at the previous ZLR meeting regarding the CUP 2582 and have recently reviewed the memo to Mr. Hahn from the ZLR committee. I, again, wish to express my opposition to this CUP. The recent memo to Mr. Hahn appears to be an attempt to achieve some sort of compromise between the town residents and the Quarry owner, but all of the residents who spoke at the last ZLR meeting indicated that they found that the expansion of the quarry does not meet one or more of the 8 standards and they oppose the CUP entirely. The residents that presented additional requirements on quarry operation stated that they opposed the CUP based on the inability to meet the 8 standards and offered the additional requirements as a last resort if the CUP were to be approved.

It is my belief that the CUP does not meet the 8 standards and I oppose the approval of the CUP in its entirety.

Regards,

**Craig Hinline** PE  
**Instrumentation & Controls**  
(D) 608-236-1199 | (O) 608-238-2616  
[Affiliated Engineers, Inc.](#)  
5802 Research Park Boulevard | Madison, WI 53719

**Lane, Roger**

---

**From:** Planning & Development  
**Sent:** Tuesday, February 28, 2023 7:45 AM  
**To:** Lane, Roger; Holloway, Rachel  
**Subject:** FW: Dane County Planning & Zoning Letter RE: CUP #2582

Thank you,  
Sam Haack

Planning and Development  
Clerk IV  
608-266-4253

**From:** Jodi Igl <jodismail61@gmail.com>  
**Sent:** Monday, February 27, 2023 4:52 PM  
**To:** Planning & Development <plandev@countyofdane.com>  
**Subject:** Dane County Planning & Zoning Letter RE: CUP #2582

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Dane County Planning & Development  
RE: CUP #2582

It is evident that the applicant for this CUP waited until the last hour to submit a response to Dane County to avoid residents of the Town of Rutland's responses. Further it is disappointing that the ZLR has disregarded the residents statements & evidence of this CUP in non-compliance with all 8 standards by way of asking the applicants response to items that clearly impact the community. These responses by the applicant and his attorneys, offer minimal resolution to these multiple issues.

As I have not been provided adequate time to produce a sufficient response letter, please consider my statements and those of the many residents that spoke and corresponded to the public hearing 1/24/23.

By contrast, of the Axley Attorneys statements, here lists the hours of operations of local area quarries. (See local quarry hours below). This evidence, by far, indicates that weekends & extended hours are not detrimental to these quarry operations. As indicated by the applicant, this nonconforming site applying to conform, offers no compromise to the community. The volume of residents that are opposed to this expansion, as was our previous board of 2020 which denied this CUP, and made it very clear that this nonconforming quarry registered in 1968, was to be limited to the inheritance of a 9 acre quarry by its own conception with the Town & County developments. Therefore it should remain within its 9 acre limit and of its singular reclamation requirement. The annual filing for nonconforming quarries states, to be advised that future development on the described property may be subject to provisions of the Town Land Use or Comprehensive Plan, the Dane County Farmland Preservation Plan and/or the Dane County Code of Ordinances. This statement is a clear indication that the Town of Rutlands Comprehensive Plan should play a key role in this CUP #2582 application and of the standards set forth.

Local quarry operating hours;

Mandt Sandfill, Town of Fitchburg.....	7:00 am - 4:30 pm M-F Closed Sat. & Sun.
Mandt Sandfill, Town of Oregon.....	7:00 am - 4:30 pm M-F Closed Sat. & Sun.
Wingra Stone, Town of Madison.....	9:00 am - 6:00 pm M-F Closed Sat.
Yahara Materials, Town of Waunakee.....	9:00 am - 5:00 pm M-F Closed Sat. & Sun/Holidays
Bjoin Limestone, Town of Dunn, McFarland.....	6:30 am - 4:30 pm M-F Closed Sat.
Northwestern Stone LLC, Town of Middleton....	6:00 am - 6:00 pm M-F Closed Sat.

As to berms and tree plantings, the property to the south is not the only property affected here. The applicant has left a window of 8-10 foot variable, whereas a variable does not offer consistency to the surrounding areas and other properties where the quarry is visible from high ground. Additionally, there is no clarity here, as to the current conditions of the existing nonconforming quarry, which has open fence lines and noxious weeds throughout its surroundings. It is evident that the current conditions are not, and will not, be in compliance with the statements given by the applicant, as appears it is only the expanded area being described here. The above statement also applies to Operational Distance, where compromise is rejected by the applicant with a wide divide between residents and town supervisor. Accommodating the closest home to the expanded property is a disregard to other residents in the area that have previously stated the impact of operations, to not only to their livelihood, but also their personal wellbeing. This includes all noise levels, and truck traffic. To disregard the impact of multiple people in the area, is to promote industry over human life. Dane County Zoning is to be the guardian of community livelihood, therefore intentionally disregarding the multiple citizens affected by this quarry's impact would be detrimental to the current standard of life in this area.

Review of CUP, Considering the long-term unkept conditions of the existing nonconforming quarry & of its near inherited reclamation requirement, an annual review, requested by residents and town supervisors is a matter of review to those conditions that have been neglected with the a good possibility of further neglect on conditions set-forth. I invite the board to personally visit the existing site, and view its downed fence lines with the undergrowth upon its berms, which will clearly give visual to this applicant's nonexistent property maintenance.

#### Road Repair Costs

The Town of Montrose, Payne & Dolan, upon the quarries creation 2007, offered and agreed to pay for road maintenance and repairs to include resurfacing of the towns Riverside Road, Belleville, in appreciation of its use. Since then, the growth of the quarry required the driveway to be moved to enter/exit highway 69. This is also true in the town of Oregon.

No such offer or compromise has been made by applicant CUP #2582 in support of the community. It is evident the Rutland board does not have a quorum on this CUP, and will have little input in regards to implementing an assessment of an impact road study. Town residents are aware that the Rutland Board members' relationship with the applicant ties their hand and ethics set forth would not allow them to consider a road cost impact fee, nor initiate a study of such. This position has left the community at odds with some of the board members, therefore the impact information presented by the residents should at least offer an indication that there is indeed an impact to area roads.

The Town Board of 2020 made a very clear statement that Standard #5 unanimously failed, by the impact and damages to the narrow shoulder-less roads due to added truck traffic that was non-existent in 2016.

This 2020 Rutland Board also denied the applicants standard #'s 1,2,3,4, by unanimous votes, as this current CUP has had no changes to the required standards and should continue to be denied by Dane County Zoning based on the evidence provided by residents of Rutland.

Please accept this letter to the Rutland residents' opposition submitted to ZLR for CUP #2582.

Thank you.

Sincerely,

Jodi Igl  
Resident of Rutland  
County Road A, Oregon, WI.

## Lane, Roger

---

**From:** Planning & Development  
**Sent:** Monday, February 27, 2023 1:29 PM  
**To:** Lane, Roger  
**Subject:** FW: CUP 2582

Thank you,  
Sam Haack

Planning and Development  
Clerk IV  
608-266-4253

**From:** Knutson, Jessica L <Jessica.Knutson@edwardjones.com>  
**Sent:** Monday, February 27, 2023 1:25 PM  
**To:** Planning & Development <plandev@countyofdane.com>  
**Subject:** CUP 2582

### This Message Is From an External Sender

This message came from outside your organization.

Dane County,

I'm writing in opposition of passing CUP 2582. As a frequent visitor to the area, I'm concerned about the amount of truck traffic on small rural roads. 10 years ago we could walk and ride bikes along the road while being mindful of rural traffic. Now there is no way we'd walk or bike due to the large trucks taking up a lot of the road width, flying gravel out the back, and danger it presents. The infrastructure of these rural roads was not set up to withstand the kind of equipment that is currently being deployed from the quarry, let alone from a much larger quarry. The plans for the township were to have the area be classified under the rustic road designation. I cannot see the township vision of it's small rustic roads supporting a large-scale trucking operation which for the exclusive financial benefits of one family in the township. The rest of the citizens end up paying for their choices and due to the outcry from the rest, I'd strongly encourage not passing the CUP.

**Jessica Knutson**  
*Financial Advisor*

---

400 West Main Street  
Stoughton, WI 53589  
608-873-7131



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Jessica Knutson  
Financial Advisor  
Edward Jones  
400 W Main St  
Stoughton, WI 53589  
(608) 873-7131  
[www.edwardjones.com](http://www.edwardjones.com)

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For important additional information related to this email, visit [www.edwardjones.com/disclosures/email.html](http://www.edwardjones.com/disclosures/email.html). Edward D. Jones & Co., L.P. d/b/a Edward Jones, 12555 Manchester Road, St. Louis, MO 63131 © Edward Jones. All rights reserved.

## Lane, Roger

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**From:** Trublic, Amy on behalf of Planning & Development  
**Sent:** Monday, February 27, 2023 12:13 PM  
**To:** Lane, Roger; Holloway, Rachel  
**Subject:** FW: Response of the Applicant's lawyers to ZLR staff recommendations of CUP 2582

Another one!

Thanks!  
Amy

Amy Trublic  
Clerk I-II  
Dane County Planning and Development  
[Trublic.Amy@countyofdane.com](mailto:Trublic.Amy@countyofdane.com)

**From:** Mary Knutson <mjknute4061@gmail.com>  
**Sent:** Monday, February 27, 2023 11:16 AM  
**To:** Planning & Development <plandev@countyofdane.com>  
**Subject:** Response of the Applicant's lawyers to ZLR staff recommendations of CUP 2582

### This Message Is From an Untrusted Sender

You have not previously corresponded with this sender.

Dear ZLR board members and staff.

I have read CUP 2582 applicant's lawyer's responses to Staff recommendations, and I really don't know where to start to comment on the responses. As one of MANY Rutland residents who testified at the open hearing on this CUP and who wrote letters in opposition to the CUP, I was very upset that the applicant DID NOT respond in the way that you had asked them to in order to meet all 8 Standards. It was almost like you knew what their answers would be and sent this letter to them just to appease the Rutland residents into thinking that you were doing your job and that this time you were actually trying to decide granting this CUP based on it passing all the 8 Standards (prior to the last time when you did not even bother to talk about each standard before granting this CUP). If you grant this CUP thinking that the 8 Standards are being met with the responses to your requests, my anger and trust in the process will be with Dane County ZLR.

If you were sincere with your requests to the applicant for them to change their conditions in order to meet ALL 8 Standards, and asking them to compromise with the residents of Rutland's concerns, then I am angry at the applicants lawyers, because they totally could have responded with some concessions, but obviously think that they are better than all the Rutland residents who will have to live with this quarry and the concerns we have with it NOT passing ALL the 8 standards.

After the public hearing I told myself that I was done with the anxiety and anger that this CUP has caused me. I decided I would give that all up and just be at peace with the ZLR board's decision. Well, that was before I read the applicant's lawyer's responses. If the granting of this CUP didn't affect my well being, their responses would be laughable and a huge kick in the gut to the ZLR staff for trying to come up with suggestions to the applicant so this CUP would meet the 8 Standards.

I will briefly list my major concerns with their responses.

1. "forfeiting its nonconforming use in exchange for this CUP ". The applicant's current 8.5 acre quarry is almost at the end of its life. There is no comparison between the old 8.5 quarry to a 37.8 acre quarry that will be given a 15-20+ life if this CUP is granted. This is not a concession for them, and they know it. I hope you all are smart enough to see through this "concession".

2. "Plant trees every 50' along Center Road". Have you seen Center road where this quarry will be? There are not any homes along this road, but there are homes behind this quarry. This is why the berms should be 15-20' all around the quarry with trees planted on all the berms around this quarry. You have asked them to describe the species of trees that will be planted on the berms. They have not done this in their response.

3. Tarping of trucks. You mention that trucks should be tarped to reduce impact on other vehicles during transport. I would hope that they would also think of a possible flying rock out of their trucks that could hit a pedestrian or a biker. Vehicles can be fixed. A child's eye or head injury, not so much. They really don't take this seriously enough in their response with the promise of putting up a sign asking their truckers to abide by this. This should be a mandated condition. The excuse that they can't control other trucks other than their own is lame. If all the trucks that come out of their quarry can't tarp their loads, then they should not let them leave the quarry until this is done. Such a simple thing for them to do to meet the Standard, but yet, they cannot meet it with this response.

4. Property values. Your staff recommendations were not accurate as it was based on flawed information that the applicants lawyers presented. I ask you to check out their information and you will find that it wasn't all truthful. Also, how can you think property values would not decrease from living next to an 8.5 acre 1930's almost depleted quarry to a 37.8 acre active quarry? I'd really love an explanation for this. These 2 quarries can't begin to compare how property values will be affected. It's like comparing apples to oranges.

5. Operation hours. You asked the applicant the need to substantiate operation hours to 7pm. They failed to do this in their response, so this will not be able to meet the 8 Standards, let alone even begin to be "a good neighbor". Having to listen to the noise of this quarry is bad enough 8 hours of the day, and then they want us to listen to it for an additional 4 more hours? That's not very neighborly to me. They must reduce their hours of operation to meet the standard.

I thank you for your time in reading this.

Mary Knutson  
4061 Old Stone Rd  
Rutland Township

**Lane, Roger**

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**From:** Ratcliff, Melissa  
**Sent:** Sunday, February 26, 2023 7:54 PM  
**To:** Lane, Roger  
**Subject:** Fwd: Town of Rutland Action Report 2020  
**Attachments:** CUP-2496-Town-Action-Report-Findings-Co.TARReport.pdf

Hi Roger,

I'm not sure if this was shared with other members of ZLR Sp could you share it with them, please?

Thank you,

Melissa Ratcliff  
County Board Supervisor District 36  
608 239-6548

My pronouns are she/her/hers. Learn more about pronouns [here](#).

Begin forwarded message:

**From:** Peter Loughrin <Peter@loughrinaccounting.com>  
**Date:** February 26, 2023 at 7:46:02 PM CST  
**To:** "Ratcliff, Melissa" <Ratcliff.Melissa@countyofdane.com>  
**Subject:** **Town of Rutland Action Report 2020**

**This Message Is From an Untrusted Sender**

You have not previously corresponded with this sender.

Remember that Kevin Hahn of Nelson Excavating failed 6 of the 8 required standards when he applied for a CUP in 2020 per the attached Town Action Report (TAR). **I specifically refer you to the narrative, which is attached to, and included with, the TAR.**

I was Chairman for the Town of Rutland in 2020 and I adjudicated the Town of Rutland Public Hearing as well as the Town Planning Commission and Town Board meetings which concluded that the CUP application was inconsistent with the required standards. It is clear from the narrative document attached to the TAR that several of the standards include requirements which the proposed use could never satisfy.

The proposed use for the FP-35 land was deemed inappropriate in 2020 and remains outside of the 8 standards in 2023.

Thank you,

Peter Loughrin  
Former chairman of the Town of Rutland, WI Board

**Peter C. Loughrin, CPA, MBA**

**4488 Hill Road**

**Oregon, WI 53575**

608-444-9022 (cell)



# **FINDINGS OF FACT FOR DENIED CONDITIONAL USE PERMITS**

**If the Conditional Use Permit application is denied, please complete the following section. For each of the standards, indicate if the standard was found to be satisfied or not satisfied. Please note the following from sections 10.101 (7) (c) 2 f g and 10.101 (7) (c) 3 d e :**

*“The zoning committee or applicable town board must deny a permit if it finds that the standards for approval are not met, and must approve a permit when the zoning committee and applicable town board determine that the standards for approval are met.”*

**PLEASE INDICATE THE APPROPRIATE FINDING FOR EACH STANDARD (CHECK ONE / STANDARD)**

- |   |  |
|---|--|
| 1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.   | 1. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 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. | 2. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 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.   | 3. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.   | 4. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 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.   | 5. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 6. That the conditional use shall conform to all applicable regulations of the district in which it is located.   | 6. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 7. That the conditional use is consistent with the adopted town and county comprehensive plans.   | 7. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 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).  | 8. <input type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |

**THIS SECTION IS RESERVED FOR FURTHER EXPLANATION OF THE FINDINGS:**

**Town of Rutland, Dane County, Wisconsin**  
**Action of the Town Board regarding the Conditional Use Permit Application of Kevin Hahn**  
**Action taken at the Town Board Meeting held on October 6, 2020**

Per Dane County Zoning Ordinance 10.101(7), The Town Board shall make written findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the following standards:

- General standards for approval of a conditional use under 10.101(7)(d)
- Any prescribed standards specific to the applicable zoning district. In this case, 10.220(1)(a)
- Any prescribed standards specific to the particular use under 10.103. In this case, 10.103(15)

**The Town Board met on October 6, 2020 and evaluated each of the eight general standards that must be met in order for a conditional use permit to be approved. Here are the results:**

General standard #1.

The current quarry operation does not satisfy standard #1 and, therefore, an expansion of the quarry would also not satisfy standard #1. The evidence includes in-person testimony of residents who were in attendance at the public hearing on September 28, 2020, written testimony of residents that was received by the Dane County ZLR Committee and by the Town of Rutland Clerk as well as personal observations of the Town Chairman in correlation to Dane County and Town Comprehensive Plan documents.

The quarry itself, and the proposed expansion, cause great noise, cause dust and fly rock, operate well in excess of 40 hours per week, cause truck traffic that is frequent, damaging to the roads and of great risk to pedestrians and bikers, is of an unknown lifetime meaning reclamation is not conceivable and is in direct violation of several Town of Rutland Goals and Policies.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #1.

General standard #2.

The current quarry does impair and diminish the uses, values and enjoyment of other property in the neighborhood and an expansion would continue this impairment and diminishment. Standard #2 is not satisfied. The evidence is personal testimony heard at the September 28, 2020 public hearing as well as all of the written testimony as noted above.

Further, Dane County Comprehensive Plan, page 40, discusses a 1000 foot rule. Interpreted as intended, the rule causes any mineral deposits outside of the existing 9-acre site to be out of the realm of possibility for extraction. The Town and County development approvals since 1937 have created a limit to the existing 9-acre quarry site to remain as a 9-acre quarry site.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #2.

General standard #3.

The current quarry has been in existence 83 years. Kevin Hahn estimates a remaining useful life of 25 years meaning the existing quarry will not begin a reclamation plan until after 100 years of operation. By extension, an expansion at this time would prevent current FP-35 land from being reclaimed for a very, very long time. Maybe another 100 years.

Standard number 3 requires that the conditional use will not “impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district”. This particular FP-35 land, if governed by an indefinite period of maybe as much as 100 years, most certainly “impedes the normal and orderly development” that would occur if the land was not governed by this CUP.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #3.

General standard #4.

The current quarry has a well-documented problem with water. Un-regulated and un-controlled pumping out of the quarry and into ditches with the result of flooding areas and killing trees. The applicant has failed to rectify this problem in the years he has owned the current quarry but promises that things will be better if an expansion is permitted. Also, Center Road is not a safe road for the types of vehicular traffic required of the existing quarry and of any expansion. In addition, the current quarry has a history of not properly fencing the site and of not closing gates yet the applicant vows to do better with an expansion.

The documented evidence is clear that the applicant has failed to follow through on necessary site improvements in the past and therefor the Town Board members vote that he fails to satisfy this standard.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #4.

General standard #5.

This operation uses very large trucks. The town roads are being damaged. Also, the size of the trucks, the frequency of trucks approaching each other on narrow town roads with no shoulders, uncovered loads and poor driving habits all endanger pedestrians and bikers. The quarry operator has no other way to conduct business than with large, heavy, unregulated truck traffic. An expansion of the quarry will not minimize traffic congestion and this general standard is not satisfied.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #5.

General standard #6.

The Town Board members agreed that it is a Dane County Zoning responsibility to ensure compliance by the applicant with all applicable regulations of the zoning district.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant has satisfied general standard #6.

General standard #7.

The conditional use permit is not consistent with town and county comprehensive plans. This is evidenced in numerous places:

Incompatibility with the Dane County Comprehensive Plan as follows:

Dane County Comprehensive Plan

Page 31, Cemeteries

Policy #1. Ensure that existing cemeteries, public and private, are protected from development including transportation corridors.

Page 40, Mineral Resources

Supporting Objectives "C". Makes it clear that mineral extraction needs to be no nearer than 1,000 feet from non-farm development. Since non-farm development occurred, this precludes the quarry from expanding.

Incompatibility with the Town of Rutland Comprehensive Plan as follows:

Town of Rutland Comprehensive Plan

Page 2-3; Goal 2; Transportation

Objective 1. Reduce the potential for traffic accidents and provide for safe transportation throughout the Town

Objective 3. Minimize the negative impacts of future transportation projects to the greatest extent possible.

Objective 4. Reduce the amount of non-local traffic passing through residential areas.

Page 2-4; Goal 3; Pedestrian and Bicycle Travel

Objective 1. Increase opportunities for pedestrian and bicycle travel within the Town.

Objective 2. Increase pedestrian and bicycle safety.

Objective 3. Increase the number of miles of bike routes.

Page 2-6; Goal 6; Agricultural Preservation District

Objective 1. Preserve existing farm operations.

Objective 2. Permit development that enhances the growth of agriculture in the Town.

Objective 3. Preserve the rural character of the Town.

Policy 4(d) Commercial use to be limited to those uses having a minimal effect on existing nearby uses.

Policy 4(e) Commercial use, if town roads are involved, the developer must demonstrate minimal impact to neighbors. The safety of access will be a major concern.

Policy 4(f) Commercial use to be limited in size and magnitude of operation so as to protect the rural atmosphere and scenic beauty of the town.

Policy 27 Continue to review nonmetallic mining proposals on a case-by-case basis.

Page 2-8; Goal 7; Land Use

Introductory sentence: Create a pattern of development that fosters the rural character and agricultural land preservation and that minimizes potential conflicts between incompatible uses.

Policy 2 Use open space as buffers between incompatible land uses, to protect environmentally sensitive lands, or to compliment other land development

Policy 12 Require buffers between incompatible land uses to minimize potential negative effects.

Policy 16 To the extent possible, ensure that new development is not located on or near known sites containing substantial non-metallic deposits suitable for extraction

Page 2-10; Goal 10; Economic Development

Introductory sentence. Foster a local economy that is predominantly agriculturally based which is sustainable and where the economy grows, the community is enhanced, and unique and important resources are respected and protected.

Policy 2 In agricultural areas of the Town allows agricultural related commercial uses only if a rural location is required to serve farmers.

Policy 3 To limit non-agricultural commercial use to small, rural oriented businesses which provide services needed by residents of the town. Further, shall not adversely affect the traffic capacity and safety of the highway.

Page 2-11; Goal 11; Natural Environment

Policy 1 Encourage the preservation, rehabilitation and adaptive reuse of historic buildings.

Policy 2 Protect historic resources.

Policy 8 Support efforts to maintain the Graves Cemetery.

Page 3-3. Exhibit 3-1. Issues of Importance to Town Residents. Of highest importance were such issues as "Maintain Quality of Life", "Pedestrian Safety", "Farmland Loss" and "Encroachment of Incompatible Uses".

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #7.

#### General standard #8.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant has satisfied standard #8.

#### FINAL RESULT

**Since the applicant failed to satisfy 6 of the 8 standards, the conditional use permit application is hereby DENIED by Unanimous vote of all 4 members of the Town Board (Loughrin, Zentner, Nedveck and Grueneberg).**

Prepared by Peter Loughrin  
Chairman, Town of Rutland  
October 6, 2020

## Lane, Roger

---

**From:** Paul Proctor <paulproctor705@gmail.com>  
**Sent:** Tuesday, February 28, 2023 12:15 PM  
**To:** Lane, Roger  
**Subject:** CUP #2582 Agenda Item - February 28, 2023 Meeting

### This Message Is From an External Sender

This message came from outside your organization.

Hi Roger,

I would appreciate it if this email can be shared with the Dane County Zoning and Land Regulation Committee regarding the CUP #2582.

I would like to thank you for running a very professional public hearing regarding this CUP on January 24, 2023. I felt the speakers provided very well researched substantial evidence why the new quarry does not meet the eight standards. Unfortunately, the law firm representing K&D Stone during rebuttal stated, "I don't see any credible credentials of the people presenting testimony". This was very insulting to me and other residents. We submitted substantial evidence, as was requested, addressing why this CUP does not meet the eight standards.

I recently read your February 8, 2023 letter to the applicant addressing issues and concerns that were raised during the public hearing. In reading the response from Mitchell R. Olson, Axley Brynelson, LLP legal firm representing K&D Stone, it is clear their operation does not fit into the neighborhood. They are not able to adjust their operation to meet the needs of the township. I am not going to go through each item in your letter and their response but I would like to address a few.

They have indicated the hours of operation can not be adapted to accommodate the safety of the township during morning and evening commuting hours. This creates a safety hazard caused by their operation with dump trucks and local commuter traffic.

Regarding road repair costs, there are local townships already assessing fees for like operations. K&D Stone is well aware of that fact and instead of stepping up and addressing that issue they had no comment. A "good neighbor" would have come forth and tried to address this issue so all township residents, through our taxes, do not have to pay for premature road repairs caused by K&D Stone.

Property values. I disagree that the applicant has submitted expert evidence noting to adverse effects on property values. The existing quarry is small and barely visible from the road. The new quarry that the applicant wants to refer to as an expansion will be much more highly visible. Substantial evidence was given in testimony to the contrary of the applicants "expert evidence".

We have lived with a nonconforming quarry for years. In fact it was inactive for years prior to the past 5 years. The story line that we should be happy to approve this new 37 acre quarry site CUP in exchange for making the existing 9 acre nonconforming quarry, conforming, is an insult.

I hope you and the committee members realize you have received much more new information and substantial evidence as to why this CUP does not meet the eight standards than when it was approved earlier. You do not need to be concerned that this reflects badly on your earlier decision to approve. You have been given much

more information and township input from citizens. The response from Mitchell R. Olson, Axley Brynelson, LLP legal firm representing K&D Stone clearly shows their operation does not fit into the township and can not meet citizen concerns. Please get past agendas and hurt egos. This new quarry CUP should be denied. K&D Stone has 37 valuable Dane County land that still has a value without being a quarry.

Thank you.

Paul Proctor  
705 Center Road  
Town Of Rutland  
Stoughton, WI

**Lane, Roger**

---

**From:** Planning & Development  
**Sent:** Tuesday, February 28, 2023 7:45 AM  
**To:** Lane, Roger; Holloway, Rachel  
**Subject:** FW: Dane County Planning and Zoning Re: CUP 02582  
**Attachments:** CUP-2022-02582-Letter-Seffrood-Feb-26-2023.pdf

Thank you,  
Sam Haack

Planning and Development  
Clerk IV  
608-266-4253

**From:** Sharon Seffrood <seffrood98@yahoo.com>  
**Sent:** Monday, February 27, 2023 4:54 PM  
**To:** Planning & Development <plandev@countyofdane.com>  
**Subject:** Dane County Planning and Zoning Re: CUP 02582

**This Message Is From an Untrusted Sender**

You have not previously corresponded with this sender.

I am submitting this letter in regards to the 2/28 ZLR meeting regarding CUP 02582.

Thank you for your time,

Sharon Seffrood  
[seffrood98@yahoo.com](mailto:seffrood98@yahoo.com)

February 26, 2023

In light of the strong and numerous objections from many Rutland citizens, this issue regarding CUP 02582 really needs to be resolved by our local representatives, not by delegated officials who live outside of Rutland.

The ZLR Committee should send back the application at least once in an attempt to prompt the Town of Rutland to live up to its elected responsibilities, especially in light of the fact that upcoming elections in April could change the makeup of our Town board

Please look at the other area quarries. They all close on Saturdays, Sundays and holidays. If you consider attaching conditions, please include the following hours:

Monday - Friday 8:00am - 4:30pm

Saturday - closed

Sunday – closed

Holidays - closed

Thank you,

Sharon Seffrood

**Lane, Roger**

---

**From:** Planning & Development  
**Sent:** Monday, February 27, 2023 7:55 AM  
**To:** Lane, Roger; Holloway, Rachel  
**Subject:** FW: CUP 2582 - please share

Thank you,  
Sam Haack

Planning and Development  
Clerk IV  
608-266-4253

**From:** info2@actualsizeartworks.com info2@actualsizeartworks.com <info2@actualsizeartworks.com>  
**Sent:** Sunday, February 26, 2023 4:21 PM  
**To:** Planning & Development <plandev@countyofdane.com>  
**Subject:** Re: CUP 2582 - please share

**This Message Is From an External Sender**

This message came from outside your organization.

Sorry, 2582, not 3

On 02/26/2023 1:47 PM [info2@actualsizeartworks.com](mailto:info2@actualsizeartworks.com) [info2@actualsizeartworks.com](mailto:info2@actualsizeartworks.com) <[info2@actualsizeartworks.com](mailto:info2@actualsizeartworks.com)> wrote:

Dear Roger, I'd like to request that the attached letter be forwarded to the ZLR Committee and added to the file for CUP 2583.

Thank you for the detailed, thoughtful response to residents' concerns over this CUP. I can tell that you read and considered everything that was submitted, which didn't seem the case last time, and is partly why we now have such strong resident participation. I hope the Committee will take it as seriously as you did.

It's clear that the applicant does **not** intend to take your suggestions, and even if he did the application would still not meet all of the standards. It's disappointing that rather than requiring some of the conditions, such as no weekend hours, you're asking the Committee to obtain an explanation of why he needs them. It's obvious why he WANTS them. What neighbors want is quiet weekends, not an explanation of why the quarry is operating on a beautiful summer Saturday.

Also, it's disappointing to be last on the agenda AGAIN. Why is that? It's hard not to believe, as our residents do, that it's an effort to discourage participation. As you know people have kids at home, jobs to go to the next day etc. and it's asking a lot for them to sit through hours of other

items to get to the one they've attended for, even on Zoom. You can see our level of commitment by the fact that a very large number of people did it last time, but for a second time it's hard not to take it personally. That said, we do appreciate the fact that YOU sat through hours of testimony and synthesized them into your report.

So thanks again for your efforts on this CUP and see you Tuesday.

Gail Simpson

673 Center Rd. (Rutland)

Stoughton WI 53589

Dear Members of the ZLR Committee:

Thanks for your efforts to review and evaluate CUP 2582. I am writing with some notes in response to the Staff letter regarding this CUP.

1. It seems clear from the Staff letter and the other materials presented at the hearing and electronically, that residents have given you ample, substantial, evidence-based reasons to turn down this CUP. As per Mr. Lane's letter, there are a vast number of concerns and still-unresolved problems with the application. The applicant's response indicates that he will **not** take the suggestions offered by staff to help the CUP address the Standards. Therefore, you can decline this CUP with full confidence and without remorse that you have left someone with a worthless piece of property. He purchased it without assurance that he could mine it- a gamble- but he still has 37 valuable acres of Dane County land. It was hardly a losing proposition.

2. The recommended conditions, although helpful and thoughtfully discussed by Mr. Lane, still do not make the application meet the 8 standards. Context is everything, and things that the staff finds allowable, such as the business hours and operational distance, are not appropriate for this residential neighborhood. The ZLR document on the CUP process states that "Due to the potential for negative impacts to adjacent properties for uses already permitted, conditional uses require special consideration... the Town and the County review proposed Conditional Use applications for **compatibility with surrounding properties**." According to this statement, it's not a one-size-fits-all set of standards. The residents have overwhelmingly expressed what we find acceptable for this specific neighborhood.

3. Considering the lifespan of this quarry, approval of the CUP will continue to create problems for our Town (and the ZLR, I might add) for generations to come. It's not as if its presence becomes settled and accepted if the permit is given. The high level of complaints, road conflicts, expensive maintenance, and frustration with governance will continue to corrode the fragile sense of community we are all clinging to these days.

4. At a time when trust in government agencies is at an all-time low, this is an opportunity to show residents that the ZLR committee is not a rubber stamp. Please do what is right for your constituents – the majority, not one individual. You can restore our faith that our representatives are truly listening, deliberating, and representing us. Please don't miss this opportunity.

Thank you.

With regards,

Gail Simpson

673 Center Rd.

Rutland (Stoughton) WI 53589

**Lane, Roger**

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**From:** Henry Spelter <hspelter48@gmail.com>  
**Sent:** Friday, February 24, 2023 1:53 PM  
**To:** Planning & Development  
**Subject:** Citizen comments on staff report on CUP 2582  
**Attachments:** ZLR\_Staff\_Response\_2023.docx

**This Message Is From an External Sender**

This message came from outside your organization.

I request THAT the ZLR Committee vote to enter into the record citizen comments on the staff memo dated February 22, 2023.

Sincerely,

Henry Spelter

## **Residents' comments on ZLR Staff letter on conditions for CUP 2582 to Committee**

### **Hours of operation**

Applicant: 7am to 7pm weekdays; 8am to 1pm on Saturday; no work on Sunday and holidays

Citizens: 7am to 4pm on weekdays

Porter: 7am to 5pm weekdays; blasting and trucking 8am to 4pm weekdays

Staff: It appears that the hours of operation are within the scope of normal business hours, However, the applicant may need to substantiate operation until 7pm. Work on weekend is limited, applicant may need to substantiate the importance of having weekend hours.

Provide additional information to support requested hours.

**Residents' comments: We concur with staff comments and only add that the 4pm or 5pm weekday work stop order is appropriate as that is when most commuters return from work and expect to enjoy their properties in peace and quiet.**

### **Berms**

Applicant: 3-10 feet as needed, west berm at 8 feet until excavation is greater than 15 feet deep at which time the height may be reduced, existing trees act as buffer

Citizens: 15 feet with tree plantings

Porter: 10 feet with tree plantings

Staff: The property slopes from the northeast corner to the southwest corner, approximately a 40-foot grade difference. The installation of berms along the roadway is common on mineral extraction sites and appears feasible on this site. The berms would be beneficial in controlling dust and improving the esthetics to the property. Plantings on the berm are common with most quarries. Due to the topography, berms along the south and west property lines would not be effective in screening but would provide a barrier to prevent runoff to other properties. Staff is suggesting that a grading plan be developed to show how the operation can be effectively screened and prevent runoff. Provide additional information regarding installation of berms and proposed plantings including species and spacing.

**Residents' comments: We agree with staff comments. We can agree that that the 3'-10' berms may be sufficient for strictly rural landscapes with only agricultural activity nearby, but not in a residential setting where home adjoin. Given the site's slope and neighboring needs for aesthetics and visual separation, berm heights of at least 15' are needed along with further plantings to shield views from the visual blight that is comes with this use.**

### **Operational distance**

Applicant: 30 feet from road; 20 feet from other property lines

Citizens: 1,000 feet away from existing buildings and graveyard

Porter: 1,000 feet away from existing buildings and graveyard

Staff: The operations plan provides an approximate 200-300 buffer to the south property to accommodate the closest house to the property. With the buffer, the house is 450 feet away from the last phase of the quarry. There is an existing residence 500 feet away from the west property line. The location of the quarry operation appears to be a reasonable distance to adjacent land uses.

It appears there has been a misinterpretation of the Town's Comprehensive plan language. The plan notes that future homes sites should be located a minimum of 1000 feet away from mineral deposits. The Zoning Ordinance lists setback requirements for quarry operations being 20 feet from property lines and 30 feet from roads. The current operation plan meets the locational requirements. Staff feel that the operational distances are adequate.

**Residents' comments: Both the Dane County and Rutland Land Use Plans refer to a 1,000' buffer between home sites and mineral deposits. A strict interpretation makes this a one-way injunction. Here we fall back on the reasonableness standard. Why would a fair reading of this language not be equally interpreted as implying the reverse, securing for existing tenants the same margin of separation afforded to potential future miners?**

#### **Quarry setback**

Applicant: 30 feet from road; 20 feet from property, 180-300 feet to south property line

Citizens: 200 feet

Porter: None

Staff: The applicant is following the required standards as noted in the Dane County Zoning Ordinances. As part of the standard conditions for mineral extraction sites, a 20-foot setback from property lines and a 30-foot setback for Town Roads are required. Greater distances may be warranted for subsidence issues or sensitive environmental features. The applicant proposes a 180-300 foot buffer to the south property line due to close proximity to an existing house. Staff feels that the setbacks as proposed are adequate.

**Residents' comments: We agree that "Greater distances may be warranted for subsidence issues or sensitive environmental features." (emphasis ours). "Environment" is defined as "circumstances, objects, or conditions by which one is surrounded". The "circumstances" and "conditions" here, where the 1,000' marker does not apply, is the development potential of adjoining property. In other municipalities this factor is taken into account by mandating wider setbacks than Dane County Zoning Ordinances lay out: 300' in the case of the Village of Windsor, 100' in the case of Town of Deerfield. A 200' set back falls into the middle of these more up to date, contemporary benchmarks.**

#### **Noise Limitations**

Applicant: All vehicles will be equipped with MSHA –approved backup alarms and muffler systems. Noise generation is similar to agricultural equipment.

Citizens: 65 decibels at property line

Porter: 75 decibels 100 feet away from property line; reduce back-up alarms

Staff: Quarrying activity inherently produces noise due to the operation of crushing machines, end loaders, and the loading of hauling trucks. Noise limits have been set by Towns on other quarry operations in the past. A general standard of 75 decibels Dba has been used for quarry operations in the past. The applicant will need to review operational volumes to see if this is an achievable limit. Equipment location may be need to achieve this limit.

**Residents' comments: We agree that noise limits are needed when there are adjoining properties where excessive noise substantially impairs enjoyment, use and value. Noise limits need to be specific and measurable, hence the need for an exact limit spelled out in decibels. We inquire, what statutes, ordinances or regulations is this "general standard" of 75 decibels based on? For our recommended limit of 65 decibels, we refer to DC Ordinances**

**10.102(6)a "Town boards and the zoning committee may, as necessary, set decibel limits appropriate to the use and location as a condition on a Conditional Use Permit."**

**10.102(6)d "Noise levels shall be set to the db(a) decibel scale and should be appropriate to the background noise level of the surrounding area, and to the nature, duration and repetition of the proposed use."**

**10.102(8)(g)9a1cii. "Lands where noise control barriers effectively reduce the noise level from traffic to 67 decibels [db(a)] or less."**

**We maintain noise limits are necessary because 1) there are 6 residences within a 1,000" of the proposed mine; 2) A noise limit is stipulated to be "appropriate to the background noise level of the surrounding area" which is rural-residential at this site; and 3) Ordinance 10.102(8)(g)9a1cii clearly indicates 67 decibels as the point where further remedial measures are unnecessary and therefore the level regarded as being consistent with the "background noise level".**

### **Back up alarms**

Applicant: Investigating alternatives for truck back-up alarms. Orient one-way traffic for hauling trucks so that vehicles do not need to back up.

Citizens: require non-beeping alarms

Porter: reduce noise from back-up alarms

Staff: Mine Safety and Health Administration (MSHA) mandates that back-up alarms are required for all equipment and vehicles used in surface and sub-surface mines. Beeping alarms are a standard in the industry. MSHA is somewhat vague on the alternative noises that could be used. The applicant will need to investigate the use of alternate backup alarms with MSHA to see if equipment at this site could use alternate alarms. Additional information will need to be provided by the applicant.

The quarry operator uses third party hauling companies. It may be burdensome for third party haulers to comply with alternative alarm requirements due to hauling from other quarries.

**Residents' comments: Without a solution to the incessant high-pitched beeping, this operation is incompatible with its neighboring properties. We concede that 3rd party haulers may not be able or willing to comply with alternative alarm systems. However, the bulk of the beeping emanates from quarry loaders and reducing their intensity goes most of the way to mitigate this insufferable annoyance.**

#### **Review of CUP**

Applicant: 20 years

Citizens: Annual

Porter: Annual

Staff: It has been common practice to set a time limit on quarry operations to allow the operation to be reviewed after the activity has been in operation. Equipment, stockpiles, internal truck routing, and depth of quarry, all change over time. It may be necessary to evaluate the operation as the operation moves through its phases. In the past, the County has been setting a time limit between 5 and 25 years for mineral extraction CUPs. Given the scale of the operation, Staff is suggesting that a time limit of 15 years be placed on the conditional use permit if approved.

**Residents' comments: This limit cannot be evaluated without knowledge of the background history of this operation. More frequent reviews than at 15 year intervals or even 5-years are needed to address issues that citizens have complained of without satisfactory resolution in the past.**

#### **Road repair costs**

Applicant: none

Citizens: \$25,000

Porter: \$15,000

Staff: The Town has a right to impose impact fees on development if the Town can substantiate the direct impact of the development. Per Wisconsin Statutes, the Town must provide evidence (assessment study) to show if there is an impact and to what extent (amount). In the past, there have been some quarry operations that have agreed to provide Towns compensation for Town road use. Staff feel that, to ensure that these fees are defensible and not arbitrary, they should be supported by an impact fee study and initiated by the Town. The County cannot impose impact fees or other requirements on town roads.

**Residents' comments: We start from the proposition that this quarry's tax contribution is significantly out of proportion to the wear it imposes on town infrastructure in comparison with what residents pay and make use of. The Town of Rutland does not have the resources to engage a consultant to do an assessment study. If the staff is aware of "some quarry**

**operations that have agreed to provide Towns compensation for Town road use”, then please share that information with the applicant, with the Town Board and with the ZLR Committee.**

### **Tarping of trucks**

Applicant: None

Citizens: All trucks covered

Porter: All trucks tarped

Staff: It has been a common practice for many quarry operations to use tarps on hauling vehicles to reduce impacts on other vehicles during transportation of materials off-site. The proposed activity for this site involves the extraction of sand. The applicant should consider all materials being tarped as part of the hauling operation.

**Residents’ comments: We disagree that the applicant should merely “consider” tarping. This should be made a mandatory condition as has been the case for other quarry CUPs (i.e. CUP #2334, Town of Oregon).**

### **Property values**

Applicant: Property value study showing no significant impact on surrounding property values

Citizens: Information regarding negative impacts on property values, study showing lower property values

Staff: Information has been presented that shows property values not being affected, as well as, a loss in property values due to the quarry. The proposal is to allow the expansion of an existing quarry which has been in operation since the 1930’s. Given the existence of a quarry, the property values for the area should already reflect proximity to a quarry. Staff feel that the continuation of an existing land use (mineral extraction) will not have a significant effect on property values in the area.

**Residents’ comments: The existing quarry’s commercial life expectancy has been stated to be 25 more years 3 years ago (Residents’ slide deck #74). That means from 2023 there are 22 more years of expected activity.**

**With respect to the bare land to the north of the CUP, we agree the CUP “will not have a significant effect on property value” for the next 22 years. However, the CUP is expected to last at least 50 years based on the application, so we disagree that for the outyears 2045 to 2073 quarry will have similar negligible impact. Rather it will continue to suppress value over those outlying years years that would otherwise have been lifted without the CUP.**

**With respect to the two pre-existing residences upon whom this CUP will encroach and take away their prior 1,000’ or more buffers, our evidence showed that they will suffer an immediate adverse impact event, substantially reducing their values as even the one comparable in the applicant’s consultant’s study confirmed.**

Supervisor Tim Kiefer  
10 East Doty Str, Suite 800  
Madison, WI 53703

2-16-2023

Dear Supervisor Kiefer,

As a response to the attorney's rebuttal at the close of the Hahn CUP 2582 hearing was not allowed, please allow me to make some points before your next vote on the permit.

This was the second time you heard this application. What was different now?

For one, we dissected the application and showed it to be more of a box checking exercise than the fact-based presentation under Act 67 their attorney claimed to be. To us it was shallow and vague, heavy on assertions but light on measurable metrics that can be monitored.

An example was their intent to lower beeping noise by using "Alternative MSHA approved backup alarms". But this was proposed over a year ago and is still not implemented. Was that a sincere statement of intent or a brush off? (item #4, slide 17 in our presentation hints at the answer)

Since noise is a serious issue, I queried the zoning director about the ZLR staff's inconsistency in setting noise limits, placing 75 decibels for pits in Verona and Brooklyn but omitting any for Rutland. I quoted S 10.102(6) that "Noise levels shall be set to the db(a) decibel scale and should be appropriate to the background noise level of the surrounding area, and to the nature, duration and repetition of the proposed use".

He answered, "I believe you left out the most important part of the ordinance section, 'Town Boards and the zoning committee may, as necessary, set decibel limits.'"

I replied "I left out nothing. I didn't think it needed to be said that, if people living next to a mine don't make noise limits "necessary", then what does? We cited this item in slide 16 of our presentation."

Then we also put the two consultant studies under the microscope. In crass credentialism over substance their attorney held those up as superior because they were the work of hired experts. Yet we found significant defects in both, which weigh on their credibility.

Their assessor's report on the impact on property values "proximate" to quarries showed that 22 of the 23 comparable sales did not in fact share a border with a quarry but were separated by up to a mile and a half and thus irrelevant to our point which was based on bordering properties. The one that was "proximate" showed a significant negative value deviation as well as sale complications that were consistent with our evidence (slides 22-23).

The other consultant's report featured either a complete misunderstanding of Bureau of Mines blast wave limits or presented results in a way to mislead a non-technical lay audience. Slides 66 and 67 illustrated this.

The report also made a throw away reference to SPS 307, which provides blast wave limits for sheetrock and plaster, but not for a stone-mortar foundation/wall combo that borders this site. In Germany, where cultural heritage is appreciated more, a nuanced set of standards stipulate three categories, each with separate upper bounds as shown in the table below. A fair question to put to ZLR staff would be: might engaging a seismic engineer to assess the site be appropriate before a determination on this use is made?

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German standard DIN 4150 for Peak Particle Velocity (mm(in)/sec)

Structure type:	4-8 hz	8-30 hz	30-100 hz
Commercial	20 (0.8")	20-40 (0.8"-1.6")	40-50 (1.6"-2.0")
Residential	5 (0.2")	5-15 (0.2"-0.6")	15-20 (0.6"-0.8")
Very Sensitive	3 (0.12")	3-8 (0.12"-0.32")	8-10 (0.32"-0.4")

Supervisor Kiefer, we did not have consultants to put a glossy veneer on our presentations but as a career economist I have seen my share of questionable, cobbled together analysis for hire. The pair of expert reports put into the record by the applicant falls into that category. This group of neighbors did their due diligence to research the laws and ordinances pertaining to quarries and they presented factual data to demonstrate their case along lines consistent with Act 67. Their evidence should be evaluated on its merits, not on pedigree. A thorough airing of all the evidence presented by both parties should be made, debated and the protocol followed for written findings of fact.

Sincerely,



Henry Spelter

(978 727 4225)

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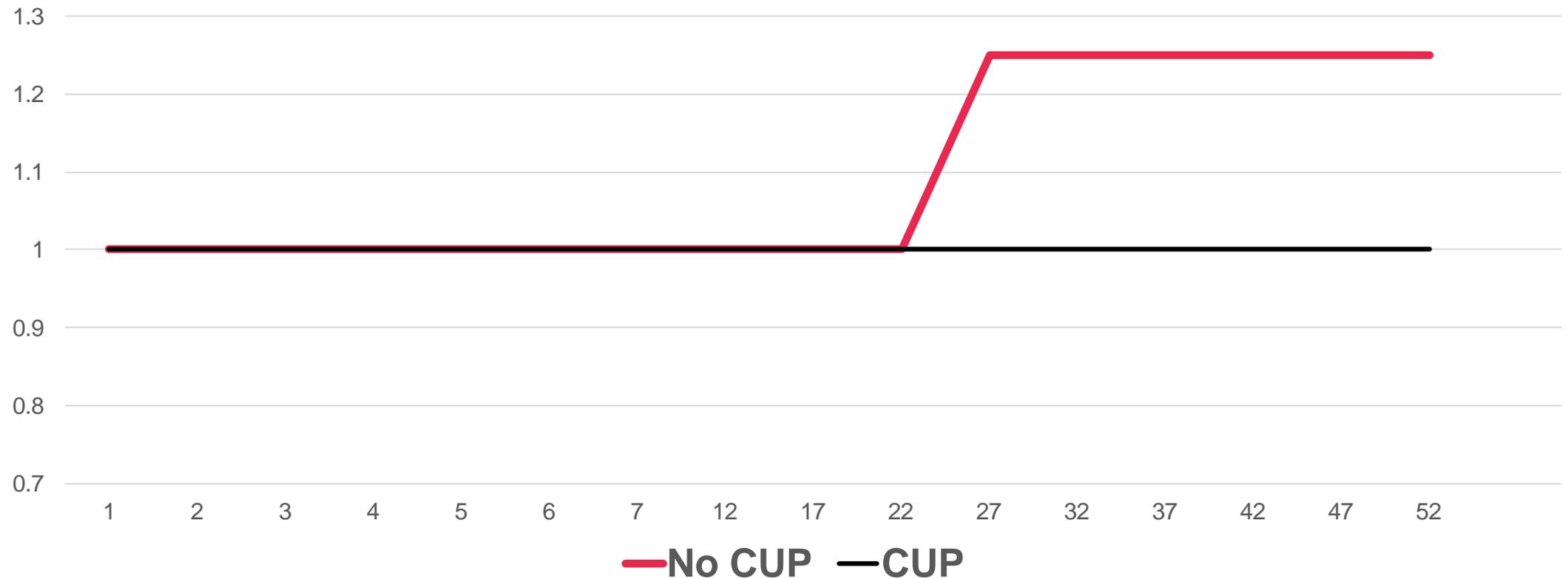


**RESIDENTS'  
RESPONSE TO  
STAFF MEMO OF  
2-8-2023**

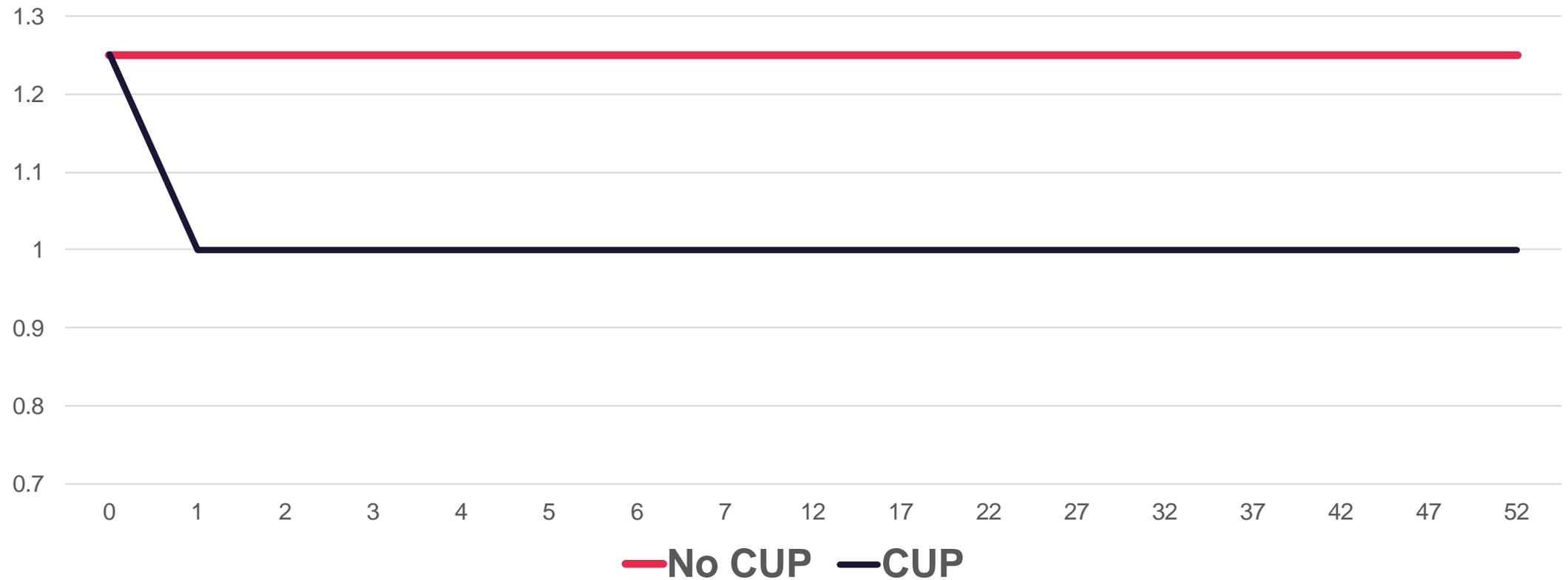
# STAFF ON: PROPERTY VALUATIONS

- “Given the existence of a quarry, the property values for the area should already reflect proximity to a quarry.” ---**Acknowledges quarries affect property value: Amounts to admission that application fails Standard 2.**
- “Staff feel that the continuation of an existing land use (mineral extraction) will not have a significant effect on property values in the area.”---**Based on the (flawed) assumption that property values do not vary with distance from a quarry.**

# CASE 1: EFFECT OF OLD QUARRY ON PROXIMATE PROPERTY VALUES (VALUE INDEX, YEARS 1 THROUGH 52)



# CASE 2: EFFECT OF CUP ON BUFFERED PROPERTY VALUE (VALUE INDEX, YEARS 1 THROUGH 52)



# STAFF ON: SOUND LIMITS

- “A general standard of 75 decibels Dba has been used for quarry operations in the past.” ---**A major concession acknowledging there is a need for an upper limit on noise. Issue: what is the appropriate limit?**

SOUNDS RANGING  
FROM 60 TO 80 DB ARE CONSIDERED LOUD

Noises	dBa
Threshold of pain	140
Leaf Blower	110
Lawn Mower	100
Diesel Truck @ 50'	90
Plane @ 1500'	85
Diesel Truck @ 50'-40 mph	84
Daytime Urban	80
Car @ 20'-65 mph	77
Vacuum Cleaner @ 10'	70
Heavy Traffic @ 300'	60
Dishwasher next room	50

# SOUND LIMITS – STATUTORY BASIS

- Sec 10.102(6)c: “Noise levels shall be set to the db(a) decibel scale and should be appropriate to the background noise level of the surrounding area, and to the nature, duration and repetition of the proposed use.”
- Sec 10.102(8)(g)9: ... (further noise mitigation is unnecessary if other measures) “reduce the noise level from traffic to 67 decibels [db(a)] or less”---**A noise limit of 67 decibels is recognized in the ordinance as an acceptable background noise level, 75 decibels has no such statutory grounding.**

# APPLICANT ON: SOUND LIMITS

- Applicant also concedes need for sound limit and proposes a “75 decibels noise limit 100 feet away from property line noting that 75 decibels limit will be based on a 1-hour average noise level”---**There is no precedent for this convoluted standard. The format has always been: X decibels db(a) measured at the fence line.**

# SOUND LIMITS CONCLUSIONS

- A standard of 75 decibels is Arbitrary (random, subjective, unmoored to statutes)
- Applicant's measurement conditions are Capricious (whimsical, fickle, manipulatable)

# OTHER ISSUES

- 1,000' separation between mineral extraction deposits and residences (This is a stated goal of both Dane County and Town of Rutland Comprehensive Plans. If it's appropriate to prevent building within a 1000' of pits, is it reasonable to believe that the reverse does not apply?)
- Tarping of dump trucks loaded with sand and gravel (Applicant claims he "cannot enforce a (tarp) rule once trucks" leave site yet claims that all trucks entering the site "will be equipped with MSHA-approved backup alarms and muffler systems". If he can enforce one, he should be able to enforce the other. The ZLR Committee has set a clear precedent for requiring tarping of loose material leaving mines, i.e. CUP #2334 unambiguously states: "All dump trucks hauling aggregate from the site must tarp their loads"

## Lane, Roger

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**From:** Susan Williams <a2willie@aol.com>  
**Sent:** Monday, February 27, 2023 2:56 PM  
**To:** Planning & Development; Lane, Roger  
**Subject:** CUP #2582

### This Message Is From an Untrusted Sender

You have not previously corresponded with this sender.

Dear ZLR members and Dane County Zoning staff.

I want to thank the Dane County Zoning staff, specifically Roger Lane, for creating the letter to Mr. Hahn summarizing all the community input that was received at the public hearing regarding CUP # 2582.

I would like to share with you my reaction to the applicants response to Roger's letter.

After reading the response letter from the applicant, I still do not believe that the applicant meets all eight standards required for approval of this CUP. That said, I appreciate that the applicant made a few concessions outlined in his response, such as the noise decibel issue, as well as the tarping of trucks leaving his pit. But I still have issues with most of the remaining items listed in the letter.

Regarding the hours of operation: I am not surprised that the applicant wants to convince you to allow him to work as many hours as possible during the week as he has done since owning his 10 acre Nonconforming pit. Allowing the applicant to operate for all the hours he has requested will only continue the animosity that is felt between the supporters of the gravel pit and the non-supporters. I believe that compromise is going to be needed by both sides for there to be any healing moving forward. In the applicants response letter, he indicates that he wants to be a good long-term neighbor in this community. To be a good neighbor there has to be the ability for the community and surrounding home owners the ability to enjoy their homes after work and on weekends. If this is not allowed because of disruptive noise, dust and the disturbance created by an active quarry during evening hours and on weekends, nearby community members will not be able to enjoy their homes and properties and will continue to harbor resentment and the applicant will not be seen as a good neighbor. I believe the arguments that these extended hours are necessary due to DOT needs is not relevant as there are many other quarries in this area that have product available for the DOT if it is necessary during these off hour time periods. I also believe that if the applicant was not willing to forfeit his non-conforming status of his original 10 acre pit, the community nor Dane County Zoning staff would never support the approval of this expansion. In other words, that would be a non-starter! Finally, I have spoken to the operator of the other nonconforming gravel pit in the Town of Rutland. He has indicated that he operates a quarry in the town of Springfield that has significantly reduced hours of operation due to community input during the approval process for that pit. Therefore the ZLR members should not be concerned that this would be the first quarry with limited hours.

Regarding berm heights: the applicant indicated that berms between 8 feet and 10 feet tall would surround the entire quarry, and that the berm's may be reduced to 3 feet once the pit gets deeper than 20 feet. In my opinion, this is a ridiculous idea. If the applicant truly intends to plant trees on the berm along center road, is he planning to dig those trees up to reduce the berm height? That makes no sense unless he isn't planning on planting those trees in a timely fashion. And if he's planning on reducing the berm height on the other three sides, those are the sides closest to neighboring homes. Does that mean he doesn't care that those homeowners or potential new homeowners would have less protection from the noise and dust pollution that comes from an active quarry, as well as those people having to look into the the quarry when in their yards? This is unreasonable and completely unnecessary if the 10ft high berms are already built. Thus the reason for my new request, which would be to put a time limit from which the berms need to be built, and when the trees should be planted. I also think it would not be a bad idea to have trees planted around the entire circumference of this pit in order to provide screening for the neighboring home owners.

With regards to the back up alarms: I continue to be disappointed that Dane county staff did not write into their recommendations that the applicant be required to use the "swishing" sound back up alarm. It was staffer Alex Andros

that told me about this MSHA approved back up alarm. Requiring this alarm will mitigate a lot of the noise pollution that neighbors complain about.

Regarding the review process for the CUP: the applicant wanted to be reviewed every 20 years, Dane County staff indicated a review every 15 years, but the community wants it annually. Why I believe an annual review is necessary is that if there are problems that need to be addressed, they can be discussed and addressed on a regular basis before they become something much larger and troublesome. If the applicant really wants to be a good long term neighbor this annual review process should not be something to be worried about.

Regarding materials being brought into this pit: there was a lot of concerns expressed by the community regarding contamination of soil and water. Allowing asphalt and concrete, or other materials to be brought in will only continue that concern. As far as bringing in dirt, once reclamation has begun, the applicant can come back to the town board during the annual review process and request that dirt be allowed to come in for the purpose of filling in the hole. Otherwise, please don't allow any materials to come in but only allow materials to go out.

Regarding property values: the applicant provided testimony from a "expert" that property values are not adversely affected. At the same time the community provided significant information that shows that property values are negatively affected when next to an active quarry. Unfortunately, you as the ZLR Board members are going to have to decide who you believe. I would ask you to truly think to yourself how much you would be willing to spend for a new home or an existing home next to an active quarry. I think common sense would have most to believe that home values are lowered in this situation.

Again, I do not believe the applicant has successfully shown that this CUP meets all 8 standards. But if you disagree with me, I beg you to listen to the input and requests of the community when establishing conditions. The Town Of rutland residents need you so that some chance for harmony can come back to the Town Of Rutland.

Thank you for your time and energy spent on this issue

Best Regards  
Sue Williams  
4269 Old Stage Rd  
Brooklyn WI

**From:** Robyn Wood <[rwood9399@gmail.com](mailto:rwood9399@gmail.com)>

**Sent:** Thursday, February 23, 2023 8:32 AM

**To:** Planning & Development <[plandev@countyofdane.com](mailto:plandev@countyofdane.com)>; [supervisorwilliams@town.rutland.wi.us](mailto:supervisorwilliams@town.rutland.wi.us);  
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**Subject:** Town of Rutland Quarry CUP

February 15, 2023

To : Town of Rutland Board  
Dane County ZLR

This afternoon as I was driving west on Old Stone Road I was almost hit by a loaded dump truck that was heading east. I was going around a curve up a hill, the truck was in the middle of the road coming at me. The truck driver swerved to miss me, and I am happy to say he was successful. This was extremely unnerving. Imagine if there had been a pedestrian, or a cyclist, at that place on the road as well. This has, in fact, happened to me many times when I am walking. It is easier to jump into the ditch to avoid a truck when walking, but just as scary. I shouldn't have to head for the ditch when walking, driving, or cycling.

The *Town of Rutland Comprehensive Plan* (see [Comprehensive Plan](#)) validates this safety issue:

Rutland “[r]esidents value the quiet and the sense of community this rural character offers.” One part of this valued rural character is pedestrian and bicycle travel.

**Goal 3 Pedestrian and Bicycle Travel**

**Objective 1: Increase opportunities for pedestrian and bicycle travel.**

**Objective 2: Increase pedestrian and bicycle safety.**

**Objective 3: Increase the number of miles of bike routes.**



Our Town roads are NOT wide enough for dump trucks along with cars, pedestrians, and cyclists. The shoulders of our Town roads are NOT sufficient for cars, bikes, or pedestrians when they have to get off the road for safety. They are definitely NOT wide enough for 2 dump trucks passing each other. This issue itself should be enough to deny the CUP for the new quarry. The quarry CUP application does not meet Standard Two and is not aligned with the goals of the Town of Rutland.

I strongly believe we are not being represented appropriately by our Town Board. We have shown time after time that the new quarry is not in line with our Comprehensive Plan. The CUP did not meet the standards in 2020. Nothing has improved since then, the standards are still not met. Please see [Quarry CUP](#)

Again, please LISTEN to those of us who live directly on the routes these trucks take, and know that we, and our heirs, will have to live with this for the rest of our/their lives.

Thank you for your time,  
Robyn Wood  
Town of Rutland

Dear Roger and ZLR,

I would like to request that this letter be added to the file for CUP 2583.

Thank you for your response to some of the resident's concerns regarding this CUP. I have some additional thoughts for your consideration, along with the question of how CUP 2538 can be considered when 6 of the 8 standards were NOT met in 2020, and nothing has changed to show how those standards have now been met.

**Applicant:** All vehicles will be equipped with MSHA –approved backup alarms and muffler systems. Noise generation is similar to agricultural equipment.

**Citizens:** 65 decibels at property line

Noise generation may be SIMILAR to agricultural equipment, but the agricultural equipment is NOT running (past houses) every 5 minutes, from 7a-7p, 5-6 days per week. Agricultural equipment is part of a rural environment, to be expected here, in a rural setting. Dump trucks are not. Agricultural equipment does not have back-up alarms going off all day. What about the decibel limits for the trucks when driving on the roads every 5 minutes?

The quarry operator uses third party hauling companies. It may be burdensome for third party haulers to comply with alternative alarm requirements due to hauling from other quarries.

It MAY be burdensome for third party haulers to comply with alternative alarm requirements. It IS burdensome for current residents to hear the current alarms.

The site has a very low housing density and the proposed blasting events are noted to be 2 to 3 times a year. Given the infrequent blasting, Staff suggest that the standard conditions as listed under the zoning ordinance be used as part of the conditions for the conditional use permit, if approved.

Not sure what is meant by "very low housing density" but there are quite a few houses, along with the grave markers in the cemetery, that are affected by the blasting. What assurance do we have that blasting will remain at 2-3 times per year? With a 37 acre pit, are we assured, without doubt, that the blasting will not increase? How can it not increase, with more land being used/blasted?

**Staff:** The applicant is following the required standard of fencing for mineral extraction sites as noted in the Dane County Zoning Ordinances. The zoning ordinance does not state the style of fencing, only that the fencing provides a 4-foot barrier. Staff feel that the existing fencing provided, and noted in the application, is adequate deterrent for the site.

Not sure if the fencing around the new pit is 4-feet high. I am sure that the existing pit does NOT have fencing around the entire pit. What assurance do we have, since this has not yet been fixed, that any other requirements will be followed and adhered to? The applicant has clearly shown he does not intend to follow Dance County Zoning Ordinances.

**Staff:** Information has been presented that shows property values not being affected, as well as, a loss in property values due to the quarry. The proposal is to allow the expansion of an existing quarry which has been in operation since the 1930's. Given the existence of a quarry, the property values for the area should already reflect proximity to a quarry.

**Staff** feel that the continuation of an existing land use (mineral extraction) will not have a significant effect on property values in the area. (Note from residents - any already-existing effect on property values is from an 8-acre pit, not a 37 acre pit.)

**The Town appraiser has stated that if the pit goes from 8-acres to 37-acres, and with a longer life, that property values will go down, especially closer to the pit. The 8-acre pit was near the end of its life. A new 37-acre pit will outlive us all, and will affect our heirs. The quarry owner has stated he wants to pass the business on to his heirs, who are not yet born.**

**Take into account that the property right next to the pit was purchased by the pit owner at quite a bit less than the value. No other offers were made. It sounds like it IS known that the pit will affect property values:**

***“Given the existence of a quarry, the property values for the area should already reflect proximity to a quarry.”***

**Staff:** Many of the concerns raised at the public hearing involved the amount of truck traffic in the area. Truck traffic is produced from this site, a larger mineral extraction site just south, and construction activities to support Stoughton, Oregon, and Madison. The application notes that the primary truck route will be north on Center Road to County Hwy A, then to State Hwys 14 or 138. It appears that the described routing may disperse traffic for the area. The application should provide additional information regarding the amount of traffic that is produced from the site.

There were many concerns raised regarding speeding trucks. Although a possible by-product of the mineral extraction activity, staff does not feel that regulating an activity off-site could fall under the scope of the CUP. There are concerns on how the enforcement of an imposed speeding condition be managed.

**I would expect speeding dump trucks to be an important SAFETY issue for the Town and the County. The dump trucks are a DIRECT result of the pit. Taking this issue (speeding TRUCKS) off of the cause (new quarry application) is irresponsible. We know, and the Town acknowledges- by asking the pit to not run trucks during bicycle time trials- that dump trucks and cyclists/pedestrians do NOT mix.**

***“Although a possible by-product of the mineral extraction activity, staff does not feel that regulating an activity off-site could fall under the scope of the CUP.”***

**Speeding trucks are not a POSSIBLE by-product of a new pit, they are a REAL by-product. If there were no CUP 2583 this would not be a concern. Just as we**

**look at the future of the environment for the CUP, we must look at future SAFETY as part of the CUP.**

***“There are concerns on how the enforcement of an imposed speeding condition be managed.”***

**This should be another red flag. I would expect that The Town and County should know ahead of time how to deal with the enforcement of an imposed speeding condition. We have speed limits for a reason, one of them is safety.**

**From September 29, 2020 Town of Rutland Board:**

Regarding Petition # 2020-02496 Dane County ZLR Committee Public Hearing **Sept 29, 2020**

**Whereas**, the Town Board of the **Town of R\_u\_t\_l\_a\_n\_d** having considered said conditional use permit application, be it therefore resolved that said conditional use permit is hereby (**DENIED**)

**Whereas**, in support of its decision, the Town Board has made appropriate **findings of fact** that the standards listed in section 10.101(7) (d) 1, Dane County Code of Ordinances, and section 10.222 (3) (a), if applicable, are found to be (check one):

**DENIED (IF DENIED, PLEASE COMPLETE FINDINGS SECTION ON PAGE 2)**

**PLANNING COMMISSION VOTE: 0 In Favor **4** **Opposed****

**TOWN BOARD VOTE: 0 In Favor **4** **Opposed****

## **FINDINGS OF FACT FOR DENIED CONDITIONAL USE PERMITS**

***“The zoning committee or applicable town board **must deny a permit if it finds that the standards for approval are not met**, and must approve a permit when the zoning committee and applicable town board determine that the standards for approval are met.”***

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare. **NOT SATISFIED**
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. **NOT SATISFIED**
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. **NOT SATISFIED**
4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made. **NOT SATISFIED**

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. **NOT SATISFIED**
6. That the conditional use shall conform to all applicable regulations of the district in which it is located.
7. That the conditional use is consistent with the adopted town and county comprehensive plans. **NOT SATISFIED**
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).

**Town of Rutland, Dane County, Wisconsin**  
**Action of the Town Board regarding the Conditional Use Permit Application of Kevin Hahn**  
**Action taken at the Town Board Meeting held on October 6, 2020**

Per Dane County Zoning Ordinance 10.101(7), The Town Board shall make written findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the following standards:

- General standards for approval of a conditional use under 10.101(7)(d)
- Any prescribed standards specific to the applicable zoning district. In this case, 10.220(1)(a)
- Any prescribed standards specific to the particular use under 10.103. In this case, 10.103(15)

**The Town Board met on October 6, 2020 and evaluated each of the eight general standards that must be met in order for a conditional use permit to be approved. Here are the results:**

General standard #1.

The current quarry operation does not satisfy standard #1 and, therefore, an expansion of the quarry would also not satisfy standard #1. The evidence includes in-person testimony of residents who were in attendance at the public hearing on September 28, 2020, written testimony of residents that was received by the Dane County ZLR Committee and by the Town of Rutland Clerk as well as personal observations of the Town Chairman in correlation to Dane County and Town Comprehensive Plan documents.

The quarry itself, and the proposed expansion, cause great noise, cause dust and fly rock, operate well in excess of 40 hours per week, cause truck traffic that is frequent, damaging to the roads and of great risk to pedestrians and bikers, is of an unknown lifetime meaning reclamation is not conceivable and is in direct violation of several Town of Rutland Goals and Policies.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #1.

General standard #2.

The current quarry does impair and diminish the uses, values and enjoyment of other property in the neighborhood and an expansion would continue this impairment and diminishment. Standard #2 is not satisfied. The evidence is personal testimony heard at the September 28, 2020 public hearing as well as all of the written testimony as noted above.

Further, Dane County Comprehensive Plan, page 40, discusses a 1000 foot rule. Interpreted as intended, the rule causes any mineral deposits outside of the existing 9-acre site to be out of the realm of possibility for extraction. The Town and County development approvals since 1937 have created a limit to the existing 9-acre quarry site to remain as a 9-acre quarry site.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #2.

General standard #3.

The current quarry has been in existence 83 years. Kevin Hahn estimates a remaining useful life of 25 years meaning the existing quarry will not begin a reclamation plan until after 100 years of operation. By extension, an expansion at this time would prevent current FP-35 land from being reclaimed for a very, very long time. Maybe another 100 years.

Standard number 3 requires that the conditional use will not "impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district". This particular FP-35 land, if governed by an indefinite period of maybe as much as 100 years, most certainly "impedes the normal and orderly development" that would occur if the land was not governed by this CUP.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #3.

General standard #4.

The current quarry has a well-documented problem with water. Un-regulated and un-controlled pumping out of the quarry and into ditches with the result of flooding areas and killing trees. The applicant has failed to rectify this problem in the years he has owned the current quarry but promises that things will be better if an expansion is permitted. Also, Center Road is not a safe road for the types of vehicular traffic required of the existing quarry and of any expansion. In addition, the current quarry has a history of not properly fencing the site and of not closing gates yet the applicant vows to do better with an expansion.

The documented evidence is clear that the applicant has failed to follow through on necessary site improvements in the past and therefor the Town Board members vote that he fails to satisfy this standard.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #4.

General standard #5.

This operation uses very large trucks. The town roads are being damaged. Also, the size of the trucks, the frequency of trucks approaching each other on narrow town roads with no shoulders, uncovered loads and poor driving habits all endanger pedestrians and bikers. The quarry operator has no other way to conduct business than with large, heavy, unregulated truck traffic. An expansion of the quarry will not minimize traffic congestion and this general standard is not satisfied.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #5.

General standard #6.

The Town Board members agreed that it is a Dane County Zoning responsibility to ensure compliance by the applicant with all applicable regulations of the zoning district.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant has satisfied general standard #6.

General standard #7.

The conditional use permit is not consistent with town and county comprehensive plans. This is evidenced in numerous places:

Incompatibility with the Dane County Comprehensive Plan as follows:

Dane County Comprehensive Plan

Page 31, Cemeteries

Policy #1. Ensure that existing cemeteries, public and private, are protected from development including transportation corridors.

Page 40, Mineral Resources

Supporting Objectives "C". Makes it clear that mineral extraction needs to be no nearer than 1,000 feet from non-farm development. Since non-farm development occurred, this precludes the quarry from expanding.

Incompatibility with the Town of Rutland Comprehensive Plan as follows:

Town of Rutland Comprehensive Plan

Page 2-3; Goal 2; Transportation

Objective 1. Reduce the potential for traffic accidents and provide for safe transportation throughout the Town

Objective 3. Minimize the negative impacts of future transportation projects to the greatest extent possible.

Objective 4. Reduce the amount of non-local traffic passing through residential areas.

Page 2-4; Goal 3; Pedestrian and Bicycle Travel

Objective 1. Increase opportunities for pedestrian and bicycle travel within the Town.

Objective 2. Increase pedestrian and bicycle safety.

Objective 3. Increase the number of miles of bike routes.

Page 2-6; Goal 6; Agricultural Preservation District

Objective 1. Preserve existing farm operations.

Objective 2. Permit development that enhances the growth of agriculture in the Town.

Objective 3. Preserve the rural character of the Town.

Policy 4(d) Commercial use to be limited to those uses having a minimal effect on existing nearby uses.

Policy 4(e) Commercial use, if town roads are involved, the developer must demonstrate minimal impact to neighbors. The safety of access will be a major concern.

Policy 4(f) Commercial use to be limited in size and magnitude of operation so as to protect the rural atmosphere and scenic beauty of the town.

Policy 27 Continue to review nonmetallic mining proposals on a case-by-case basis.

Page 2-8; Goal 7; Land Use

Introductory sentence: Create a pattern of development that fosters the rural character and agricultural land preservation and that minimizes potential conflicts between incompatible uses.

Policy 2 Use open space as buffers between incompatible land uses, to protect environmentally sensitive lands, or to compliment other land development

Policy 12 Require buffers between incompatible land uses to minimize potential negative effects.

Policy 16 To the extent possible, ensure that new development is not located on or near known sites containing substantial non-metallic deposits suitable for extraction

Page 2-10; Goal 10; Economic Development

Introductory sentence. Foster a local economy that is predominantly agriculturally based which is sustainable and where the economy grows, the community is enhanced, and unique and important resources are respected and protected.

Policy 2 In agricultural areas of the Town allows agricultural related commercial uses only if a rural location is required to serve farmers.

Policy 3 To limit non-agricultural commercial use to small, rural oriented businesses which provide services needed by residents of the town. Further, shall not adversely affect the traffic capacity and safety of the highway.

Page 2-11; Goal 11; Natural Environment

Policy 1 Encourage the preservation, rehabilitation and adaptive reuse of historic buildings.

Policy 2 Protect historic resources.

Policy 8 Support efforts to maintain the Graves Cemetery.

Page 3-3. Exhibit 3-1. Issues of Importance to Town Residents. Of highest importance were such issues as "Maintain Quality of Life", "Pedestrian Safety", "Farmland Loss" and "Encroachment of Incompatible Uses".

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant does not satisfy general standard #7.

#### General standard #8.

The vote by the Town Board on this standard was unanimous. All 4 Supervisors (Loughrin, Zentner, Nedveck and Grueneberg) agreed that the applicant has satisfied standard #8.

#### **FINAL RESULT**

**Since the applicant failed to satisfy 6 of the 8 standards, the conditional use permit application is hereby DENIED by Unanimous vote of all 4 members of the Town Board (Loughrin, Zentner, Nedveck and Grueneberg).**

Prepared by Peter Loughrin  
Chairman, Town of Rutland  
October 6, 2020