

## Letter of support for Nelson Excavating

From: Jessica Gunby <jgunbydvm@gmail.com>

Sent: Tue, Apr 19, 2022 at 8:20 pm

To: clerk@town.rutland.wi.us

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Dear Dawn George,

I am writing in support of Kevin Hahn's request to expand his existing quarry by 22-acres.

I have known Kevin and his family for the past five years and used Nelson Excavating and Sons for removal of a silo on our farm this past fall. Kevin operates a safe and careful crew. Our aging silo was unexpectedly affected by heavy winds and had become dangerous. He fit our removal project into his busy schedule, making our safety his priority, when other businesses wouldn't even return our calls. His crew was efficient, clean, and easy to work with. They did an excellent job for us.

I have served on our local township's land use committee in the past and I know how important permit decisions are. I have no hesitation in supporting a permit for expansion of Nelson Excavating's quarry. There is no doubt that Nelson Excavating fills an important economic and developmental need in our community. Kevin has shown himself to run an above board business which will only benefit our rural construction needs.

Please grant the permit for expansion of the Nelson Excavating quarry.

Thank you for your time,

Dr. Jessica Gunby

Mt. Horeb, WI

## Center Road Gravel Pit Expansion

From: Pete Hollister <hollister.pm@gmail.com>

Sent: Tue, Apr 19, 2022 at 3:45 pm

To: clerk@town.rutland.wi.us

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To whom it may concern:

We are unable to attend either of the hearings scheduled to address the expansion of the Center Road Gravel Pit.

Our concerns include:

1. The massive increase in the size of the proposed gravel pit and the increase in pit noise from blasting and heavy equipment activity.
2. The increase in heavy truck loads causing wear and tear on town roads.
3. The potential negative impact on property values.
4. We purchased our home in Old Oak Estates in May of 2000 because the neighborhood was mostly developed. We have enjoyed living in an area with little traffic, great neighbors and easy access to Dane County communities. Outside of Old Oak Estates, many new homes have been built in the past 21 plus years. There are many family farms continuing operation. The Town of Rutland has much to offer families who look for the quiet country life within reach of good schools. These opportunities may never be available should this huge pit proceed to development.

Thank you.

Peter Hollister

Mary Hollister

David Hollister

3797 Grouse Haven Rd.

Town of Rutland

April 19, 2022

## Comments on upcoming Center Road gravel pit CUP

From: Aristotle Georgiades <ageorgiades@wisc.edu>

Sent: Tue, Apr 19, 2022 at 1:13 pm

To: Town of Rutland (clerk@town.rutland.wi.us)

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Comments on upcoming Center Road gravel pit CUP

Aris Georgiades  
673 Center Rd

I have lived here 22 years and over this time I have invested heavily in my home. Like most residents here and nationally, it's my biggest investment and I was hoping to spend my time enjoying my quiet rural property.

The tax rate for residential property here averages about three or four times the rate the quarry pays.

The cost of sealcoating our town roads – not rebuilding them – is \$21,500 per mile, probably the town's biggest expense. We residential taxpayers are paying disproportionately more of this cost, while doing disproportionately less damage than gravel trucks. Also, contrary to the unsubstantiated statement by the head of our planning commission, garbage trucks do far less damage than gravel trucks.

Benjamin Jordan, a local engineer 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. And we are all paying for this.

Goal 10 in the Comp Plan discusses economic development and specifies "small, rural oriented businesses which provide services needed by residents of the Town." We do need gravel, but there are 9 other active gravel pits totaling at least 699 acres within 4 miles of the town center, so residents are experiencing no shortage of gravel. This new industrial site will create a 46 acre pit running hundreds of trucks a day through residential neighborhoods, which can hardly be considered a small rural business. "Rural" is defined as "bucolic, pastoral, rustic". A good example of what this area of Rutland will look like if this permit is approved is the Mandt pit on MM just north of Schneider Road in Fitchburg. Its character is industrial, not rural, and it will be a blight on this end of town.

The parcel is not deep enough to create a buffer that will effectively minimize the effect on neighboring properties, several of which have splits that will have no value. These neighbors acquired the properties long before the quarry owner acquired this new site, and they had every expectation of developing these home sites. This also hurts the Town financially as well, because the much higher residential property taxes from these potential home sites will be lost.

Goal 10 also requires local businesses to have access to a state or county highway. This industrial pit cannot meet that requirement without failing Goal 2 in the Comp Plan, "Reduce the amount of non-local traffic passing through residential areas". Compounding this is the additional trucks from the Northwest stone quarry which will also be using Center Road when the bridge is under construction on Lake Kegonsa Rd.

Chair Zentner, you said in your letter to Kate McGinnity last year that you feel fortunate to live on a quiet road without quarry noise or gravel truck traffic and that you felt empathy for those of us who have to live with that. We don't need empathy, we need you to represent ALL of us, not just the interests of one individual.

Thank you  
Aris Georgiades

April 18, 2022

Dear Dawn and Rutland Town Board:

I am writing to object to the CUP application for the new gravel pit on Center Road on the grounds that it does not meet Standard 7, *"The conditional use is consistent with the adopted Town and County Comprehensive Plans"*.

The Town of Rutland's Comprehensive Plan states how the Plan is to be used: "Land use decisions, including zoning, have to be consistent with the Plan. Not only do the regulations have to be consistent with the Plan, all individual decisions affecting land use must be consistent with the Plan. Each rezoning, after 2010, by law, **has to be consistent** with the community's Comprehensive Plan, including the future Land Use Map." Note: both the current and the NEW pit are identified on the map as Agricultural Preservation.

The Plan's Vision Statement says: "Residents value the quiet and sense of community this rural character offers."

The Plan identifies goals by a variety of categories:

**Goal 2: Transportation**

*(On the Comp Plan Map 6-3, all of Old Stone Road, most of Center Road and sections of Old Stage Road are designated as Future Rustic Roads.)*

Does the new gravel pit:

- Reduce the potential for traffic accidents and provide for safe transportation throughout the town? **IT DOES NOT.** A serious gravel truck accident occurred at the corner of Center Road and County A in 2019. Center Road and the other roads in the vicinity are rolling, curved, and have many hidden driveways, blind spots and low hanging trees. **The owner of Northwest Stone testified at a town meeting (9/8/2020) that the Town's roads are NOT SAFE for gravel truck traffic.** A pedestrian was struck and killed on Center Road in a blind spot before the gravel trucks were even running. The gravel truck traffic when the current, smaller pit is operating at full volume makes it hard to pull out of or into a driveway, and there are 21 driveways and 9 blind spots on Center Road alone. What kind of terrible accident has to happen before the Town realizes that this is the wrong place for a **NEW** 36.7 acre gravel pit? The roads are a shared resource that belong to all of us, not the owner of the gravel pit.

- Reduce the amount of non-local traffic passing through residential areas?

**IT DOES THE OPPOSITE.** This new pit will **INCREASE** the volume of non-local gravel truck traffic on town roads, passing through the residential areas of Center Road, Old Stone Road, Old Stage Road, Lake Kegonsa Road, and County A, among others. There are over 250 homes within a 1.5 mile radius of the gravel pit and 21 driveways on Center Road alone. The volume of gravel truck traffic has often surpassed 200 trips per day, often running into the evening and on weekends. Residents on Old Stage Road already experience over 400 trips per day due to the other pit. Adding to this burden on the community contradicts Goal 2.

In addition, the current cost of JUST sealing the roads – not rebuilding them – is **\$21,489 per mile (as per the Town Clerk)**. The loaded gravel trucks, at around 13 tons, contribute far more to road deterioration than the more sporadic farm equipment or other kinds of service vehicles. **A sample comparison is provided by Benjamin Jordan, P.E. specializing in road fatigue:**

“In the selection of pavement thickness to carry truck loads, a concept that has been used for many years is the equivalent single axle load (ESAL) which is a standardized 18,000 pound load. Designers convert different truck configurations to ESALs. A report by the Minnesota Local Roads Research Board includes in its literature review a table showing the following equivalent single axle loads:

Refuse truck trips per year =  $52 \times 1 = 52$       Refuse truck ESALs per year =  $52 \times 1.023 = 53.2$   
Recycling trips per year =  $52 \times 1 = 52$       Recycling truck ESALs per year =  $52 \times 0.2190 = \underline{11.4}$

**Total Annual ESALs from refuse and recycling collection =  $53.2 + 11.4 = 64.6$**

Quarry Loads per year =  $26 \times 5 \times 50 = 6500$   
**Quarry truck ESALs per year  $6500 \times 1.1264 = 7322$**

In this example, we can see that the quarry trucks would have more than 100 times the ESALs per year compared to refuse and recycling and would likely cause more than 100 times the damage.”

### **Goal 3: Pedestrian and Bicycle Travel:**

*(On the Comp Plan Map 6-2, Old Stone Road, Old Stage Road, and Center Road are designated as future bike routes.)*

Does the new gravel pit:

- Increase opportunities for pedestrian and bike travel within the town?
- Increase pedestrian and bicycle safety?

**IT DOES THE OPPOSITE:** Many residents in this area walk, run, or ride bikes in addition to driving. There are frequently children, pedestrians, horses, dogs, mail delivery, service vehicles and occasional slow-moving farm equipment in the area. Town roads lack shoulders in many areas. The heavy volume of gravel trucks on the road **creates hazardous conditions and discourages pedestrian and bike travel**. It certainly does not INCREASE opportunities for pedestrian and bike travel as per the Goal. To be clear, no one who moves to a rural residential neighborhood expects sidewalks, but we do expect to be able to share the road **safely** with vehicles. The gravel trucks just from the existing pit often run into the evening and on weekends when residents are likely to be home. This situation will be greatly exacerbated by a new, much larger pit.

**Currently, when bicycle road rallies are held in Rutland, the existing quarries are asked to limit their operations during the rally. This is clear acknowledgement on the part of the Town that the presence of gravel trucks on the roads is a hazard for bicyclists.**

## Goal 6: Agriculture Preservation District

Does the new gravel pit:

- Preserve existing farm operations?
- Permit development that enhances the growth of agriculture in the town?
- Preserve the rural character of the town?

**IT DOES NOT.** The 36.7 acre site is currently a farm field, except for the large area that has already been excavated for DOT work. Even if the entire site is not excavated, by the time it has equipment access, berms, stormwater management and a buffer for the cemetery there will not be a parcel large enough to preserve agriculture.

It's hard to imagine how this new pit can be seen as preserving the rural character of the town. "Rural" is defined as "bucolic, pastoral, rustic". Even if a gravel pit is considered an agricultural use, it is by no means consistent with the rural character that draws people to Rutland. The site is large, but **not large enough for the excavation to be distant from the road** to preserve the rural quality of the town, the way other quarries in the area are. A good example of what this area of Rutland will look like if this permit is approved is the Mandt pit on MM just north of Schneider Road in Fitchburg. Its character is industrial, not rural, and **it will be a blight on this end of town.**

## Goal 7: Land use

Does the new gravel pit:

- Create a pattern of development that fosters the rural character and agricultural land preservation and that minimizes potential conflicts between incompatible land uses?
- Requirement (policy): Require buffers between incompatible land uses to minimize potential negative effects on property owners?

**IT DOES NOT.** The fact that there are already major conflicts between the existing pit and residents has been well documented since 2018. A new, larger pit is likely to be the source of ongoing friction, complaints, safety concerns, road damage, and environmental issues going well into the foreseeable future. **Does the town board wish to deal with this indefinitely?** A large industrial area at the south end of town is going to discourage anyone from moving there, certainly for residential purposes and likely for agricultural purposes as well, as the area becomes increasingly unsightly, noisy, and hazardous on the roads.

The parcel is not deep enough to create a buffer that will effectively minimize the effect on neighboring properties, **several of which have splits that will have no value.** These neighbors acquired the properties long before the quarry owner acquired this new site and they had every expectation of developing these home sites. **This hurts the Town financially as well,** because residential property pays a much higher tax rate than a quarry, resulting in revenue from potential home sites being lost.

The Dane County land use plan specifies a 1000' separation between new development and potential pits (page 40). The reverse should hold as well regarding the two existing homes that will lose that separation.

## Goal 10: Economic Development

### Policy Requirement:

To limit any non-agricultural commercial or recreational uses to small, rural oriented businesses which provide services needed by residents of the Town. Such uses MUST meet the following criteria prior to zoning approval:

- Be consistent with agricultural policies for farmland preservation
- Have access to a state or county highway
- Shall not adversely affect the traffic capacity and safety of the roadways
- Provide a buffer between the commercial use and any adjacent non-commercial use
- Not endanger the environment or the groundwater of the area

Does the gravel pit meet these criteria?

**IT DOES NOT.** Although the existing Center Road pit is a small operation, it creates a large amount of disturbance for the town. The proposed NEW pit, at 36.7 acres, will create a massive impact on residents and can't be considered a "small, rural-oriented business". Nor can it access a highway without failing the conditions in Goal 2. Safety was addressed in that paragraph, but the deterioration of the roads as a result of the heavy volume of gravel trucks (as compared to the sporadic presence of farm equipment, garbage trucks or schoolbuses) creates financial hardship for the town. As mentioned above, the site will not permit adequate buffers with the adjacent residential and potential residential properties. **And although there is no argument that residents sometimes need gravel, there are 9 additional active gravel pits totalling 699 acres (<https://accessdane.countyofdane.com/>) within a 4-mile radius of the center of Rutland and no shortage of gravel has been suffered by residents.**

## Goal 12: Historic Preservation

### Policy Requirement:

- Encourage the preservation, rehabilitation, and adaptive reuse of historic buildings.
- Support efforts to maintain the Graves Cemetery and the Rutland Church Cemetery.

Does the gravel pit meet these criteria?

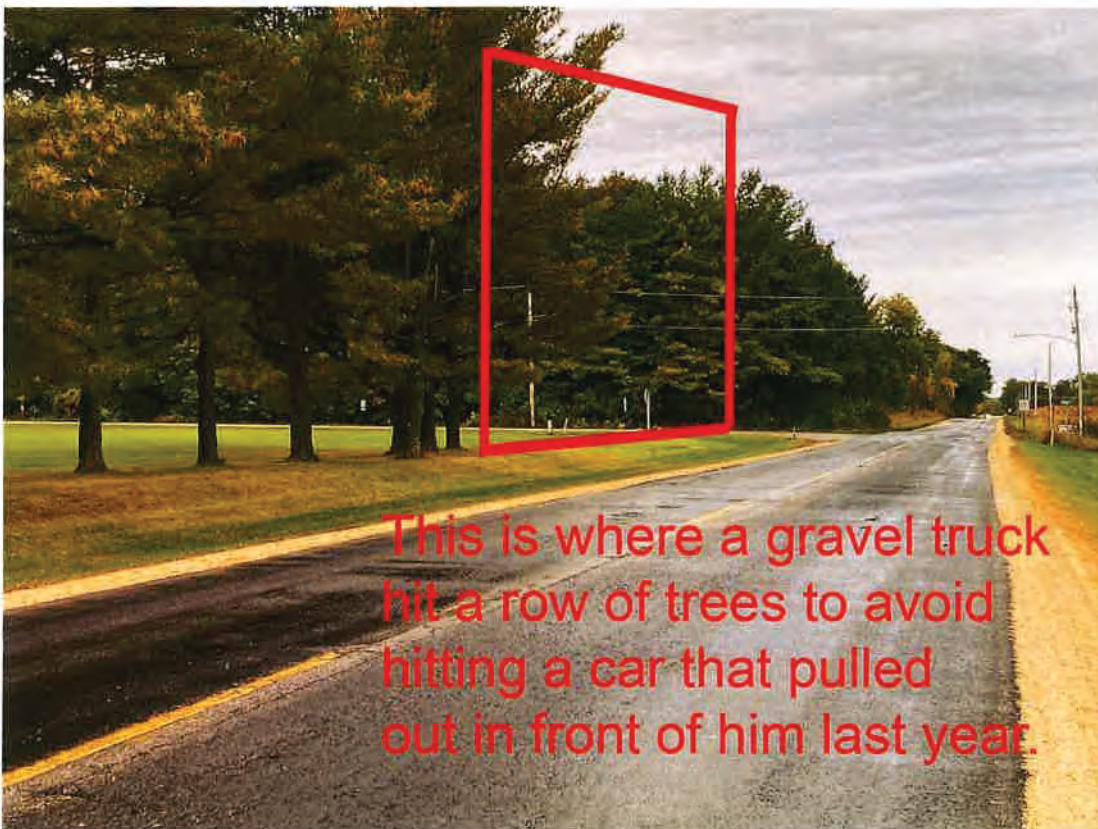
**IT DOES NOT.** Five significant historic structures are located within 1 mile of the quarry. The adjacent Sereno Graves House, a physically fragile masonry structure, is listed on the both the National and State Register of Historic Places. The stone Lockwood Barn on Old Stage Road, the Samuel Hunt House on Center Road, and the Daniel Pond Farmhouse on Highway 14 are also listed on both registries. The historic Graves Cemetery, in which many residents' family members rest, would be surrounded by this industrial operation. Many of these family members, from close or afar, visit their deceased relatives in what is now a peaceful setting. The Graves Cemetery also houses many of our veterans, and is the destination for a Veterans Day yearly remembrance in their honor. At the very minimum, the immediate vicinity of the Graves home and Graves Cemetery, an epicenter for this larger historical region, should be safeguarded in the interest of our state's historical heritage, our community of neighbors, and the larger community of those with family members resting in the Graves Cemetery.

With Regards,

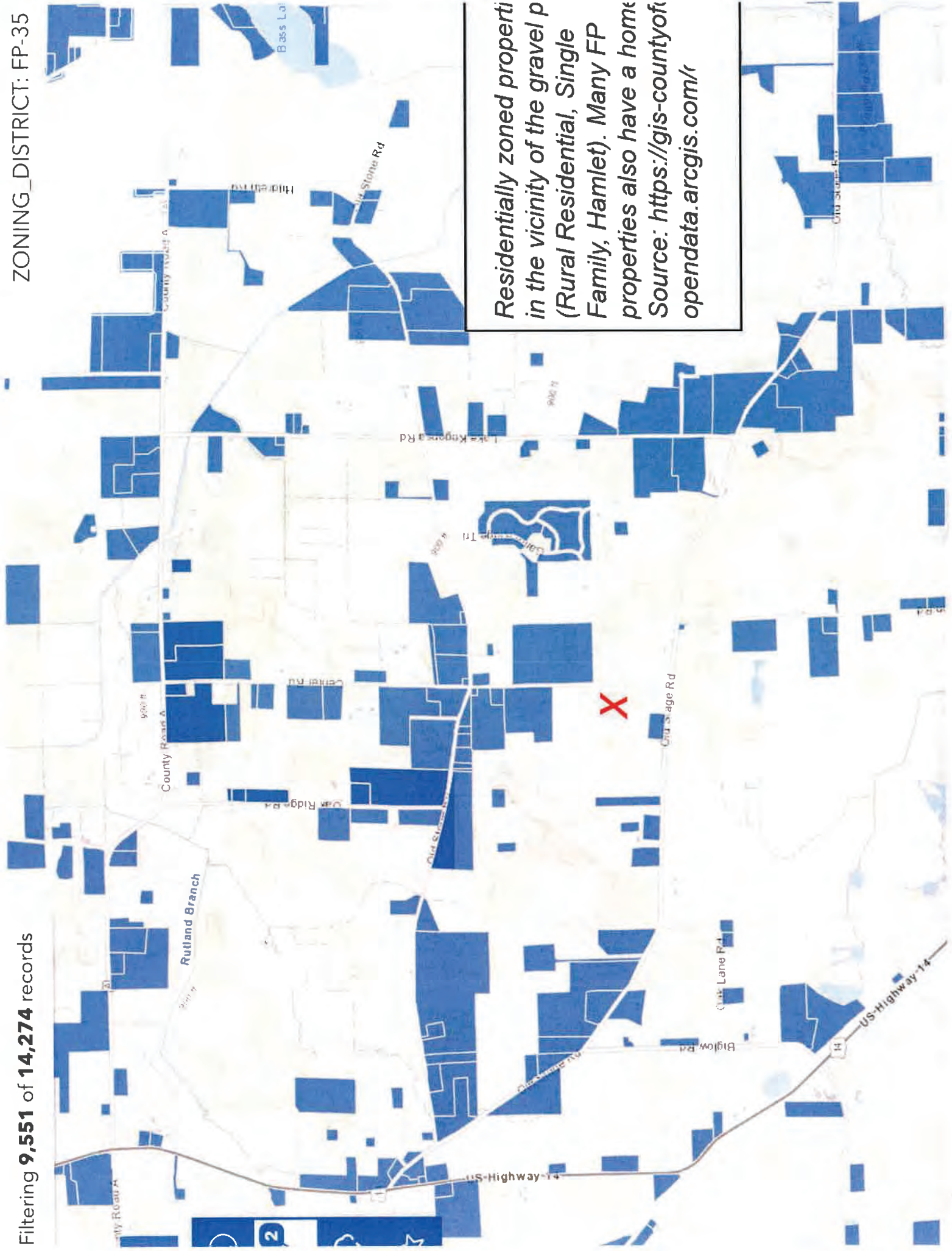
Gail Simpson. 673 Center Road

**"Your town roads are not very conducive to having heavy trucks running up and down ... Center Road is not a safe road. It has lots of steep grades and stop signs on it - not good visibility, low hanging trees in lots of places. So Center Road is not a very good or safe road to begin with."- Mike Bakken of Northwestern Stone at the Sept. 8 Town Board Meeting**

Center Road and County A; gravel truck accident last year







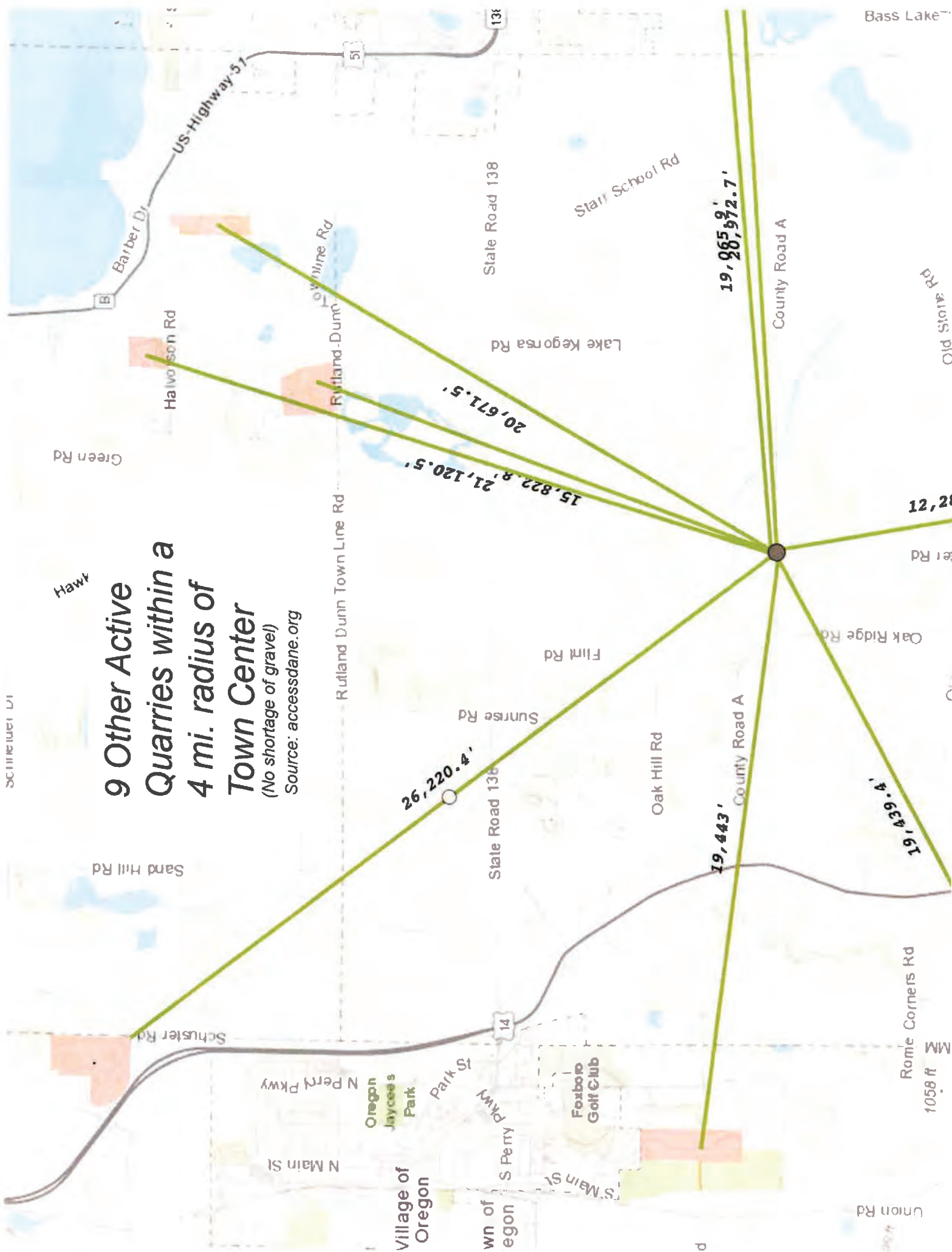
Residentially zoned property in the vicinity of the gravel pit (Rural Residential, Single Family, Hamlet). Many FP properties also have a home. Source: <https://gis-countyofwv.opendata.arcgis.com/>



**2020 Housing Density Map**  
 Approximately 1.5 mile distance  
 north, west and east of Hahn Quarry.  
 Approximately 250 homes pinned on map.



**9 Other Active Quarries within a 4 mi. radius of Town Center**  
 (No shortage of gravel)  
 Source: accessdane.org



RE: a couple of images to add to my letter

From: info2@actualsizeartworks.com info2@actualsizeartworks.com <info2@actualsizeartworks.com>

Sent: Thu, Apr 21, 2022 at 4:28 pm

To: clerk@town.rutland.wi.us

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Maps.pdf (3.6 MB)

Dawn, would you add these graphics to the comments file? Thanks!

Gail

April 18, 2022

Rutland Town Clerk  
4177 Old Stage Rd  
Brooklyn, WI. 53521

I am against the proposed new gravel mine CUP 2022-02563 on Center Road because of the following concerns.

-safety for walkers and bikers on Township roads. Std 1&5.

-deterioration of township roads. Std 2 &4.

-farmland preservation. Std 7 & 8.

Sincerely,

Joanne K Weber  
127 Shady Willow Road  
Brooklyn, WI 53521

## opposition to gravel pit expansion

From: William Ellis <pnbellis@msn.com>

Sent: Mon, Apr 18, 2022 at 6:46 pm

To: Dawn George, Town Clerk

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Our family would like to register our opposition to the pit expansion.

We've lived in 'Ol Stone estates

for 27 years and have been well aware of the noise and truck traffic this operation creates.

The road way traffic has many more commuters, pedestrians and bicyclists now than in previous years.

The rural roads in the township are not designed for heavy truck traffic to travel safely with all users in mind.

Other concerns: The pit hours of operation proposed are excessive.

The respect for the dead in Graves cemetery will be ignored.

William and Peggy Ellis family

Town of Rutland

Sent from [Mail](#) for Windows

**April 18, 2022**

RUTLAND TOWN CLERK  
4177 OLD STAGE RD  
BROOKLYN, WI. 53521

I oppose CUP 2022-02563 for the new gravel mine for the reasons listed below.

-increase dump truck traffic, already a problem. Std 1, 4, 5.

-surface and ground water pollution with diesel fuel and hydraulic fluid. Std 4.

-noise, dust hazards. Std 1,2.

-loss of farmland. Std 8.

-future Town liabilities. Std 7.

SINCERELY,

PETER VANDERVEER  
127 SHADY WILLOW RD  
BROOKLYN, WI 53521  
[PJVANDER@UWALUMNI.COM](mailto:PJVANDER@UWALUMNI.COM)

## Written testimony Kevin Hahn CUP 2563

From: Kent and Mary Knutson <knutson14@hotmail.com>

Sent: Mon, Apr 18, 2022 at 2:27 pm

To: clerk@town.rutland.wi.us

My name is Mary Knutson and I have lived in Rutland Township, at 4061 Old Stone Road, since 2006. The back corner of our property is about 290 yards away from Mr. Hahn's existing quarry and it will be about 320 yards from the land in his proposed CUP. We built our home and our horse barn and fenced in pastures on land that we bought after researching rural areas around Stoughton, and ultimately chose Rutland, after reading the townships's Comprehensive Plan. The plan's visions that especially were important to me were #1. "Farmland, open space, and other rural land uses are common and highly visible", #2. Agriculture types are diverse including family farms, niche on specialty farms, truck farming, and organic farming", #3. Commercial development is limited and controlled, and is located near municipal services resulting in an increase tax base that does not impact the town's rural character".

I highly object to Mr. Hahn's CUP based on the fact that this much bigger quarry does not meet Standard #7 which states, "The conditional use is consistent with the adopted Town and County Comprehensive Plan." The land of this possible future quarry is in a farmland preservation district so the CUP also must be subjective to the following additional standard found in section 10.220 (1) under the Dane County FP-35 (General Farmland Preservation) Zoning District. It states the CUP must explain how the use and its location in the Farmland Preservation Zoning District are consistent with the purposes of the district: Mr. Hahn's statement that he uses to try and back this additional standard is, "Farmland Preservation Districts helps local government preserve farmland and minimize land use conflicts. The operation of the existing quarry is compatible with these purposes". Right now in Rutland Township there is much conflict in regards to this CUP. If one hasn't seen or heard the conflict, they must have their head in the sand. One hears it at the township meetings, among neighbor's conversations, and even on social media regarding concerns of the township. This CUP has done the exact opposite of minimizing conflict, concerning land use, and it saddens me that our township has become so divisive and I only see it becoming worse if this CUP is granted. Who will we be able to hold accountable for regulating the conditions of the CUP for life of this quarry, possibly lasting for 50+ years? The Town board? The Planning commission? The Dane County Board? Will complaints be viewed as "harassment" and be dismissed? Mr. Hahn also uses this statement, "The operation of the existing quarry is compatible with these purposes. Areas not used directly for quarrying activities will be maintained for agricultural production." What part of the existing quarry has been returned to agriculture land? NONE!! What part of his existing quarry produces agriculture products? NONE!! This statement is not true and is misleading.

Noise has been an ongoing issue with the current quarry and will only increase with the possible future much larger quarry, if this CUP is granted. Where our house sits on our land we currently see the existing quarry (we have photos to prove this, or come out to our house and stand on our back deck to see for yourself!). The Dane County Standard for CUP #2 states, "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." Mr. Hahn's response to this is "The existing quarry has been in operation since 1950 to supply local demand for stone products; continued operation of the quarry will not devalue or interfere with the enjoyment of the surrounding properties. The existing quarry is surrounded by agricultural land, and obstructed from view on all four sides. The site will continue to be accessed from the entrance drive on Center Road. Unless there is a local delivery, no traffic will be routed onto Old Stage Road." Again, this statement is not all true and misleading! We see the existing quarry, but what is most annoying to us is the irritating noise of beeping sound of trucks backing up, the grinding and crushing of rock, and the banging sound of the back tail gates slamming shut. The noise is inconsistent, sometimes starting at 6:15 a.m. (we have documented times on our calendar). I hardly have my windows open anymore because of the annoying noise. I have written emails to the town board members complaining of the noise, and they should have record of these emails, proving this issue. We have had to stop riding our horse during the times he is working in the quarry, because of the sudden noise. Despite professional training, our horse becomes spooked and starts to buck, especially when the back tails gates are being slammed shut. We don't trust our grandkids to ride the horse anymore, and this saddens us. The CUP states that berms will help reduce noise levels, but it doesn't say how high the berms will be, but unfortunately our house sits on a hill on our land, and even a berm of 10-15 feet wouldn't help. Does this mean that it's just too bad that we built our house on a hill 16 years ago, not knowing that the agricultural land that we looked out on would be a future quarry??

The hours of operation stated in the CUP, 7am to 7pm on weekdays and 7am to 5pm on Saturday seems inconsiderate, but what really worries me is in the CUP he also states, "Extended hours may occasionally be needed due to peak hour project restrictions. Material processing will coincide with these hours, but at times, an extended schedule may be utilized to facilitate a project, meet a deadline, or take advantage of fair-weather conditions." In other words, he will be able to operate his quarry whenever he wants to! How will he be held to such a condition? It will be his word of the need to for "extended hours" and I find this unacceptable. It also worries me that I see he didn't put in the CUP that there will not be any lighting. Does this mean that he will be able to put up lights in the quarry so his "extended hours" could go late into the night?

I do foresee that my enjoyment and the enjoyment of our family will be substantially impaired, along with at least 250 single family homes located in the area of 1 1/2 miles from this proposed quarry, with some located much, much less. For this reason and for the CUP not meeting Standard #2, along with not meeting Standard #7 as stated above, I plead you to say no to this future quarry, for me and for all my wonderful neighbors. I thank you for your time.

Mary Knutson  
4061 Old Stone Road  
Oregon, WI  
[knutson14@hotmail.com](mailto:knutson14@hotmail.com)  
608-335-8456





Forest Economic Advisors

*Rec'd 4-18-2022  
2:09 PM  
TOR - dg*

April 21, 2022

Dane County Planning and Development  
Room 116, City-County Building  
210 Martin Luther King Jr. Blvd.  
Madison, WI 53703-3342

Town of Rutland  
Town Board and Planning Commission  
4177 Old Stage Road  
Brooklyn, WI 53521

**Re: CUP 2563 – Nonmetallic Mining Conditional Use Permit Application Response**

Dear Town of Rutland and Dane County Representatives,

Nelson Excavating and Son, LLC (Nelson Excavating) has applied for a conditional use permit to establish a new open pit gravel mine in the NE ¼, SE ¼, Section 28 of the Town of Rutland in Dane county.

Over the years this neighborhood has altered significantly from its predominantly rural, agriculture-based environment to a combination of both rural and residential development. Several homes have been built both adjacent to and nearby this proposed mine with which this project is not environmentally or socially suited.

Laid out within the attached document are reasons put forth why this application fails to meet the required standards for this permit to be granted.

In anticipation of your review of this and similar documents, I offer my thanks and invite your questions or comments.

Sincerely,

*Henry Spelter*

5204 Autumn Lane

McFarland, WI 53558

978 727 4225

## Statement of Objection of Henry Spelter

The 46.4-acre Spelter property, Parcel ID 051/281-9171-06, is located in NE ¼, SE ¼, Section 28, Township 5 North, Range 10 East, Town of Rutland, Dane County, Wisconsin and is situated adjacent and to the North of the 36.7-acre field that is the subject of this conditional use application.

It was purchased in 1988 fully recognizing that there was a semi active quarry between it and Center Road. Access to the property was over a 1.5 acre easement through the quarry.

In 1989 a land swap was executed granting Spelter his own fee simple 66' access in exchange for a 33' deed restricted strip as a buffer from the quarry. This upgraded the Spelter field by enabling it to be developed for at least one residence and accompanying accessory buildings.

The expectation was that, when the quarry reached the end of its economic life and would be restored to its original contours (also see letter of Andrew Kessenich, appendix X for further context), it would be possible to develop the property residentially in accordance with the Town of Rutland's Land Use Plan and in line with standards of nearby properties in the vicinity.

When the quarry was purchased by Nelson Excavating in 2016 and reactivated, it seemed that this expectation was finally coming closer to fruition as the remaining extractable aggregate was being removed while the exhausted portion of the pit was being refilled, gradually restoring the hole to its original level.

The emergence of this CUP project, should it be permitted, means quarrying with all its associated effects, will continue "for over 50 years" (CUP 2563, page 17). This extends indefinitely into the future the inability to develop the Spelter property to its fullest and thereby reduces the value of the property (breaches standard #3), diminishes the enjoyment of the peace and quiet the rural setting otherwise offers (breaches standard #2) and harms the health and safety of present and future owners through the generation of incessant high decibel sounds, high pitched beeps, dust, seismic waves, overpressure, and fly rock (breaches standard #1).

In short, the proposed use is a full-time industrial business operating in an otherwise quiet, mixed rural-residential neighborhood. Such a heavy-industrial land use fails to meet the compatibility standard, imposes an excessive burden on existing neighboring owners and therefore the application, in its current form, does not merit approval.

## Summary

### Blasting

#### Damage to buildings (App A)

“We simply cannot, nor am I aware of a building company who can, guarantee that the blasting won’t have some type of adverse impact on both your foundation and interior finishes.” - Statement of Tim Wick of Wick Buildings.

#### Separation of structures and open pit mines (App B)

Quarries and homes require a separation of a 1,000’ per Dane County’s Land Use Plan. There are two pre-existing homes for whom that benchmark will be breached.

#### Limits on blast wave intensity (App C)

County regulations limit ground wave intensity to **0.75 in/sec** peak particle velocity for low frequency waves and **2.0 in/sec** for high frequencies. Additional concessions are made for more vulnerable plaster wall construction where particle velocities start at **0.5 in/sec**. Some communities, however, require blast waves be limited to **0.4 in/sec** for conventional and **0.2 in/sec** around “sensitive” structures (Town of Deerfield).

## Noise Pollution

#### Noise intensity (App D)

County regulations impose few limits on high decibel noise emitted from crushing, grinding or other sources because Dane county classes quarrying as a seasonal “agricultural” activity not subject to limits. However, unlike agriculture, quarrying is continuous during the building season and carries a greater nuisance factor.

#### Impacts of noise on human health (App E)

Prolonged excessive noise has been found to cause stress resulting in increased incidence of circulatory system related medical events.

## Air Pollution

#### Dust Impacts (App F)

Dust emission is an annoyance at best and a potential health hazard. Controls have been demonstrably lax and not in conformance with state regulations.

## Road Usage

### **Impact of quarry on road usage and traffic (App G)**

During building season truck traffic on town roads has been measured at an average of one per minute or roughly 450 truck trips per 8-hour day.

## **Property Values**

### **Impact of quarry on comparative valuations of homes (App H)**

The quarry on Center Road has negatively impacted a nearby residential property's value and salability as compared to a similar property ½ mile farther removed as evidenced by the contrasting price history and sales experience of an adjacent property as compared with another farther removed on the same road.

### **Impact of quarry on comparative valuations of bare land (App I)**

The quarry has demonstrably exerted a depressing effect on prices of two adjacent bare fields as compared to similar fields farther away.

### **Statement of Andy and Joanna Kessenich (App X)**

Former owners of 439 Center Road describe the history and experience of their location adjacent to the quarry.

## **Failure of CUP 2563 Application to Meet Substantial Evidence Standard**

### **Setbacks**

Proposed setbacks are insufficient to provide reasonable separation between incompatible uses.

### **Berms: (sound mitigation)**

Sound mitigation is not spelled out in a meaningfully measurable way.

### **Berms: (stabilization)**

The berm stabilization measures as put forth in the application and carried out in practice are not in agreement.

### **Water management**

Pumping water into the town ditch appears to breach Dane county mining ordinance.

### **Blasting - general**

The county blasting ordinance makes no allowance for special site-specific situations.

### **Blasting – depiction of blasting results**

The data presented in chart form is deceptive. The description of blasting information omits relevant data.

### **Blasting – availability of blasting results**

Contrary to regulations to keep and make available data for three years, blasting reports cited in application have not been shared when requested.

### **Noise mitigation**

The noise mitigation efforts presented are vague and subjective without specifying quantifiable output targets.

### **Emission Control Plan**

The plan is deficient in describing how and by what means emissions are monitored.

## Appendix A

### Damage to buildings

The map below shows two potential building sites within the Spelter property. When plans were made in 2021 to build a home at the southeast corner site, the contractor made the following assessment about what assurances they could make given its location next to a working quarry. If the 38-acre field also gets converted to a quarry, both sites would fall below the 1,000 foot buffer deemed safe in the Dane County Land Use Plan (see appendix B).

Tim Wick <Tim.Wick@wickbuildings.com

Mon, Oct 11, 2021, 1:09 PM

Henry,

Another note for you.

It is my understanding that building in such close proximity to a blasting operation there is a real chance that your drywall is going to be disturbed by the work.

We simply cannot, nor am I aware of a building company who can, guarantee that the blasting won't have some type of adverse impact on both your foundation and interior finishes.



## Appendix B

### Separation of structures and open pit mines

The Dane County Comprehensive Land Use Plan specifies two general objectives about land uses and open pit mining activity. First it states:

**C. Prohibit new land uses that will interfere with existing mineral extraction operations<sup>1</sup>.**

Secondly however, it states in G. (1) **Develop and implement countywide standards for adequate separation between existing land uses and new mineral extractions or expansions<sup>2</sup>;**

Thus, it sets out the principle that advantages and protections for incumbent stakeholders be upheld, whether a residence in one case or a mining operation in another.

Further, it specifically designates a separation of 1000' between nonfarm development and potential open pit mines:

**D. Allow nonfarm development within 1000 feet of identified significant mineral resources only after it has been demonstrated that the proposed land use or development would not significantly preclude or hinder future nonmetallic mineral extraction<sup>3</sup>.**

This application's boundaries bring quarrying and its associated blasting closer to the historical stone Graves house<sup>4</sup> and a contemporary log home than the minimum 1000' stipulated in Dane County's plan.

Further, other separations are spelled out in various town and village ordinances. In the case of the village of Windsor, a **buffer zone** of 300' feet width is required between a pit and neighboring property lines<sup>5</sup> while the Town of Deerfield demands that "the minimum set-back for mining operations shall be 100 feet from property lines, and 133 feet from the center of Town roads<sup>6</sup>".

In the case of the Spelter property, a **buffer zone** of 300' from the property line would be required to enable at least the secondary interior building site to be developed without violating the 1000' separation distance spelled out in the Dane County Land Use Plan.

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<sup>1</sup> [http://www.danepplan.org/documents/pdf/draftplan/CH5\\_091107.pdf](http://www.danepplan.org/documents/pdf/draftplan/CH5_091107.pdf) (page 38)

<sup>2</sup> <https://plandev.countyofdane.com/documents/DCCP/comp-plan-Vol1-Final2016opt.pdf> (page 92)

<sup>3</sup> Comp plan Vol1\_Final2016opt.pdf (page 37) Chap 5, "Goals: 1 (D)"

<sup>4</sup> [https://en.wikipedia.org/wiki/National\\_Register\\_of\\_Historic\\_Places\\_listings\\_in\\_Dane\\_County,\\_Wisconsin](https://en.wikipedia.org/wiki/National_Register_of_Historic_Places_listings_in_Dane_County,_Wisconsin)

<sup>5</sup> [https://library.municode.com/wi/windsor/codes/code\\_of\\_ordinances?nodeId=COOR\\_CH55NOMIOPLI](https://library.municode.com/wi/windsor/codes/code_of_ordinances?nodeId=COOR_CH55NOMIOPLI) Exhibit B

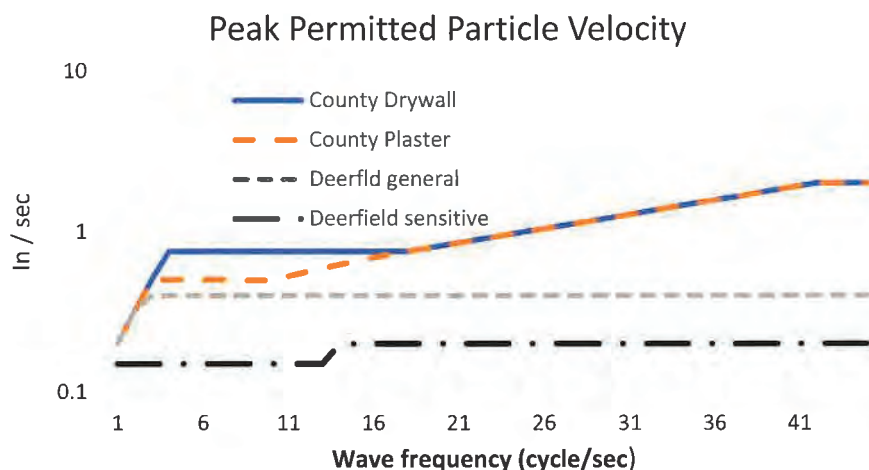
<sup>6</sup> Town of Deerfield Mining Ordinance, Chapter 1. Sec 107 (1) (f).

## Appendix C

### Limits on blast wave intensity

Blast vibrations are transient, but disturbances may result in permanent damage to structures.

Limits on ground vibration velocity for Dane county have been prescribed by the Wisconsin Department of Safety and Professional Services which sets Peak Particle Velocities (PPV) ranging from 19.0 mm/sec (0.75 in/sec) to 50 mm/sec (2.0 in/sec, see chart)<sup>7</sup>.



Blasting intensity is a two-track variable where the key metric, the PPV velocity, is dependent on wave frequency. Frequency refers to the wave's number of vibrations per second in the medium through which it propagates. For low frequencies (<10) the allowed velocities are reduced. That is because at the lower end of the range wave resonance frequencies overlap with those of structures which typically lie between 4 to 12 cycles/sec (Hz) for the corner or racking motions<sup>8</sup>. That multiplies the damage potential through the additive buildup of the ground and the structure's vibrations. In such circumstances, the allowed vibration for regular construction (i.e. drywall) is 19.0 mm/sec (0.75 in/sec, blue line) and for sensitive (i.e. plaster) is cut to 12.5 mm/sec (0.5 in/sec, dotted orange line).

Some municipalities, however, have determined that these limits are too lax and especially so in situations where fragile or old structures are nearby. They lowered them to 10 mm/sec (0.4 in/sec) most sites and 5 mm/sec (0.2 in/sec, dashed black line) for special historical sites<sup>9</sup>.

<sup>7</sup> Figure 7.44 of §SPS 307, Wis. Admin. Code

<sup>8</sup> US Bureau of Mines, RI 8507

<sup>9</sup> <https://www.town.deerfield.wi.us/wp-content/uploads/2021/02/MINING-ORDINANCE-CHAPTER-2-2021.pdf>



This situation is replicated in the present case where the proposed quarry is located next to a historical cemetery and the 175-year-old Graves stone house and barn. If location specific situations are not addressed, the risks to such vulnerable structures increase.

## Appendix D

### Noise intensity

County regulations only cap air blasts at 133 peak DbA at the location of any dwelling, public building, or place of employment outside the controlled blasting site area. Otherwise, there are no limits on high decibel noise emitted by crushing, grinding, truck unloading or other sources beyond limits to permitted hours of operation.

Sound recordings were taken over several periods at the existing pit to document the sound intensities emitted from crushing operations in the quarry floor. Recordings were taken at the eastern fence line of the Spelter field and at incremental distances of 125 feet westwards from the same spot using a factory calibrated BAFX X3608 type 2 decibel meter<sup>10</sup> (Figure 1).

Figure 1. – Sound measuring device



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<sup>10</sup> Type 2 meters are used for broad band A-weighted measurements where low sound pressure levels are not of interest.

Sound levels experienced on May 13, 2021 during a 4-minute interval are shown in chart 1. Sound levels ranged from 62.2 to 70.6 decibels with a mean of 65.8.

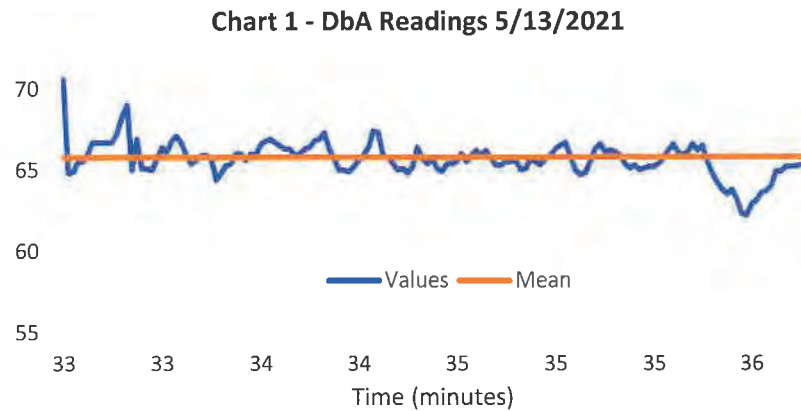
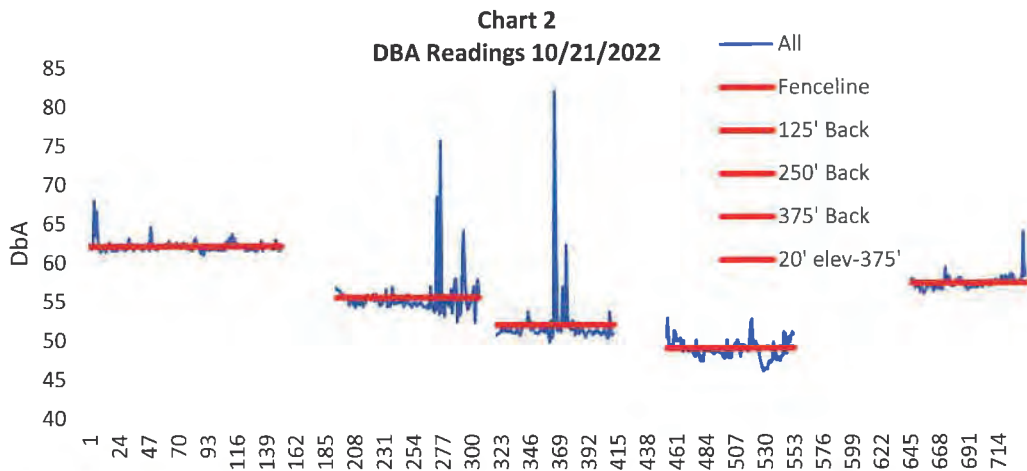


Chart 2 displays sound levels measured on October 23, 2021, over a 12-minute period at five locations. Findings are summarized in the table which show the sound intensity wanes with distance from the source and increases with elevation. The latter is a proxy for berm height.



|                   | <b>At Fence</b> | <b>-125' West</b> | <b>-250' West</b> | <b>-375' West</b> | <b>-375 W @ 20' Elevation</b> |
|-------------------|-----------------|-------------------|-------------------|-------------------|-------------------------------|
| <b>High</b>       | <b>68.0</b>     | <b>75.6</b>       | <b>82.0</b>       | <b>52.7</b>       | <b>63.9</b>                   |
| <b>Low</b>        | <b>61.0</b>     | <b>52.3</b>       | <b>49.8</b>       | <b>46.0</b>       | <b>55.9</b>                   |
| <b>Mean</b>       | <b>62.1</b>     | <b>55.5</b>       | <b>52.0</b>       | <b>49.0</b>       | <b>57.3</b>                   |
| <b>Difference</b> |                 | <b>-6.6</b>       | <b>-3.5</b>       | <b>-3.0</b>       | <b>+8.3</b>                   |
| <b># Readings</b> | <b>151</b>      | <b>113</b>        | <b>94</b>         | <b>100</b>        | <b>91</b>                     |

A feature of the noise flow streaming from the Center Road quarry is its fluctuations when trucks unload. These cause spikes in the sound which aggravate the already high background growl of the crusher. Such fluctuations raise the effective decibel level by up to five points on average as compared to a steady stream of noise.

## Appendix E

### Impacts of noise on human health

Neighbors around mining operations require protection of their property and health so that they do not bear an unreasonable personal cost.

As with every irritation affecting humans with sufficiently high intensity, noise induces a subjective and a physiological reaction. The subjective reaction is characterized as annoyance while physiological reaction is denoted as noise induced stress. People adapt to the latter through the stress reaction.

An essential component of the stress reaction is changed secretion of hormones. The hormones adrenaline and noradrenaline, and glucocorticoids, particularly cortisol, are most important. These influence blood pressure, metabolism, and blood fats.

Where activation is permanent or intense, distress results which can induce pathogenic processes. Biological systems may be subject to regulative restriction or damage. The heart and blood circulation systems, as well as the immune system are the main functions that can be affected<sup>11</sup>.

Epidemiological studies have found cardiovascular effects over long-term exposure to noise at sound values of 61-70 Db<sup>12</sup>. The table below shows the relative incidence of myocardial infarction after prolonged (10-year) exposure to varying levels of noise.

Odds ratios heart attacks for men and women exposed to long-term noise<sup>13</sup>

| Noise level Db | Men  | Women |
|----------------|------|-------|
| <60            | 1.0  | 1.0   |
| 61 – 65        | 1.17 | 1.04  |
| 66 – 70        | 1.31 | 1.11  |
| >70            | 1.81 | 0.9   |

The association is strongest for ischemic heart disease, less so for hypertension. While the associations are generally weak due to confounding factors, such additional risks are important because over time many more persons are being exposed to such noise levels due to urbanization<sup>14</sup>. Consequently, the WHO published guidelines for limits on noise (Table 4.1, page 67 from source):

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<sup>11</sup> Maschke, C. Preventive Medical Limits for Chronic Traffic Noise Exposure. Robert Koch-Institute. Federal Institute for Infectious and Noninfectious Diseases, General-Paper. 62-66. (1999)

<sup>12</sup> Babisch, Wolfgang et al. Traffic Noise and Risk of Myocardial Infarction. *Epidemiology*: January 2005 - Volume 16 - Issue 1 - p 33-40

<sup>13</sup> The interpretation is if among 100 men, 10 in the low noise cohort experience an adverse effect, then 10x1.17 would likely experience the same in the 61-65 range, 10x1.31 would in the 66-70 range, etc.

<sup>14</sup> Berglund, Brigitte, Thomas Lindvall, Dietrich Schwela. Guidelines for Community Noise. World Health Organization, Geneva (1999)

Recommended upper bounds for noise exposure (WHO)

| <b>Specific environment</b> | <b>Critical health effects</b> | <b>LAeq (Db)</b> |
|-----------------------------|--------------------------------|------------------|
| Outdoor                     | Serious annoyance              | 55               |
| Outdoor                     | Moderate annoyance             | 50               |
| Outside bedrooms            | Sleep disturbance              | 45               |
| Industrial                  | Hearing impairment             | 70               |

## Appendix F

### Dust Impacts

Pollution of the air through dust is a recognized health hazard for humans and animals through the inhalation of micro particles that impair lungs. Dane County prescribes dust control measures, but as shown in images taken on the subject property in 2021, the practice has often not matched the prescription. Dust containing fine sand and soil particles generated during periods of hot and windy weather create a haze that casts a pall over adjacent lands.



**Image 1 – Haze generated during quarry material removal on 8/6/2021 12:49 pm**



**Image 2 – Dust cloud generated during quarry material removal on 8/6/2021 12:50 pm**

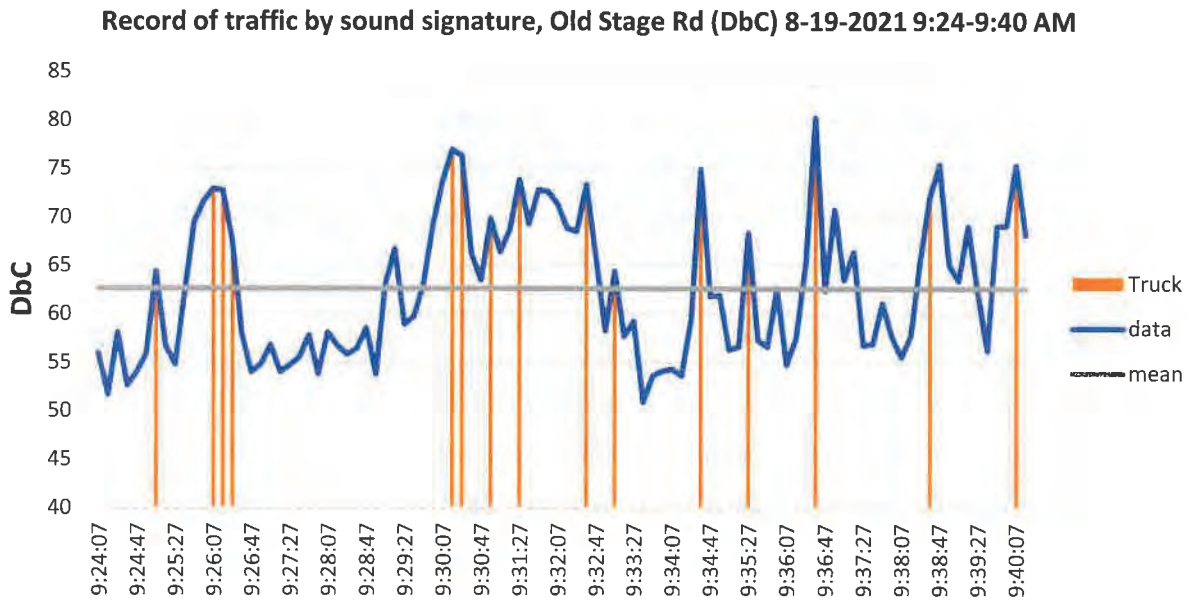


**Image 3 – Haze generated during quarry material removal on 8/6/2021 12:50 pm**

## Appendix G

### Impact of quarry on road usage and traffic

The proposed new quarry has already been used as a borrow site for sand to supply a nearby road project. On the morning of August 19, 2021, over a 16-minute interval the volume of truck traffic on Old Stage Road was tallied by hand and backed up by sound recordings. A truck at a rate of one per minute passed by or roughly 450 trucks over an eight-hour day as depicted by the sound signatures in the chart. A car and a motorcycle were not counted or marked by a bar.



For context, a fully loaded dump truck is roughly the equivalent of a semi-trailer which is in turn the equivalent in terms of road wear of 1,400 cars according to a report by the Minnesota Local Roads Research Board<sup>15</sup>

<sup>15</sup><https://www.lrrb.org/pdf/201432.pdf> Table 2, page 9.

## Appendix H

### Impact of quarry on comparative valuations of homes

“Stone quarry operation involves blasting from time to time, the presence of excavation equipment and trucks, dust and noise”

The preceding chapters and the quote above summarize facets of operating quarries that are deemed undesirable by potential buyers. The sum of these elements manifests itself in the prices they are willing to pay as compared to sites not so situated.

The impact of proximity to quarries on home prices is illustrated by the transaction history of two neighborhood properties, the first located ½ mile distant, the other next to the quarry.

**510 Center Road** is located ½ mile to the North of the Center Road quarry was put on the market June 1, 2021, listed at \$300,000. It closed 46 days later on July 16 for \$307,000, \$7,000 above asking price.

**439 Center Road** is situated to the North of and adjacent to the Center Road quarry. Its sales history is as follows:

It was put on the market July 31, 2008, listed at \$649,000. After it failed to attract a single offer, it was withdrawn.

It was put up again for sale June 20, 2021, listed \$750,000. It again failed to entice any offers and the sellers cut the price first to \$650,000, then to \$600,000. Neither reduction generated interest.

At this point the only buyer for whom proximity to a working quarry was not an issue, the quarry operator Kevin Hahn, made bids. The sellers settled for \$575,000 which was \$175,000 below their initial asking price and \$74,000 below the asking back in 2008.

Note that compared to the \$649,000 price the owners thought fair in 2008, the 2021 price represents an 11% drop while in the same interval (2008-2021) the median price of homes nationally rose by 52%<sup>16</sup>

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<sup>16</sup> National Association of Realtors. Existing Home Sales. <https://www.nar.realtor/research-and-statistics/housing-statistics/existing-home-sales>



## Appendix I

### Impact of quarry on comparative valuations of bare land

In the last 35 years four transactions of bare land have occurred in and around the Center Road quarry:

| Year               | Acreage | Location            | Purchaser | Sale Price | Per acre |
|--------------------|---------|---------------------|-----------|------------|----------|
| 1988               | 46.4    | Next to quarry      | Spelter   | \$32,950   | \$710    |
| 1992               | 40      | ½ mile SW of quarry | Eugster   | \$56,000   | \$1,400  |
| 2000               | 69      | ½ mile NW of quarry | Knutson   | \$220,700  | \$3,200  |
| 2020 <sup>17</sup> | 37.8    | Next to quarry      | Hahn      | \$300,000  | \$7,937  |

To put these transactions on a comparable footing, they are adjusted to 2020 values based on average bare land selling prices in Dane county compiled annually by the US Department of Agriculture<sup>17</sup>

| Year | Ave Dane Co Price | Multiplier to 2020 |
|------|-------------------|--------------------|
| 1988 | \$958             | 13.0               |
| 1992 | \$1,107           | 11.2               |
| 2000 | \$2,598           | 4.8                |
| 2020 | \$12,434          | 1.0                |

Using these multipliers, the various years' prices can be brought to a common 2020 base:

| Year               | Acreage | Location            | Purchaser | Original Price | 2020 Price |
|--------------------|---------|---------------------|-----------|----------------|------------|
| 1988               | 46.4    | Next to quarry      | Spelter   | \$710          | \$9,215    |
| 1992               | 40      | ½ mile SW of quarry | Eugster   | \$1,400        | \$15,725   |
| 2000               | 69      | ½ mile NW of quarry | Knutson   | \$3,200        | \$15,310   |
| 2020 <sup>17</sup> | 37.8    | Next to quarry      | Hahn      | \$7,937        | \$7,937    |

The average price of the two fields next to the quarry is \$8,576. The average price of the two fields ½ mile removed from the quarry is \$15,518. The average discount due to proximity to the quarry is thus \$6,942 or 45%. For the Spelter field there is a 40% discount and a value reduction of \$292,000.

That reduction in property value manifests in dollars the adverse effect on the quality of life next to a gravel mine. Granting the CUP for the new quarry depresses the property's value indefinitely as compared to just the remaining life of the current quarry.

<sup>17</sup> [https://www.nass.usda.gov/Statistics\\_by\\_State/Wisconsin/Publications/Land\\_Sales/index.php](https://www.nass.usda.gov/Statistics_by_State/Wisconsin/Publications/Land_Sales/index.php)

As bad as the effects on the Spelter field are, it would be worse for two nearby homesteads. Granting the CUP would eliminate their spatial buffer. Those property owners can speak for themselves.

Eventually the successor owners of the Spelter field will seek to monetize it. The dolomitic bedrock formation that underlay the Center Road quarry also extends into about 10 acres of the Spelter field (attachment 1)<sup>18</sup>. That resource would be more valuable to a future quarry operator than to a farmer or homesteader and thus eventually likely result in the acquisition of the field for the purpose of quarrying should the present CUP extend the activity into the indefinite future.

That would further extend the depressing price effect of the quarry in a chain reaction to three additional properties whose current buffers would similarly disappear. I will again allow those stakeholders to speak for themselves.

To put an exclamation mark on the valuation and eventual likely ownership change, in a certified letter dated February 22, 2022, to Violet Spelter, Mr. Hahn, the quarry owner, extended a “take it or leave it” offer to buy the Spelter field for the same price he bought the subject property in September of 2020.

That 2020 price was negotiated over one and a half years ago, preceding a period when real estate values appreciated by some 15% in the greater Madison area in one of the most inflationary real estate markets in the past decade.<sup>19</sup>

The bid is not only below the estimated 2020 fair market price based on the field’s and Dane County’s land value appreciation history, as shown in the table above, but further discounts the inflation that has transpired since. This can be construed as a transparent attempt to exploit the value depressing effect of the anticipated CUP to buy yet another piece of real estate at a discount. The letter is displayed as attachment 2.

In a similar dispute over a new quarry in Milton in 2014, Robert Gorsuch, President of Oak Bank in Fitchburg, assessed the effect of a quarry on a neighboring property’s value and utility as collateral which he deemed to be “significant”. His letter below is attachment #3.

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<sup>18</sup> USDA, Soil Conservation Service. 1978. Soil Survey of Dane County, Wisconsin.

<sup>19</sup> Redfin. Madison Housing Market. <https://www.redfin.com/city/12257/WI/Madison/housing-market>



Attachment 2 – Hahn Letter

Violet Spelter  
5204 Autumn Lane  
McFarland, WI. 53558

Mrs. Spelter,

My name is Kevin Hahn husband of Jessica and father of Devin. I currently own the stone quarry, the 38-acre farm field to the south and the house to the north of the quarry on center road around your 46 acres of property owned with Henry. In past years, the quarry was owned by my sister and brother-in-law and now myself. I have always gotten along with Henry; I have offered to purchase your 46-acres of property on many occasions with many options stated for Henry to consider. Henry always said he would think about it and get back to me. I am not sure if Henry has ever shared with you my efforts to purchase the property, so I am writing to you at this time. I am currently willing to purchase the 46-acre property at the same price I paid per acre for the 38-acre field. Of \$7895.00 per acre that equals \$363,170.00 and I will pay all costs.

Again, I am not sure if Henry has shared with you all that has been going on within the Township or not. I have never met you and from what Henry has told me I never will. I will be applying for an expansion of the existing quarry into the 38-acre parcel that I currently own. Henry has been against this happening for reasons I don't understand. No one can build within 1000 feet of the existing quarry per Dane County Zoning. Please consider my offer to purchase the property currently. Not if, but when the expansion of the quarry is granted, I will no longer be interested in the property. Thank You

Kevin Hahn  
439 Center Road  
Oregon, WI 53575  
608-333-5607

Attachment 3 – Oak Bank Letter



*You can't be the best,  
if you're only the same.*

Mr. Dean Johnson

Albion, WI

Dear Mr. Johnson:

You have asked for my opinion as to the impact of a 100 acre gravel quarry on the value of your land and how lenders would evaluate it.

Assuming your property is near the quarry site, the impact could be significant. First of all, it is hard to imagine who would want to buy your property if the quarry was planned or in existence near your property. Second, I would think any lender using your property as collateral would certainly be much more diligent in their assessment of your property value and how much a lender would consider lending.

Hopefully you find this helpful.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert C. Gorsuch".

Robert C. Gorsuch  
Chairman & CEO

5951 McKee Road, Suite 100  
Fitchburg, WI 53719-5114

Member FDIC 



Phone: 608-441-6000  
Fax: 608-441-6001  
Toll Free: 877-OAK-BANK  
[www.oakbankonline.com](http://www.oakbankonline.com)

## Appendix X

### Statement of former quarry neighbors Andy and Joanna Kessenich

Center Road Quarry CUP

9 -12 - 2020

Outline of Comments

Andy and Joanna Kessenich

1. Identify that our home is situated immediately to the North of the gravel pit. Thus, our property is currently the Residential property most impacted by activities within the pit.
  - a. We Purchased our home in 1990 and were aware of the pit operating next door. **We were informed by the Realtor selling our home that the gravel pit would be winding down its operations and concluding extraction activities within the next year.** As a condition of our offer to purchase we required to speak with the gravel pit owner, Homburg Company, to confirm their plans. We personally met with Mr. Homberg and he advised us that there was only one season of use left in the pit and they would be then shutting it down. We were told the small 10-acre pit had reached the end of its useful economic life. We relied upon this representation and purchased our home. The following year the pit was shut down. A number of years passed with the pit remaining inactive. However, at some point the pit was re-activated. Homburg had leased the pit to Wingra Stone, who operated it at a very intense level for many years. Eventually they discontinued operations and the pit was shuttered - again for a number of years. But yet again the pit was opened under new ownership, this time being Nelson Excavating. They operated for a number of years until they concluded their business completely shut down operations and vacated the property. The current operator acquired the property a few years ago and has resumed quarrying and related activities on a full-time basis.
  - b. Based on the age of the pit, its small size and extent to which it had been quarried prior to 1990, **it was very reasonable to assume the pit was near the end of its useful life,** particularly considering the observations made by the owner/operator of the property in 1990. This was a commonly understood condition upon which many people relied in making the choice to locate in the immediate neighborhood.
  - c. **The ever-expanding residential nature of the neighborhood is evidence of its evolution from a farming community to something much denser and more diverse.** Although the pit has the legal right to continue operating in its existing form, it's expansion is completely inconsistent with the growing residential character of the neighborhood – exemplified in part by the Town granting approval for the construction of two new residences on Center Road within a mile of the pit and on the primary roadway used by dump trucks connected to the pit operation. **These residential and heavy industrial land uses are clearly incompatible at the present time** and will become more so as the residential land use component continues to expand. Quadrupling the size of the gravel pit under these present and anticipated conditions is inconsistent with **the rural residential nature** of the area as indicated in Town of Rutland planning documents and the reasonable expectations of its residents relating thereto.

- d. In conclusion, the existing gravel pit should be allowed to continue operating until it has reached the end of its physical and economic life and then be reclaimed to a condition that complements the evolving rural residential character of its immediate environs.
2. In addition to considering the CUP application, the Town and County should take this opportunity to address the lack of regulations by which this gravel pit is required to comply. Because the pit is considered to be “grandfathered”, it is not subject to any restrictions as to days and hours of operation or limitations as to the noise levels created by equipment operations. Currently the pit can operate any time day or night, including weekends and holidays. The pit is frequently open and receiving dump trucks very early in the morning. These activities **involve exceptionally loud diesel engines and blaring backup horns**. Rock crushing machines and dump truck deliveries sometimes run until sunset, which in summer months can be until 9:00 pm. The pit is busy on many weekends, including both Saturdays and Sundays. It also operates on holidays, which have included the 4<sup>th</sup> of July and Thanksgiving.
    - a. Decibels from the rock crushing machines, emergency reverse horns, filling and emptying of dump trucks and blasting activities can **reach extreme levels**.
    - b. The gravel pit is **a full-time commercial industrial business enterprise operating in an otherwise quiet rural residential neighborhood**. As an industrial business it should be subject to appropriate regulations relating to hours of operation and screening of nuisance noises. Hours of operation should be limited to weekdays between 7:00 am and 5:00 pm. No business activities should be permitted on weekends or any recognized holiday. To deflect the extreme noise, the operator should be required to build solid **berms to a height of 20 feet** on the two property boundaries that are shared with the current single-family residence at 439 Center Road and the soon-to-be improved single-family property owned by Henry Spelter along its west property boundary.

## Failure of CUP 2563 Application to Meet Substantial Evidence Standard

### Setbacks:

Dane County Code of Ordinances Section 10.103(15)(6)(b) specifies only a 20' setback from property boundaries.

However, Dane County Code of Ordinances Section 10.103(15)(4)(b) requires all residences within 1,000 feet of the property to be identified.

Further, Dane County Comp plan Vol1\_Final2016opt.pdf (page 40) Chap 5 requires that development should not be allowed within 1,000' of potential quarries containing aggregate.

Two existing homes are within 500 feet of the CUP area and thus at most 520 feet removed from where high intensity ground blasting which will take place. Further, two existing homesites have been identified in the adjoining field. The CUP boundaries will bring them nearer than the 1,000' distance, making their further development moot.

If the 1,000' separation requirement applies to new development, by symmetry it must also apply to new quarries relative to pre-existing or planned homes (Also see appendix B).

Fails to meet Standards 2 (Use and Enjoyment) & 3 (Normal & Orderly Development)

### Berms: (sound mitigation)

The Town of Rutland Land Use Plan begins with "Residents value the **quiet** and the sense of community this rural character offers." Vital to that is the mitigation of excessive noise from activities that by their nature generate such disturbance.

The application states: Besides providing topsoil and overburden storage, the berms offer an aesthetic, sound, and wind buffer to neighboring properties.

A reduction in the volume is not by itself sufficient to alleviate detriment if the reduction still leaves the noise at above objectively tolerable level. The amount by which berms of undefined width and height mitigate "sound" is not spelled out in a meaningfully measurable way. It is merely presented as a general aspirational objective. This contrasts with the requirements of the statutes according to which the applicant is required to present substantial evidence:

"facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion." Wis. Stat. §59.69(5e)(a)(2).



Fails to meet Standards 2 (Use and Enjoyment) & 3 (Normal & Orderly Development)

### **Berms: (stabilization)**

Application states: The berm will be seeded. Seeding and mulching will be conducted in alignment with the Wisconsin Department of Transportation (WisDOT) standards #630 (Seeding on Slopes).

In contrast to the above, berm stabilization and seeding measures have been limited to the spreading of oats, if that, and berms are largely bare or infested with noxious weeds and invasives trees such as mulberry, Siberian elm and boxelder that aggressively spread into the neighboring field, undermining grassland and prairie. A typical visual sampling is shown in the image below.

Fails to meet Standard 2 (Use and Enjoyment)



### **Water management**

The applicant states: The (grandfathered) quarry will be utilized for runoff containment to support the remainder of the project. Stormwater will be collected in the quarry and

discharged, as needed into the drainage swale located adjacent to Center Road according to the site's stormwater pollution prevention plan (SWPPP), before discharging to Badfish Creek.

However, according to Dane County Code of Ordinances Section 10.103(15)(b)(11):

11. Except for incidental removal associated with dust spraying or other routine operations under this permit, water shall not be pumped or otherwise removed from the site.

The proposed practice and requirement are not aligned. The existing pit is grandfathered while the CUP is a new quarry under a different regulatory regime. Pumping water into the town ditch breaches the ordinance cited above.

### **Blasting - general**

The applicant states: Administrative rules are regularly reviewed to keep them consistent with current regional and national public safety and fire prevention practices and standards.

The county blasting ordinance makes no allowance for special site-specific situations that require less powerful blasting, as is the case here with a historical house and graveyard within 500' from the proposed blast zone.

Fails to meet Standards 2 (Use and Enjoyment) & 3 (Normal & Orderly Development)

### **Blasting – depiction of blasting results**

The applicant states: A summary of blasting performance at the Center Road Quarry compared to safe limits for blasting vibration which is 2.0 peak particle velocity (PPV) according to Wisconsin and U.S. requirements is summarized below. Average PPV is recorded in inches per second based upon results obtained from calibrated seismographs.

“Average” PPV is the variable plotted in the chart whereas the Wisconsin Department of Safety and Professional Services (SPS). Chapter SPS 307 Explosives and Fireworks of the Wisconsin Administrative Code specifically calls for “Peak” Particle Velocity.

Blasting reports record three blast waves: Longitudinal, transverse and vertical. The PPV that is against the upper limits based on the standards is the highest of the three. “Average” implies that the CUP chart contains the average values of the three waves rather than the prescribed peak value. **If so**, the chart is deceptive.

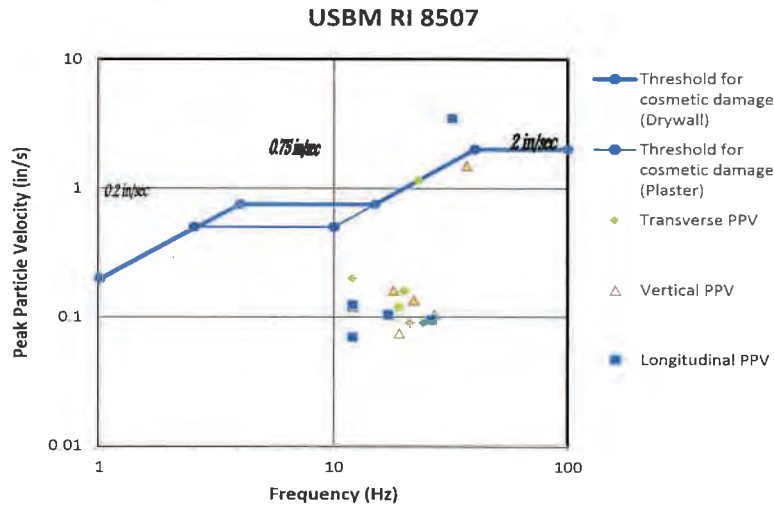
The chart also misleads because the particle velocity bounds vary with wave frequency. At lower frequencies the PPV limit begins at 0.2 in/sec before rising to 0.5 in/sec at 3 Hz for plaster construction and 0.75 in/sec for wallboard construction at 4 Hz in the first stage. At that point they level out until the 10 Hz level at which a second lift occurs to eventually plateau at the 2.0 in/sec that is described in the applicant's submission as the upper bound (see chart depicted below).

Therefore, the chart is incomplete without knowing what frequency the PPVs were measured at, and whether the PPVs were the true “Peak” velocities.

### 39<sup>th</sup> Avenue Greenway Vibration Monitoring

Week of October 8 to October 13, 2018

Vibration monitoring was performed near the box culvert installation. **Box Culvert (Zone 2)**



**Additional information** necessary to evaluate these results include the distance from the blast and the pounds of explosives used per delay. Without these, the chart, and the assertions within it, are noncompliant and should be discounted.

Fails to meet Standards 2 (Use and Enjoyment) & 3 (Normal & Orderly Development)

### Blasting – availability of blasting results

The applicant states: A summary (of blast results will) be available for review at any time by residential property owners, township or county upon request. According to SPS 307.31 (4) (b) Filing and availability. All blasting logs shall be kept on file by the blaster for a minimum period of 3 years, and shall be made available to the department upon request.

At the Town of Rutland Board meeting on February 9, 2022, Spelter requested quarry operator Hahn for copies of the blasting reports. Contrary to the assertions made in the CUP application above, Mr Hahn rejected the request and to date has not produced them despite open records requests to the county.

## **Noise mitigation**

The applicant states: equipment is similar in sound and intensity to other noises routinely generated by traffic and nearby agricultural equipment.

This characterization is vague and subjective without quantifiable outputs. Contrary to the “substantial evidence” standard which requires “facts and information”, rather than “merely personal preferences or speculation”, this section consists of assurances that are imprecise and not measurable. Moreover, the distinction is ignored that noise from agricultural equipment is seasonal, transient and short lived whereas quarrying is stationary confined to one location and remains constant during the day over much of the year during building season.

Without numerically defined and measurable noise emission targets these assurances do not meet the substantial evidence standard.

Furthermore, the applicant states: “The topography and existing wooded areas on the property provide a natural sound barrier to quarry operations.” This also is vague as it fails to quantify the impact on the exiting noise.

Fails to meet Standards 2 (Use and Enjoyment) & 3 (Normal & Orderly Development)

## **Emission Control Plan**

A key element in any emission control plan is to measure emissions. The applicant states as part of emission control responsibilities the need to “Evaluate Fugitive Emission and Need for Control Application” but does not indicate anywhere how and by what means that evaluation is to be executed.

Without objective, factual measurements the determination of when emission control is needed becomes subjective and, as demonstrated in prior instances, is neglected (see Spelter Statement of Objection – Dust Impacts). The plan is deficient in describing how and by what means emissions are monitored and precise measurements taken, where they are documented and to whom they are reported or made available to upon demand. These measures are integral to any effective and reliable environmental control program and is missing from this application.

## **Summary**

The applicant failed to establish consistent, measurable standards for evaluating the by-products of his activities and the degree to which his actions will lower them to acceptable bounds. Thereby he failed to meet the substantial evidence standard and thus the basis upon which the permit should be granted is absent.

## Town of Rutland CUPs

From: Clerk Kuhlman <clerk@brooklynwi.gov>

Sent: Tue, Apr 12, 2022 at 7:43 am

To: Everson, Daniel, clerk@town.rutland.wi.us

---

Dan and Dawn: We received CUP notifications for Brad Draheim at 4658 State Highway 92 (CUP 2022-02561) and also for Kevin Hahn at 439 Center Road (CUP 2022-02563).

The Village of Brooklyn has no comments regarding either CUP.  
Thank you.

Linda Kuhlman, WCMC,CMTW  
MTAW President-Elect  
Village Clerk-Treasurer  
Village of Brooklyn  
210 Commercial Street  
P.O. Box 189  
Brooklyn, WI 53521-0189  
Dane and Green Counties  
608-455-4201 ext 2  
Fax 608-455-1385  
Population 1524  
[www.brooklynwi.gov](http://www.brooklynwi.gov)

To: Town of Rutland Board

April 11, 2022

Subject: Recusal and Deerfield Legal

Dear Town Chair and Board Members,

Last week Travis Leeser , for his own reasons and evidently at his own initiative, requested that Chair Zentner and Supervisor Postel recuse themselves from voting on the quarry CUP application. Supervisor Williams was also asked to recuse by Kevin Hahn.

In the past I have also asked the Chair to recuse herself and rhetorically asked that if Supervisor Williams had to recuse shouldn't Supervisor Postel too for similar reasons.

Since then, I have changed my mind. I have concluded that Board members have a duty to put personal feelings aside and the integrity to decide matters based on laws, facts and substantial evidence thereto.

I have been advised by our counsel that the reasons for an official to recuse boil down to three things:

- a. Having a personal economic interest
- b. Having a personal relationship to an involved party
- c. Having an ingrained prejudice or bias

I have no reason to believe a) applies to anybody. Item b) does apply to Supervisor Williams, thus making her recusal understandable.

That leaves item c). Anyone can recuse themselves at their own discretion but doing so absent causes a) or b) adds up to a tacit admission of a prejudicial disposition and therefore the inability to fulfill their responsibilities impartially.

Regarding the Town of Deerfield legal status, I learned some things about attorney Sweeney's assertion of some legal action against the Town of Deerfield's open pit ordinance.

I called three Deerfield Board members and they were unaware of any past or pending legal action. Furthermore, one indicated that their relationship with the Town's quarry operator is amicable.

Sincerely,

Henry Spelter

## Opposing new quarry CUP 4/4/2022

From: Sarah Boerigter <sarah.s.boerigter@gmail.com>

Sent: Mon, Apr 4, 2022 at 2:25 pm

To: Dawn George, Town Clerk, Bill Boerigter

---

Dear Dawn,

I am writing to oppose the CUP submitted in 2022 by Kevin Hahn for a new quarry on Center Road. It disrupts the quiet atmosphere of our country home and leaves the road more dangerous for dog walkers, who have lost their lives on this road before. It will also make our house's value decrease, along with the other houses on our road. I want to ensure a public hearing is held and understand that you need a certain number of complaints. Is this an adequate request?

Thank you for your time,  
Sarah Boerigter

opposing the CUP submitted by Kevin Hahn for a new  
quarry on CenterRoad

From: Bill Boerigter <roweboe@yahoo.com>

Sent: Mon, Apr 4, 2022 at 1:22 pm

To: Town Clerk Dawn George, Nancy Nedveck, Sue Williams,  
B Boerigter

---

Dear Dawn,

I am writing to oppose the CUP submitted in 2022 by Kevin Hahn for a new quarry on Center Road. I do this to help meet the minimum complaints received by you and needed to insure a public hearing is held. Please let me know if this email is adequate to do this?

Thanks, Maureen Rowe 4/4/2022



## opposition to CUP for expansion of the gravel pit on Center Rd

From: Liz Bachhuber <elizabethcbachhuber@gmail.com>

Sent: Mon, Apr 4, 2022 at 8:23 am

To: clerk@town.rutland.wi.us

---

hello,

I am writing to express my family's opposition to this CUP request. I primarily am opposed due to the increased dump truck traffic, and the safety concerns that presents. Center Rd is not rural but rather very residential in nature. Several young families and active residents live on the road. Increased traffic of large dump trucks running up and down the roads, will prevent residents from enjoying activities in their neighborhood such as biking, dog walking, and jogging. We have two boys ages 11 and 13. They are at the age that they could explore the neighborhood, and hopefully meet up with other friends in the area via biking. When the dump truck traffic is heavy I am not comfortable with the boys being out on their bikes. There are several blind hills and so many driveways up and down Center Rd, the increase traffic will only increase these safety concerns.

As a resident, I don't want to wear out our roads even faster due to the heavy trucks steady flow up and down our town roads. Unless the increase tax opportunities from expansion more than outweigh the increase degreation of our roads, I believe it is a irresponsible choice to allow this traffic use to expand. It is my understanding that the town of Rutland earns very little in tax revenues from the quarry and that this would not increase due to expansion of the quarry.

If a large number of residents are opposed to the change, I don't see how the town could allow one business owner's interest to out weigh many residents concerns. If people don't support the change, and there are no benefits to the township for making the change, I don't see approving the change could possibly be justified.

I will be watching this discussion and debate closely, and hope that our town leaders represent the constituents' wishes.

Sincerely,  
Liz Bachhuber

## Letter of Objection

From: Henry Spelter <hspelter48@gmail.com>

Sent: Tue, Mar 15, 2022 at 12:14 pm

To: Dawn George, Town Clerk

---

objection\_notification.docx (16.8 KB)

Dawn,

I believe that a CUP to expand the Hahn quarry into the adjacent field North of the Graves cemetery has been or is about to be filed. By way of the attached letter I wish to register my opposition. Please advise if notification by this route is sufficient to meet statutory requirements.

Thanks.

Henry

Dawn George  
Clerk, Town of Rutland  
4177 Old Stage Road  
Brooklyn, WI 53521

3-15-2022

Dear Dawn,

My understanding is that a CUP to convert the 38-acre field north of the Graves cemetery into a quarry has been, or is about to be filed.

By this letter I wish to register my opposition to granting the application.

Sincerely,

Henry Spelter

No new quarry

From: Tom Umhoefer <tom.umhoefer@gmail.com>

Sent: Sat, Mar 5, 2022 at 11:05 am

To: clerk@town.rutland.wi.us

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Town of Rutland,

I am emailing to let you know I oppose a new or expanded quarry in our township. I know the existing quarry on Center Road wants to expand, and I oppose that.

We live on Lake Kegonsa Road about one mile south of Rutland-Dunn Townline Road. Last year an existing small quarry on Rutland-Dunn Townline Road started operations.

We can hear their operations from our house, one mile away. Massive dump trucks travel on the back roads, sometimes on Lake Kegonsa Road. People walk, exercise their dogs, and bike on these roads. It is dangerous when these dump trucks parade back and forth hauling heavy loads that have to negatively impact the pavement. This small quarry is dramatically expanding, taking over a 90-acre field adjacent to the existing operation. An ugly berm has been created encircling most of this field. This will hide the sight of open pit operations, but will do nothing to stop the noise.

Our township banded together to oppose that very tall radio tower a few years ago. An ugly eyesore, but it would have been quiet. A quarry is a far worse open pit eyesore, but it is also very noisy, and the truck traffic is dangerous.

Please, do not inflict this on our beautiful quiet township. The people living along Center Road and other roads in the area deserve a more peaceful neighborhood.

Thank you.

Tom Umhoefer  
1409 Lake Kegonsa Road

## gravel pit

From: Marsha Stanek <mjstanek@wisc.edu>

Sent: Fri, Mar 4, 2022 at 9:36 am

To: clerk@town.rutland.wi.us

---

We are completely against the conditional permit for the gravel pit for the following reasons: : gravel truck traffic on rural roads, blasting and equipment noise, safety, dust, environmental issues, property values, incompatibility with the Town's Comprehensive Plan, and proximity to historic structures, among others.

Marsha and Ken Stanek  
469 Game Ridge Trail  
Oregon, WI 53575

## No New Quarry

From: Knutson, Jessica L <Jessica.Knutson@edwardjones.com>

Sent: Wed, Mar 2, 2022 at 12:44 pm

To: clerk@town.rutland.wi.us

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image001.jpg (2.4 KB)

Hello,

I'm a frequent visitor to the neighborhood near the quarry. I have some major concerns about the quarry expansion. With the narrow country roads, it makes me nervous to drive over a hill and have an oncoming dump truck that takes up the middle of the road. We use to bike in that area, an activity that was enjoyable to explore rural Dane county, and that isn't possible anymore due to the trucks and the rocks dropped on the road. It's not a safe place to drive, bike or walk. Dust, noise, gravel spills. All of this is just too much for a quiet rural neighborhood. The roads aren't big enough for this kind of establishment.

~Jessica Knutson

Jessica Knutson  
*Financial Advisor*

---

154 E. Main St.  
Stoughton, WI 53589  
608-873-7131

---

Jessica Knutson  
Financial Advisor  
**Edward Jones**  
154 E Main Street  
Stoughton, WI 53589  
(608) 873-7131  
[www.edwardjones.com](http://www.edwardjones.com)

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## Quarry

From: a5thace@aol.com <a5thace@aol.com>

Sent: Mon, Feb 28, 2022 at 9:06 pm

To: clerk@town.rutland.wi.us

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Until someone can enforce the current speed limits the idea of more dump Trucks on our roads the idea of adding or extending a quarry is ridiculous.

I have been nearly hit twice once turning into my own drive way having a truck nearly rear end me.

Last summer trucks were clocked at nearly 70 MPH on Old Stage Rd . Dane County Sherrif as well as Dane County highway department was contacted multiple times who are one of the biggest violators. There is video proving what I state .

The trucks have left skid marks from the top of the hill to HWY 14. Engine braking rules are ignored starting early in the AM.

Rutland is not a mining town.

The quality of life and property values have both been hurt by the current truck traffic and the safety of its residents has been greatly jeopardized.

Enough is enough.

Bob Marcussen  
4462 Old Stage Rd

## Center Road Quarry

From: Craig Hinline <chinline@aeieng.com>

Sent: Wed, Feb 23, 2022 at 1:03 pm

To: clerk@town.rutland.wi.us

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Town Board,

Please record this message as my disapproval of the latest request for a conditional use permit for the expansion of the quarry on Center Road. It is my opinion that this expansion does not fit the Town's Comprehensive Plan and would lead to increased noise and traffic for town residents.

Thank you,

### **Craig Hinline PE**

Instrumentation & Controls

O: 608-238-2616 / D: 608-236-1199

[Affiliated Engineers, Inc.](#)

5802 Research Park Boulevard | Madison, WI 53719



## CUP Gravel Pit-Center Road

From: Jennifer Jo Anderson <andersonsonthego@hotmail.com>

Sent: Tue, Feb 22, 2022 at 7:54 pm

To: clerk@town.rutland.wi.us

---

Hello,

We oppose the approval of the CUP on the above named gravel pit by Kevin Hahn.

Rob & Jennifer Anderson

## Letter Of Support- Kevin Hahn

From: Andrew Skog <askog@msa-ps.com>

Sent: Tue, Apr 26, 2022 at 9:45 am

To: clerk@town.rutland.wi.us, andros@countyofdane.com

Cc: Kevin Hahn

[image009.png](#) (11.4 KB)   [image010.png](#) (1.4 KB)   [image011.png](#) (1.5 KB)  
[image012.jpg](#) (< 1 KB) – **Download all**

Dawn and Pam,

I wanted to provide some public input on Kevin Hahn's (Nelson Excavating and Son's) proposed expansion of their existing quarry in the Town of Rutland and Dane County. MSA has worked with Nelson Excavating and Son on several construction projects related to the improvement of water quality. Specifically, MSA and Nelson Excavating and Son completed 1.25 miles of streambank stabilization and aquatic habitat improvements along Searles Creek near Brodhead, WI. This project recently received the "Grand Award" from the Wisconsin Chapter of the American Council of Engineering Companies (<https://www.acecwi.org/2022-awards-gallery>). This project will also receive a "National Honor Award" from ACEC in May of 2022 in Washington DC. This project was completed with aggregate and riprap supplied from Kevin Hahn's quarry. The project's success was reliant on locally sourced construction materials that were supplied and installed by Nelson Excavating and Son.



**Andrew Skog, PE** | Senior Project Engineer

MSA Professional Services, Inc.

100% Employee Owned

[askog@msa-ps.com](mailto:askog@msa-ps.com) | +1 (608) 355-8976



CUP 2022-02563

From: Christine Zeltner <czeltner356@gmail.com>

Sent: Tue, Apr 26, 2022 at 1:32 pm

To: clerk@town.rutland.wi.us

---

4/26/2022

Christine Zeltner  
393 Lake Kegonsa Rd.  
Oregon, WI 50575  
czeltner356@gmail.com

I wils to speak in opposition of this application.

We have more than enough gravel pits in the local area. Opening a new one will make it less safe to use the roads here. These roads cannot handle the current traffic and people walk and bike on them all of the time. There is no where to get off of the road when a large truck goes by.

I do not see how a new gravel pit is compatible with an agricultural preservation district. It does the opposite of preserving agriculture.

This is a huge new pit and would very much impact the mones and land near it.

It is not compatible with a road that is to be designated a bike routes and rustic road.

There is no way this does not reduce the safety of our roads.

I will add that it just seems very disrespectful to run a gravel pit with all of the noise and dust and traffic up to the edge of a graveyard.

Chris Zeltner

## Gravel Pit CUP

From: Craig Hinline <chinline@aeieng.com>

Sent: Thu, Apr 21, 2022 at 9:13 pm

To: clerk@town.rutland.wi.us

---

Hello,

I am writing in opposition to the gravel pit conditional use permit. Specifically, I do not believe that expanding the quarry is aligned with the town's comprehensive plan for the following reasons:

- Expanding the quarry will cause increased or, at a minimum, sustained heavy truck traffic. This does not help the town achieve its goal of preserving the rural character.
- A gravel pit is not in alignment with the town's list of desirable businesses such as agriculture, greenhouses, and other businesses of rural character.
- The expanded gravel pit will but up directly against a graveyard - I find this to be disrespectful of those that rest there and it does not preserve the history of the town well.
- The expansion would not be consistent with the agricultural policy to preserve farmland.

Regards,

**Craig Hinline PE**

Instrumentation & Controls

O: 608-238-2616 / D: 608-236-1199

[Affiliated Engineers, Inc.](#)

5802 Research Park Boulevard | Madison, WI 53719

My country life on Old Stage Rd. located about 0.5 mile from Graves Cemetery was severely interrupted during 2020 – the first year of the COVID pandemic. Many work places had allowed their workers to remain at home if their job requirements allowed. I was equipped with a work laptop computer that allowed me the flexibility to complete many of my assignments from my *usually* quiet and comfortable home. What I experienced while working from home during 2020 was anything but quiet.

At around 6:30 am large dump trucks filled with gravel or sand or empty (if coming back to the quarry) start moving East and West along Old Stage Rd. These trucks cannot travel on Union Rd. to get to the Northwest Quarry because the bridge on that road is not weight limited to handle a full dump truck. Thus the traffic must progress down Old Stage Rd., Center Rd., or Kegonsa Rd. to further get to County A or to Route 14 or Route 138. During 2020 we counted almost 60 trucks an hour during days of heavy operations. This accounts for FULL or EMPTY trucks crossing in front of my property. Posted speed limit on Old Stage is set to 45 mph, but many of the trucks do not honor that posting – FULL or EMPTY.

Besides the increased sound levels of trucks moving at highway speeds I also experienced the results of blast waves that shake my house to the point where my dishes rattle in my kitchen cupboards. I am not an adjacent property to the Center Rd Quarry; therefore I do not get notified of the impending blast times. Since I have now been home when these blasts occur, we now check our basement and foundation often for new cracks.

We originally settled in Rutland because of the serene country ambiance, and it is a convenient drive for both of our away from home work facilities. At the year we moved in, the Center Rd quarry was a serene pond.



**Present Google Maps**  
**available picture of Both quarry sites.** The arial view of the original pit is now far from serene. Equipment

can be seen at the site. There is also a site started at the western corner of the new proposed area where sand was removed and other materials have been loaded back into the excavated portion. This sand was used for a nearby recent construction at Route 92 and Route 14.

I have included in this document pictures of other nearby historic structures that were built by Sereno Graves – one of the founders of Historic Rutland. These include the Sereno Graves House adjacent to the Graves Cemetery (East of my property), the Lockwood Barn (located just West of my property) and the Samuel Hunt House located on Center Rd. This block containing the Lockwood Barn, the Graves House and Cemetery is the epicenter of the beginnings of Rutland and one of the earliest settlements in Wisconsin. The cemetery is often visited and I cringe to think that future visits will be accompanied by the constant click-clack sounds of rock crushing, occasional blasting and continuous major truck traffic.

***Consider an alternate way to add value to this field*** – it could be developed as a field for pollinators such as bees and bumble bees. If the field had native plant or crops/trees that supported pollinators there could possibly be the following economic benefit:

<https://www.theguardian.com/environment/2015/jun/17/bees-are-worth-billions-to-farmers-across-the-globe-study-suggests>

\$3251 per hectare per year, or \$1316 per acre per year. Multiplied by 35 acres = \$ 46,060 per year.

A field of pollinators could be incorporated into a Rutland proposal to keep this area as a historically preserved site.

As a nearby landowner, I would much rather see this outcome than a 35 acre empty space that Dane County would surely ear-mark as a future Land Fill Site – that would make the truck traffic even worse!

## Sereno W. Graves

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From Wikipedia, the free encyclopedia

**Sereno W. Graves** (October 11, 1810 – February 13, 1899) was a member of the Wisconsin State Assembly.

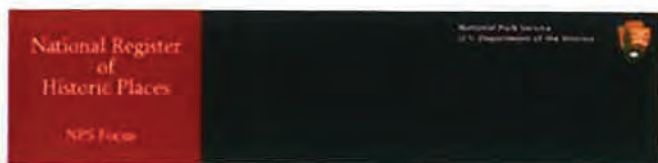
Graves was born in Berkshire, Vermont.<sup>[1][2][3]</sup> He was a colonel in the Vermont state militia in 1836.<sup>[1]</sup> He married Malindy Blakely in 1841; she died the same year.<sup>[1]</sup> He married Melvina Dennison in 1843.<sup>[1]</sup> He moved to Rutland, Wisconsin, in 1844.<sup>[1][2][4]</sup> He and his second wife had a son before her death in 1845. In 1846, Graves married Mary R. Dudley.<sup>[1]</sup> They had five children.<sup>[1]</sup> He was a Baptist. He died in Evansville, Wisconsin in 1899.<sup>[1][2]</sup>

His former home, now known as the Sereno W. Graves House, is listed on the National Register of Historic Places. The Samuel Hunt House, the Daniel Pond Farmhouse and the Lockwood Barn, all of which Graves also designed, are also listed.

### Career [ edit ]

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Graves was a member of the Assembly in 1861 and a candidate for the Wisconsin State Senate in 1875.<sup>[1]</sup> In addition, he was Clerk and Assessor of Rutland, Surveyor of Dane County, Wisconsin and a justice of the peace.<sup>[1]</sup> He was a Republican.



The PDF file for this National Register record has not yet been digitized



**Title:** Graves, Sereno W., House  
**National Register Information System ID:** 82000651  
**Multiple Listing:** Graves Stone Buildings TR  
**Applicable Criteria:** ARCHITECTURE/ENGINEERING PERSON  
**Architectural Styles:** GREEK REVIVAL  
**Architects:** Graves, Sereno W.  
**Areas Of Significance:** POLITICS/GOVERNMENT ARCHITECTURE  
**Periods Of Significance:** 1850-1874  
1825-1849  
**Significant Years:** 1845  
1846  
**Significant Names:** Graves, Sereno W.  
**Resource Type:** BUILDING  
**Related Collections:** National Register of Historic Places Collection  
**Resource Format:** pdf  
**File Size (bytes):** 22151  
**Date Published:** 9/29/1982  
**Parks:** National Register of Historic Places  
**Locations:** State: Wisconsin  
County: Dane County  
Rutland ; 4006 Old Stage Rd.  
**Rating:**  
**Categories:** Historic  
**Asset ID:** 88c8b939-b112-4a2e-a0d5-783088d00af4

# National Register of Historic Places listings in Dane County, Wisconsin

From Wikipedia, the free encyclopedia

This is a list of the **National Register of Historic Places listings in Dane County, Wisconsin**. It aims to provide a comprehensive listing of buildings, sites, structures, districts, and objects in Dane County, Wisconsin listed on the National Register of Historic Places.

The locations of National Register properties for which the latitude and longitude coordinates are included below may be seen in a map.<sup>[1]</sup>


There are 245 properties and districts listed on the National Register in Dane County, including 10 National Historic Landmarks. 149 of these properties and districts, including 8 of the National Historic Landmarks, are located in the city of Madison; these are listed separately while the remaining 96 properties and districts are listed below. An additional site was once listed on the National Register but has been removed.

*This National Park Service list is complete through NPS recent listings posted March 6, 2020.<sup>[2]</sup>*



Location of Dane County in Wisconsin

- Contents [hide]
- 1 Current listings

|    |                               |   |   |   |         |   |
|----|-------------------------------|---|---|---|---------|---|
| 29 | <b>Sereno W. Graves House</b> |  | September 29, 1982<br>(#82000651 <sup>[2]</sup> ) | 4006 Old Stage Rd.<br><span><span><span><span><span>42°51′49″N</span> <span>89°18′50″W</span></span></span><span><span>﻿</span> / <span>﻿</span></span><span><span><span>42.86361°N 89.31389°W</span><span><span>﻿</span> / <span>42.86361; -89.31389</span></span></span></span></span></span> | Rutland | Greek Revival-styled house with limestone walls built by Vermont-native Graves in 1845 for his own family. Graves was later a state legislator. |
|----|-------------------------------|---|---|---|---------|---|

## Sereno W. Graves House

From Wikipedia, the free encyclopedia

Coordinates: 42°51′49″N 89°18′50″W﻿ / ﻿42.86361°N 89.31389°W﻿ / 42.86361; -89.31389

*For the house in North Carolina, see Graves House.*

The **Sereno W. Graves House** is located in Rutland, Wisconsin.<sup>[2]</sup>

### History [edit]

Sereno W. Graves would become a member of the Wisconsin State Assembly. The house was listed on the National Register of Historic Places in 1982 and on the State Register of Historic Places in 1989.

Graves also designed the Samuel Hunt House and the Lockwood Barn in Rutland, which are also listed on both registers.

### References [edit]

- ↑ "National Register Information System" PDF. *National Register of Historic Places*. National Park Service. November 2, 2013.
- ↑ "4006 OLD STAGE RD" PDF. Wisconsin Historical Society. Retrieved 2018-07-02.

**Sereno W. Graves House**

U.S. National Register of Historic Places



Sereno W. Graves House

|                            |   |
|----------------------------|---|
| <b>Location</b>            | 4006 Old Stage Rd., Rutland, Wisconsin  |
| <b>Coordinates</b>         | <span><span><span><span><span>42°51′49″N</span> <span>89°18′50″W</span></span></span><span><span>﻿</span> / <span>﻿</span></span><span><span><span>42.86361°N 89.31389°W</span><span><span>﻿</span> / <span>42.86361; -89.31389</span></span></span></span></span></span> |
| <b>Area</b>                | less than one acre  |
| <b>Built</b>               | 1845  |
| <b>Architect</b>           | Sereno W. Graves  |
| <b>Architectural style</b> | Greek Revival   |
| <b>MPS</b>                 | Graves Stone Buildings TR <span><span><span><span></span></span></span></span>  |
| <b>NRHP reference #</b>    | 82000651 <span><span><span><span></span></span></span></span> <sup>[1]</sup>  |
| <b>Added to NRHP</b>       | September 29, 1982  |



# Samuel Hunt House

From Wikipedia, the free encyclopedia

Coordinates: 42°52′51″N 89°18′35″W﻿ / ﻿﻿ / ﻿

*For others of a similar name, see [Hunt House](#)*

The **Samuel Hunt House** is located in  Rutland, Wisconsin<sup>[2]</sup>

## History [[edit](#)]

The house was designed by [Sereno W. Graves](#), later a member of the [Wisconsin State Assembly](#). It was listed on the [National Register of Historic Places](#) in 1982 and on the [State Register of Historic Places](#) in 1989.

Other designs by Graves in Rutland, the [Sereno W. Graves House](#), the [Daniel Pond Farmhouse](#) and the [Lockwood Barn](#), are also listed on both registers.

## References [[edit](#)]

- ↑ "National Register Information System". *National Register of Historic Places*. National Park Service. November 2, 2013.
- ↑ "632 Center Rd". Wisconsin Historical Society. Retrieved 2018-07-08.

**Samuel Hunt House**  
U.S. National Register of Historic Places



Samuel Hunt House

|                            |   |
|----------------------------|---|
| <b>Location</b>            | 632 Center Rd., Rutland, Wisconsin  |
| <b>Coordinates</b>         | <span><span><span><span><span>42°52′51″N</span> <span>89°18′35″W</span></span></span><span><span>﻿</span> / <span>﻿</span></span><span><span></span><span><span>﻿</span> / <span>﻿</span></span></span></span></span> |
| <b>Area</b>                | less than one acre  |
| <b>Built</b>               | 1855  |
| <b>Architect</b>           | Sereno W. Graves  |
| <b>Architectural style</b> | Greek Revival, Italianate   |
| <b>MPS</b>                 | Graves Stone Buildings TR <span><span><span></span></span></span>   |
| <b>NRHP reference #</b>    | 82000652 <span><span><span></span></span></span> <sup>[1]</sup>   |
| <b>Added to NRHP</b>       | September 30, 1982  |

# Lockwood Barn

From Wikipedia, the free encyclopedia

Coordinates: 42°51′54″N 89°19′22″W﻿ / ﻿﻿ / ﻿

The **Lockwood Barn** is located in  Rutland, Wisconsin<sup>[2]</sup>

## History [[edit](#)]

The barn was designed by [Sereno W. Graves](#), who later became a member of the [Wisconsin State Assembly](#). Graves also designed the [Samuel Hunt House](#) and the [Daniel Pond Farmhouse](#), along with designing and residing in the [Sereno W. Graves House](#), which are also located in Rutland. The barn was listed on the [National Register of Historic Places](#) in 1982 and on the [State Register of Historic Places](#) in 1989.

## References [[edit](#)]

- ↑ "National Register Information System". *National Register of Historic Places*. National Park Service. November 2, 2013.
- ↑ "N SIDE OF OLD STAGE RD 7 M W OF CENTER RD". Wisconsin Historical Society. Retrieved 2018-07-02.

**Lockwood Barn**  
U.S. National Register of Historic Places



Lockwood Barn

|                         |   |
|-------------------------|---|
| <b>Location</b>         | Old Stage Rd, Rutland, Wisconsin  |
| <b>Coordinates</b>      | <span><span><span><span><span>42°51′54″N</span> <span>89°19′22″W</span></span></span><span><span>﻿</span> / <span>﻿</span></span><span><span></span><span><span>﻿</span> / <span>﻿</span></span></span></span></span> |
| <b>Area</b>             | less than one acre  |
| <b>Built</b>            | 1855  |
| <b>Architect</b>        | Sereno W. Graves  |
| <b>MPS</b>              | Graves Stone Buildings TR <span><span><span></span></span></span>   |
| <b>NRHP reference #</b> | 82000653 <span><span><span></span></span></span> <sup>[1]</sup>   |
| <b>Added to NRHP</b>    | September 29, 1982  |

# Daniel Pond Farmhouse

From Wikipedia, the free encyclopedia

Coordinates: 42°50′58″N 89°20′02″W﻿ / ﻿42.84944°N 89.33389°W﻿ / 42.84944; -89.33389

For the location in California, see *Pond Farm*

The **Daniel Pond Farmhouse** also known as **Eggleston Farm** is a limestone-walled home built in Rutland, Wisconsin in the 1840s. In 1980 the house was listed on the *National Register of Historic Places* <sup>[2]</sup>

## History [edit]

The first permanent settlers in what would become the town of Rutland arrived in the summer of 1842, and staked claims near the Janesville and Madison Road - now US-14 They were the Dejeans, the Prentises, and Daniel Pond This area lacked large natural water sources so land speculators bypassed it, and the land was affordable to farmers without a lot of capital Daniel was from Vermont and enough neighbors who followed were from the same state that the neighborhood came to be called the *Vermont settlement* The farmers in the area quickly found wheat to be a practical, profitable cash crop <sup>[3]</sup>

Pond probably had the 1 5-story section of the house built some time between 1844 and 1850 - probably designed by *Sereno W Graves*, who farmed only a mile away and later became a member of the *Wisconsin State Assembly* The walls are coursed small pieces of limestone, with the corner quoins larger blocks of dressed stone. A frieze board at the top of the walls leads to a moderately-pitched roof The windows have wooden sills and lintels Two one-story wings of similar stonework extend from the main block <sup>[3]</sup>

The house was home to Pond, his wife, and two children Also on the farm lived his widowed mother-in-law, Temperance Munger with her son and daughter, and a single man Stewart Shampmore <sup>[3]</sup>

By 1850 the Pond farm was prospering, worth about \$2,000. That year the Ponds harvested 400 bushels of wheat, 150 bushels of corn, 500 bushels of oats, 150 bushels of potatoes and 10 bushels of barley. Their sixty sheep produced 300 pounds of wool, and their five cows produced 100 pounds of cheese and 600 pounds of butter.<sup>[3]</sup>

In 1854, James P. Kniffin and his family bought the farm They continued to farm, adding 60 swine to the herd. In 1870 James retired, deeding the land to his son Lloyd. In 1874 John and Thomas Alsop bought the farm, and in 1893 the Petersons bought it <sup>[3]</sup>

Charles Peterson was born in Maribo, Denmark in 1861 and immigrated to America and Rutland with his family in 1869. He worked as farm labor, saving money, and in 1883 married Katie Hansen, another immigrant from Denmark. In 1889 they were able to buy 80 acres. Four years later he sold that farm to buy the 193-acre Pond farm. By 1906 the Petersons had added 160 acres to the farm. They grew nine acres of tobacco, 100 acres of corn, 50 acres of oats, and 25 of hay. Over the years the Petersons had ten children. Charles died in 1915 and Katie in 1930, but Petersons stayed on the farm until 1944.<sup>[3]</sup>

The house was listed on the *National Register of Historic Places* in 1980 and on the *State Register of Historic Places* in 1989.<sup>[2]</sup> It is significant as part of an unusual cluster of stone buildings, including the *Sereno W. Graves House*, the *Samuel Hunt House* and the *Lockwood Barn*. The farm also exemplifies a typical pattern for the area, with its early settlement by Yankees who grew wheat, followed by Scandinavian immigrants in the late 1800s <sup>[3]</sup>

## References [edit]

- ↑ "National Register Information System" ⓘ. *National Register of Historic Places*. National Park Service. November 2, 2013.
- ↑   <sup>*a*</sup>   <sup>*b*</sup> "76 US Highway 14" ⓘ. Wisconsin Historical Society. Retrieved 2018-07-11.
- ↑   <sup>*a*</sup>   <sup>*b*</sup>   <sup>*c*</sup>   <sup>*d*</sup>   <sup>*e*</sup>   <sup>*f*</sup>   <sup>*g*</sup> Katherine H. Rankin (February 1980). "National Register of Historic Places Registration: Pond, Daniel Farmhouse" ⓘ. National Park Service. Retrieved 2019-03-31 with six photosⓘ

Daniel Pond Farmhouse

U.S. National Register of Historic Places



Daniel Pond Farmhouse

|                         |  |
|-------------------------|--|
| <b>Location</b>         | 76 US Hwy 14<br>Rutland, Wisconsin   |
| <b>Coordinates</b>      | <span><span><span><span><span>42°50′58″N</span> <span>89°20′02″W</span></span></span><span><span>﻿</span> / <span>﻿</span></span><span><span>42.84944°N 89.33389°W</span><span><span>﻿</span> / <span>42.84944; -89.33389</span></span></span></span></span> |
| <b>Area</b>             | less than one acre   |
| <b>Built</b>            | 1850   |
| <b>Architect</b>        | Sereno W. Graves   |
| <b>NRHP reference #</b> | 80000128 <span><span>ⓘ</span></span> <sup>[1]</sup>  |
| <b>Added to NRHP</b>    | June 30, 1980  |

## Written Objection To Hahn Quarry CUP

From: Jason Berning <jason@wihomeexpert.com>

Sent: Thu, Apr 21, 2022 at 5:21 pm

To: clerk@town.rutland.wi.us

Quarry Impact on Property Values.png (9.3 KB)

Quarry Impact on Property Values.png (9.3 KB) — [Download all](#)

To the Town of Rutland,

Both my wife and I are writing this letter in **strong opposition** to the new Hahn quarry CUP. We cannot fathom anymore dump trucks traveling through this area and the profound negative impacts this quarry will have to our community. This proposed quarry is geographically situated next to some very old, fragile historic homes/structures which could certainly fall victim to significant blasting damage and it also shares a lot line to the Graves Cemetery. The people laid to rest in that cemetery can't speak at the hearing and I really feel strongly that a quarry moving any closer to that cemetery would be a huge disrespect to the people laid to rest there, the people who have already bought grave sites to be buried there in the future, and the visitors who visit their lost loved ones. Imagine trying to conduct a funeral with blasting, rock crushing, excavators/dump truck noise etc. taking place. The Northwestern Quarry is arguably far enough away that it does not pose these concerns like the Hahn quarry certainly would.

It also very much concerns me that the number of dump trucks (which is already pretty unbearable) would go up in even greater numbers. This is causing significant stress and lack of prosperity to homeowners in our township. The dumptrucks are relentless and hinder the quality of life we seek by living in our country setting. My family already feels it and my neighbors feel it. Rutland should not be further industrialized with this new quarry as it is a residential community.

More profoundly, I am greatly concerned about the property values that I believe are going to decrease significantly if a larger quarry operation like this goes into operation. We are likely talking many hundreds of thousands of dollars if not millions of dollars in decreased property values. That financial burden, plain and simply, should not be put on the many fine people who have moved to this area for peace and quiet living and who pay many hard earned dollars in property tax to live here. We are talking about major fallout affecting people's retirement plans, financial well being, etc. if our property values decrease greatly due to a large active quarry. For many people, their home is their greatest asset and greatly reducing one's property value will be absolutely devastating to people in this community. There have been case studies that can support factual evidence of the impact on quarry operations in close proximity to single family homes in regard to greatly reducing property values. (see attached graph). As much as a 40% decrease in value in some instances. I would like to reference the Kessenichs' who were the former owners of 439 Center Rd. They could not sell their home for years, even in a very strong sellers market because of the proximity to the quarry. And when it finally sold, it was for an estimated \$300,000 less than it may have sold for if the quarry expansion CUP wasn't applied for. It's no secret the quarry owner himself bought that property. Maybe it otherwise never would have sold. I can weigh in on a professional level on this as I am a professional, licensed real estate agent in the state of WI and have sold in 11 different counties in WI. I've seen it all. Homes/property/land that is situated in any sort of close proximity to something like a large quarry (up to 4-5 miles away) have a much harder time selling and for almost always a greatly reduced price than comparable properties in the same region. This is what is known as an 'adverse material fact'. It would be a major change that would have a MAJOR impact on our community!

In regard to the debate out there on whether this quarry is a new quarry or expansion, I would consider it to be both. The parcel of land purchased to expand operation was a new purchase/acquisition by the quarry owner and has a new driveway going into it. This 40 acre parcel of land was never slated to be mined and therefore I argue that this is a new pit. Just because it butts up to the old pit doesn't mean it isn't a new acquisition. I truly think had many of the property owners known this pit could automatically "expand" 40 acres, they would not have chosen to move out here. Myself included. You could look at aerial maps and realize the old pit was becoming exhausted of resources and would soon be an inactive pit.


I will not list them all out individually as I know whoever is considering this letter of objection is familiar with ['The 8 Standards of Obtaining a Conditional Use Permit'](#) document, but I would argue that not only does this proposed quarry CUP not meet ALL of the 8 standards, I would argue that it doesn't meet ANY of the 8 standards.

I fully trust the Rutland Township and Dane County Zoning will make the right decision that best suits ALL of the residents of Rutland and not just one single family.

Sincerely,  
Jason & Lindsay Berning

4232 Old Stage Rd.  
Brooklyn WI

RE/MAX



**Jason Berning | Realtor**  
**RE/MAX Preferred**  
**Cell/Text: 608-571-3906**  
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Hahn/CUP 2022-02563 PUBLIC HEARING APPEARANCE  
SLIP WITH LETTER TO THE TOWN BOARD OF  
RUTLAND/attachment

From: Jodi I <robjodi2@gmail.com>

Sent: Thu, Apr 21, 2022 at 7:40 pm

To: Dawn George

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[Gravel Pit:Rutland2022.doc](#) (78.7 KB)

[Image 4-21-22 at 7.31 PM.jpg](#) (147.2 KB) — [Download all](#)



## Traffic, Health, Safety & Land use in the Town of Rutland

My name is Jodi Igl, a Rutland resident of 31 years. In objection to the Nelson excavating/Hahn CUP DCPCUP-2022-02563 CUP for a New gravel pit site, I base my findings on traffic, health, safety, & land use on how it adheres to Rutland's Comprehensive Plan Policy. The Town of Rutland Comprehensive Plan states; home of active agriculture land, natural open spaces where residents value a quiet sense of community that this rural character offers.

The Hahn CUP sites **50 trucks per day**, 6 days per week, which is 1200 truck traffic per week. In a nine month window, 10,800 trucks per year, plus the noninclusive extended hours of truck traffic.

In asking of the Town Board of Rutland, how does this volume of truck traffic offer the value of a quiet community and rural agricultural character? The answer is, it does not. The Town of Rutland is well aware of the **traffic volume** issues already on our roadways. It is **detrimental to our community** not **allow additional traffic** as well as for our town board to consider these implications where possible.

The truck traffic route described in this CUP, **indicates truck travel** on Center Road to County A and onto US 14 with use of Hwy 138, it also states there would be no truck travel on Old Stage Road. This route description will affect many residents in our community by the sheer volume of trucks traffic. **Center Road is not viable nor sustainable** for volume truck traffic. There is no shoulder and the ditch banks are 2-3' feet deep in places. Can a bicycle or pedestrians travel this road during the proposed operating hours of this CUP? Not likely without risking their safety. A new gravel pit site in our community, will **creates safety hazards for Rutland residents by which any pedestrian traffic is at risk** whereas there is no shoulder to retreat to, & **exceptionally hazardous** when two (2) trucks meet in passing. Additionally the Town of Rutland Board have implied concerns with traffic safety in the area, by which it has requested of the local gravel pit operators to reroute truck traffic on town roads during the annual bicycle race event, this year and in previous years. The boards actions, is certainly an indication to community residents, that the town board considers truck traffic non appealing, or may creates discomfort to, by reason of, risk or safety to bicyclists and pedestrians that participate on town road in this annual event. The **boards actions are commendable** herein, to put in place safety measures on behalf of the community where truck traffic safety is a concern for public health.

My own personal experience with **dump truck travel in the town of Rutland** in the last four (4) years have been costly. I have had two (2) **windshields replaced** due to rocks thrown up from these trucks within the town, and I **currently have a chipped windshield** from 2021 which happened while stopped at the end of my driveway. The dump truck traveling past with a visible gravel load passed by me stopped in my driveway on County A one early morning, and **pelted my car with rocks** (suspect it was overloaded). **Imagine if this had been a child waiting for a school bus.** These trucks do not cover their loads. My auto insurance has a One hundred dollar (**\$100.00**)

**comprehensive deductible per incident.** These expenses are adding up quickly. How many other Rutland residents do you suppose have had similar experiences from current pit operations within the town in recent years?

When traveling down Old Stone Road on 4/8/22, (from Old Stage Road) to Center Road, I **observed** a red dump truck ahead of me, traveling in the same direction which appeared to be traveling at a **much faster pace** than I. As I was doing the speed limit, I could see this dump truck reach Center Road and turn right, by the time I arrived at the stop sign on Center Road, the truck was entering the quarry 1/4 mile away. With this **observations** of this trucks travel behavior, it is certain that the residents along this route have had **legitimate complaints of speeding truck traffic.**

1 of 6

Traffic, Health, Safety & Land use in the Town of Rutland

The **health and safety of the Rutland community** should be the first and foremost objective

to avoid the tyranny of small decisions toward the future of our town.

It is known that there are **town board members and PC members supporting this CUP, which have not considered** the current gravel pit operations in how it will **affect the neighbors**, many of which have reported truck traffic issues, noise volume levels, and explosions without the neighborly consideration of giving notice. **Multiple grievances** have been reported to the town, with the town board providing **no resolution.** How is it that any Rutland board member may ignore the **comprehensive plan to sustain minimal impact** of the current mining operations on the Rutland community for **quiet and rural character** that it implies? It is required that the Rutland board members be unbiased and neutral decision-makers, board members cannot have prejudged the facts and must remain free of prejudice against any of the parties.

The Hahn/CUP **application** has a number of issues of which needs to be addressed by the Rutland Town Board.

Hahn/CUP DCPCUP-2022-02563 Introduction; sites Chapter 10.000 General Provisions, & sites (**General Farmland Preservation**) **Zoning District**, with surrounding land **predominately Farmland Preserve District** utilized for agricultural, with minor amounts of **rural residential structure**, with additional **property owners located within 600 feet of the proposed project.**

This Hahn/CUP introduction explains, that there are property owners located within 600 feet of the proposed project. The **measurements on the Conditional use Map Appendix B**, shows **property lines 400 feet or less** from the proposed **site of operations.** This is **not inline with what is stated by the applicant on the CUP standards application.**

Chapter 10.000 General Provisions & 10.001 Title, Purpose & Statutory Authorization.

The listed provisions are 2.(a) promote the public health, safety, convenience and general welfare; (c) protect property values and the property tax base; (g) encourage uses of land and other natural resources which are in accordance with their character and adaptability; (m) provide healthy surroundings for family life;

The Hahn/CUP applicant response to the provisions required in the standards of Farmland Preservation Zoning District are not inline with the conditions of which is required of those standards in Farmland Preservation Zoning listed in the above Chapter 10.000/001.

CUP Standard: #2.

The use of this location in the Farmland Preservation Zoning FPZ, are reasonable & appropriate, considering alternative locations.

The Hahn/CUP applicant response states; geology resources, transportation and low population.

The Hahn/CUP applicant remarks of low population in standard #2, is not specific to the environment, nor does it offer the rights of the general public in the consideration of an alternative site.

What is considered low population? The CUP sites **10 properties in the vicinity with 3 bordering neighbor properties. This is a concentration of nearby properties to be affected by opening a new gravel pit operation site. This concentration of neighboring properties are not minor to this CUP**, especially when you consider property lines, nor should said properties be considered minor by our board.

2 of 6

Traffic, Health, Safety & Land use in the Town of Rutland

Dane County Zoning refers to land use control as regulatory public power to specify how land may be used & developed. The intent of zoning is to balance property **rights of the general public to promote a healthy, safe and orderly living environment.**

The environment of the Hahn/CUP, will not offer a healthy, safe, or orderly living environment for our community, by the evidence of the existing operations of the Nelson excavation site nor the proposed roadway use for this site. The property lines are too close, and the affected neighbors have had repeated complaints & concerns with the current and future activity in the area. The vision of Rutland in the Comprehensive Plan states, **(the desired outcome)** Families are integral to the community, and the **environment safe.**

Cup standard #4



Explain how the use does not substantially impair or limit the current or future agricultural use of surrounding parcels zoned for agricultural use:

The Hahn/CUP applicants response states; The site will continue to be utilized for agricultural production. After the resource is depleted, areas along the perimeter of the excavation will be returned to farmland.

**Standard #4 is incomplete** whereas this **standard (#4), will in fact impairs and limits agricultural use of 22.96 acres of farmland.** Considering the close proximity of neighboring properties & roadway which require a berm, fencing & distancing from other properties, on what portion of land will these requirements be placed, the remaining 14.74 acres or within the CUP 22.96 acres? Who will regulate over-site?

CUP Standard #7.

The conditional use is consistent with the adopted town and county comprehensive plan.

The Hahn/CUP #7 applicant response states; Town of Rutland Agricultural Preservation Districts as a means of preserving agricultural lands and rural character.

**Town of Rutland Goal 4, Policies: #1. Agricultural preservation areas shown on the plan map are to protect farm operations for future production** from encroachment of incompatible uses and help qualify farmers for benefits of the Wisconsin Farmland Preservation Program, but keeping in mind the allowance for some land divisions for eligible farms.

Community vision and plan implementation

Town of Rutland Goal 4, Comprehensive plan Policies: #4. **Carefully review any proposed commercial** recreation activity. It is recognized that there may be request for land-extensive activities for uses such as, **conditional use permits**. Such uses may be **allowed if limited to:**

- a. Those areas having less productive farmland.
- b. Those areas with minimal impact on farming operations.
- c. Those uses with minimal construction development, thus **allowing future reuse as farmland.**
- d. Those uses and locations having minimal effect on existing nearby uses.
- e. **Locations which have direct access to state or county highway.** If town roads are involved, the developer **must demonstrate minimal impact to neighbors.** If the town road requires improvement, the developer shall pay for their share of such improvements. The **safety** if access will be a major concern.
- f. The **size of area and magnitude of operation which protects the rural atmosphere and scenic beauty** of the town.

3 of 6

Traffic, Health, Safety & Land use in the Town of Rutland

- g. Service facilities appropriate to the proposed use and rural location.
- h. Those **uses and locations having minimal impact on lake, ponds, streams, and groundwater.**

All items in **red** of the above list **a - h, of Rutland Community vision and plan implementation**

are some of the items of which the Hahn/CUP applicant has not met the standards of Dane County Zoning, nor the conditions of the Rutland community's vision plan.

The Town of Rutland Comprehensive plan **Policies indicates the future allowance of reuse as farmland.** Whereas the Hahn DCPCUP-2022-02563, responds to the Dane County Standards for this CUP, page 1, of Appendix H #3. The establishment of the conditional use will not impede the normal and orderly development and improvements of the surrounding property for uses permitted in the district.

Hahn/CUP applicant remarks in Appendix H #3; According to the Town of Rutland Comprehensive Plan (March 6, 2007), preserving the rural character of the area is priority. The site is located in a rural area.

Operations will occur incrementally to preserve farmland. When the mineral resources at the site have been depleted, **the site will be reclaimed to a FRESH WATER LAKE** surrounded by farm field as outlined in an approved reclamation plan for the site.

The Farmland reclamation in the Town of Rutland policies clearly states the future allowance of reuse as farmland. The Cup proposal of a **22 acre lake is not compatible** with the Comprehensive Plan of the Town of Rutland for **farmland preservation and reuse.** Furthermore, a body of water constructed to detain water will result in test requirements of the aquifer and ground water contaminates within an allotted distance of human waste/Graves Cemetery. Local authorities may address risk of groundwater contamination. (There is also concern of monument damage to the cemetery from excavation blasting). Additionally, the 8/2020 Axley Attorney's letter to the Dane County Planning & Development on behalf of the Hahn/Nelson Excavating for the CUP application states (in excerpt), **article 2.** By expanding into this area he will be able to better reclaim his non-conforming use site and **will also reclaim this site and turn it back to agricultural when he is done.** **Article 3.** There will be appropriate setbacks in or to minimize any effect on adjoining properties and **the property will be returned to agricultural use.**

It appears the **intentions of this CUP applicant has changed from land reuse to a 22 acre lake,** of which is not compatible with the Farmland Preservation reuse plan, nor the Town of Rutland Comprehensive Plan and Policies in it reclamation of farmland reuse.

The Dane County Standard for this Hahn/CUP applicant, has many misleading, & embellishments in the content of its answers within this applications .

Case point; Hahn CUP DCZ application Model Nonmetallic Mining Page 6,  
Storm Water Pollution Prevention Team  
Nelson Pit 437 Center Rd. Oregon, WI.

Form Question: Identify by job title the person in charge of all aspects of SWPPP development & implementation.

Form Hahn applicant response states: Kevin W. Hahn, Owner, **All Responsibilities.**  
Form Question: Employee Training program implemented to inform appropriate personnel at all levels of responsibility of the components and goals of the SWPPP.  
Form Hahn applicant response states: **N/A . (This N/A answer on the form indicates there is no employee training for SWPPP).**

4 of 6

Traffic, Health, Safety & Land use in the Town of Rutland

SWPPP - Plan management & training: All personal who may respond to any spill, need to be trained on the contents & procedures in this plan. (This form offers a training log Appendix D)

**Identifier of discrepancies:** If a spill has occurred, contact the following person immediately:

Kevin Hahn (Primary) contact #

Devin Hahn (Secondary) contact #

911 (after hours emergency contact) #

If Mr Hahn **has no employees** as indicated on this form **for SWPPP/spillage** responsibilities, then

**why has Devin Hahn's name been added as an emergency contact for such an incident.** According to the answer given by Kevin Hahn, there are no employees (N/A) to train, hence the SWPPP requirements for safety in procedural training will not be fulfilled.

The requirements of this Dane County Standard for Conditional Use Permit DCPCUP- 2022-02563, have not been met within this application.

The Comprehensive Plan for the Town of Rutland requirements have not been met within this applications for the proposal of a new gravel pit operation site.

In review of documentation for DCPCUP-2022-02563, evidence has been found in failure to comply with the requirements of the Town of Rutland and the County of Dane, are herein submitted to the Rutland Town Board Public Hearing and to Dane County Zoning for the review of these findings.

It is in the best interest of the community to collectively gather in kinship on behalf of all community residents to be heard at the public hearing April 28, 2022 at 6pm, at the Rutland town hall.

Respectfully submitted,

Jodi Igl  
Rutland resident

5 of 6

Traffic, Health, Safety & Land use in the Town of Rutland

*REFERENCE;*

*town.rutland.wi.*

*uswp-building/town-board*

*PubHrgPacket, hearing-appearance*

*rutland.wi/comprehensive/plan*

*ordinance no.91-6, wis.history, memin. rutland-wi.*

*protect-us.mimcast.com/docs.legis.wisconsin.gov*

*plandev.countyofdane.com/zoning*

*wi.gov*

*wi.gov/legislature*

*wisconsinhistory.org*

*hpr-1985-wi-act*

*dnr.gov*

*dnr.wi.gov/regulation*

*dnr.wi.gov/watershed*

*legis.wisconsin.gov/statutes*

*usa.gov*

*wi.gov/cemetery*

*law server.com/law/state/wisconsin*

## Written Objection To Hahn Quarry CUP

Jason Berning <jason@wihomeexpert.com>  
To: <clerk@town.rutland.wi.us>

Thu, Apr 21, 5:21 PM

To the Town of Rutland,

Both my wife and I are writing this letter in **strong opposition** to the new Hahn quarry CUP. We cannot fathom anymore dump trucks traveling through this area and the profound negative impacts this quarry will have to our community. This proposed quarry is geographically situated next to some very old, fragile historic homes/structures which could certainly fall victim to significant blasting damage and it also shares a lot line to the Graves Cemetery. The people laid to rest in that cemetery can't speak at the hearing and I really feel strongly that a quarry moving any closer to that cemetery would be a huge disrespect to the people laid to rest there, the people who have already bought grave sites to be buried there in the future, and the visitors who visit their lost loved ones. Imagine trying to conduct a funeral with blasting, rock crushing, excavators/dump truck noise etc. taking place. The Northwestern Quarry is arguably far enough away that it does not pose these concerns like the Hahn quarry certainly would.

It also very much concerns me that the number of dump trucks (which is already pretty unbearable) would go up in even greater numbers. This is causing significant stress and lack of prosperity to homeowners in our township. The dumptrucks are relentless and hinder the quality of life we seek by living in our country setting. My family already feels it and my neighbors feel it. Rutland should not be further industrialized with this new quarry as it is a residential community.

More profoundly, I am greatly concerned about the property values that I believe are going to decrease significantly if a larger quarry operation like this goes into operation. We are likely talking many hundreds of thousands of dollars if not millions of dollars in decreased property values. That financial burden, plain and simply, should not be put on the many fine people who have moved to this area for peace and quiet living and who pay many hard earned dollars in property tax to live here. We are talking about major fallout affecting people's retirement plans, financial well being, etc. if our property values decrease greatly due to a large active quarry. For many people, their home is their greatest asset and greatly reducing one's property value will be absolutely devastating to people in this community. There have been case studies that can support factual evidence of the impact on quarry operations in close proximity to single family homes in regard to greatly reducing property values. (see attached graph). As much as a 40% decrease in value in some instances. I would like to reference the Kessenichs' who were the former owners of 439 Center Rd. They could not sell their home for years, even in a very strong sellers market because of the proximity to the quarry. And when it finally sold, it was for an estimated \$300,000 less than it may have sold for if the quarry expansion CUP wasn't applied for. It's no secret the quarry owner himself bought that property. Maybe it otherwise never would have sold. I can weigh in on a professional level on this as I am a professional, licensed real estate agent in the state of WI and have sold in 11 different counties in WI. I've seen it all. Homes/property/land that is situated in any sort of close proximity to something like a large quarry (up to 4-5 miles away) have a much harder time selling and for almost always a greatly reduced price than comparable properties in the same region. This is what is known as an 'adverse material fact'. It would be a major change that would have a MAJOR impact on our community!

In regard to the debate out there on whether this quarry is a new quarry or expansion, I would consider it to be both. The parcel of land purchased to expand operation was a new purchase/acquisition by the quarry owner and has a new driveway going into it. This 40 acre parcel of land was never slated to be mined and therefore I argue that this is a new pit. Just because it butts up to the old pit doesn't mean it isn't a new acquisition. I truly think had many of the property owners known this pit could automatically "expand" 40 acres, they would not have chosen to move out here. Myself included. You could look at aerial maps and realize the old pit was becoming exhausted of resources and would soon be an inactive pit.

I will not list them all out individually as I know whoever is considering this letter of objection is familiar with '[The 8 Standards of Obtaining a Conditional Use Permit](#)' document, but I would argue that not only does this proposed quarry CUP not meet ALL of the 8 standards, I would argue that it doesn't meet ANY of the 8 standards.

I fully trust the Rutland Township and Dane County Zoning will make the right decision that best suits ALL of the residents of Rutland and not just one single family.

Sincerely,

Jason & Lindsay Berning  
4232 Old Stage Rd.  
Brooklyn WI  
Quarry Impact on Property Values.png

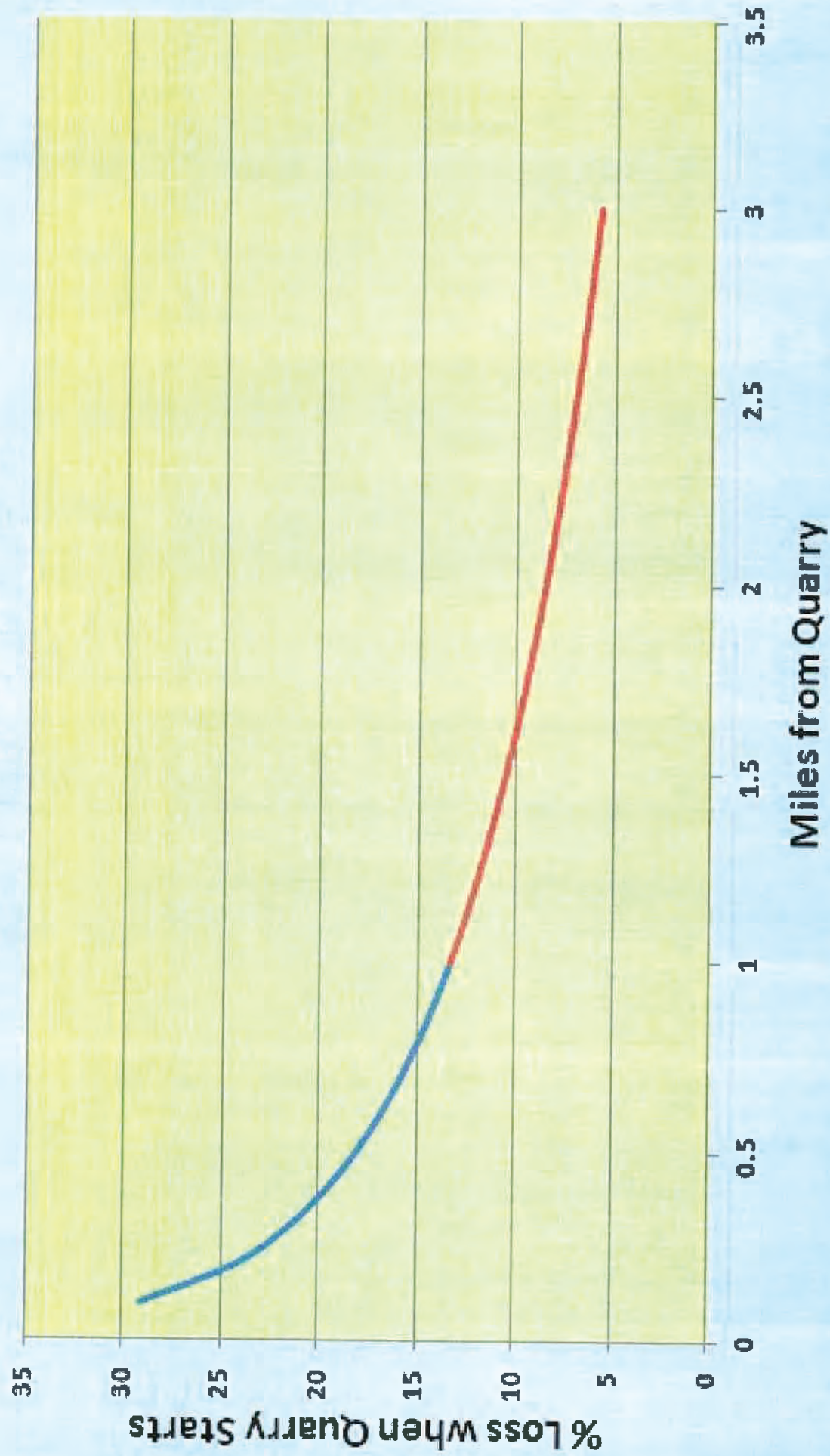


**Jason Berning | Realtor**  
**RE/MAX Preferred**  
**Cell/Text: 608-571-3906**  
**[www.WiHomeExpert.com](http://www.WiHomeExpert.com)**

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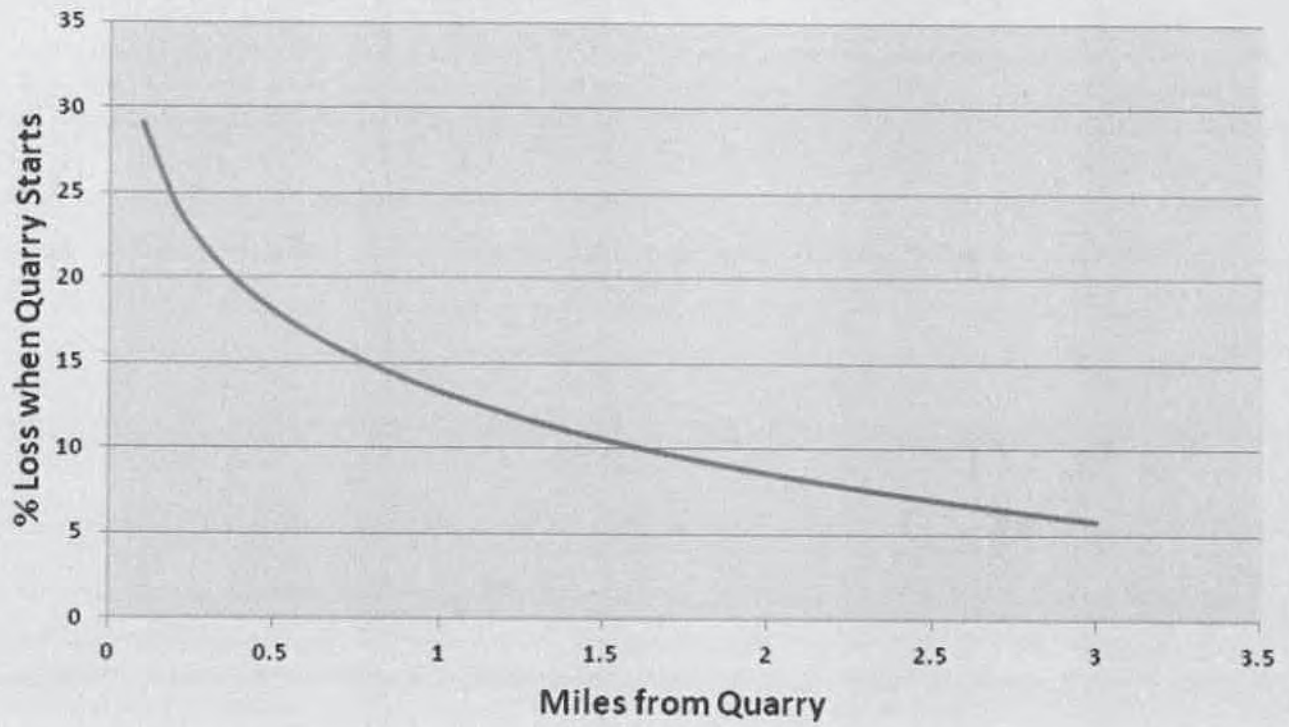
Quarry Impact on Property Values.png

# Loss in Real Estate Value

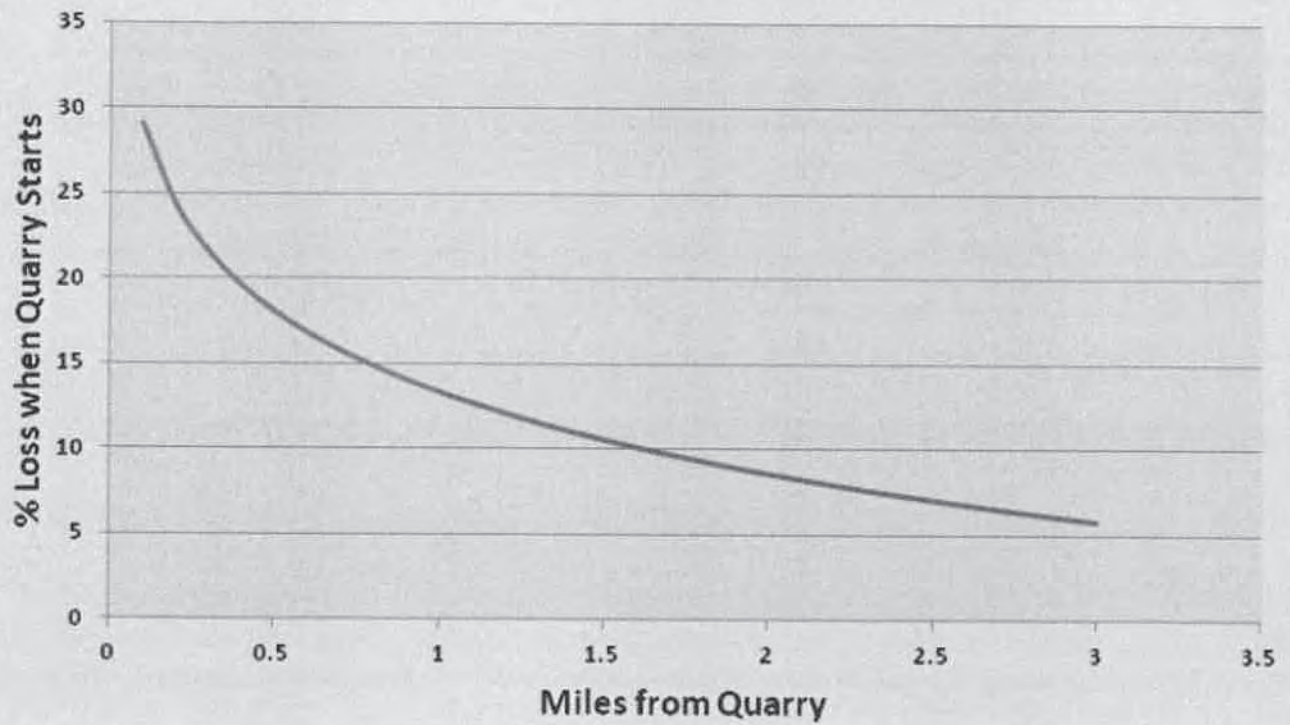




### Loss in Real Estate Value



### Loss in Real Estate Value



Town of Rutland Public Hearing on 04/28/22 re CUP  
2022-02563 by KevinHahn

From: Sarah Elliott <sellott@pinesbach.com>  
Sent: Thu, Apr 21, 2022 at 4:41 pm  
To: clerk@town.rutland.wi.us  
Cc: Christa Westerberg, info2@actualsizeartworks.com,  
hspelter48@gmail.com, andros@countyofdane.com,  
areuter@rwelaw.net

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[image001.png](#) (9 KB)    [Public Hearing Appearance Slip.PDF](#) (84.1 KB)

[Letter to Town of Rutland Clerk re CUP 2022-02563.PDF](#) (2.3 MB)

– **Download all**

Good afternoon,

Please see the attached documents relating to the Town of Rutland  
Public Hearing on April 28, 2022 at 6:00 PM, regarding CUP 2022-  
02563 by Kevin Hahn.

Thank you,

**Sarah Elliott**

Legal Assistant (she/her)

608.251.0101 Phone  
608.251.2883 Fax  
[sellott@pinesbach.com](mailto:selliott@pinesbach.com)

Pines Bach LLP  
122 W Washington Ave, Ste 900  
Madison, WI 53703  
[www.pinesbach.com](http://www.pinesbach.com)

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Attorney Christa O. Westerberg  
cwesterberg@pinesbach.com

April 21, 2022

**VIA EMAIL**

Town Clerk  
Town of Rutland  
4177 Old Stage Rd.  
Brooklyn, WI 53521  
[clerk@town.rutland.wi.us](mailto:clerk@town.rutland.wi.us)

*Also filed  
appearance slip.*

Re: CUP 2022-02563 by Kevin Hahn for non-metallic mineral extraction

Dear Clerk:

This firm represents Gail Simpson and Henry Spelter, and provides the following comments to the Town Board and Planning Commission in opposition to the Kevin Hahn/Nelson Excavating application for CUP 2022-02563, to commence non-metallic mining on 36.7 acres in the Town of Rutland.

The application is deficient right out of the gate, describing the "proposed conditional use" as "ex[ist]ing quarry expan[s]ion." (CUP Application, page 2.)<sup>1</sup> It is not: the application is for a new quarry south of Nelson Excavating's existing site. Indeed, the application later clarifies that it is for the proposed new 36.7 acre quarry, "not existing operations at the Nelson Quarry." (*Id.* at 3.) All of its impacts would be new.

More fundamentally, the CUP application does not satisfy Dane County's **seven** standards for CUPs, or the County's **five** additional standards for non-agricultural operations in farmland preservation areas. Dane County Ord. §§ 10.101(7)(d), 10.220(1). Under 2017 Wisconsin Act 67, Nelson Excavating must show it meets all **twelve** criteria by substantial evidence. Wis. Stat. § 62.23(7)(de)2.a. It cannot: much of the information in its application is speculative or unsupported, or if accepted would allow no limit to the disruption and harm to neighbors the proposed quarry would cause, in violation of

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<sup>1</sup> The page numbering in the application refers to the PDF page of the 74-page CUP application available on the Dane County website, <https://dane.legistar.com/View.aspx?M=F&ID=10818503&GUID=C9EC0F65-0A25-4F54-A8FB-017DD096D97A>

the standards. "The town board must deny a conditional use permit if it finds that the standards for approval are not met." Dane County Ord. § 10.101(7)(c)3.d.

While the application is insufficient under the rules and can be rejected for that reason, Ms. Simpson and Mr. Spelter, and likely many of their neighbors, will present evidence showing that the application will in fact violate the standards.

I. Nelson Excavating Cannot Satisfy the County's Eight CUP Standards.

**Standard 1:** *The proposed land use will not be detrimental to or endanger the neighborhood health, safety, comfort, or general welfare. Explain how the proposed land use will fit into the neighborhood. If there is going to be lighting, noise, outdoor storage, traffic, or other outside activities, explain how the activities will be limited to a reasonable level.<sup>2</sup>*

The CUP is for an industrial use in a rural agricultural and residential setting and incompatible with the neighborhood. While this is significant, the application lacks basic information about the operation, such as the planned depth of mining below the ground surface, the amount of land exposed for mining at any given time, and the size and frequency of crushing operations. This information is needed to understand the project's full impacts and whether any of the few proposed mitigation measures will be effective.

Take, for example, noise. The application minimizes noise concerns as typical for farm equipment. (CUP App. at 16.) It does not even describe sources of noise or projected noise levels, even though quarrying operations generate substantial noise from crushing, blasting, backup beepers, banging truck grates, engine noise, loading and unloading. The application then "compiles" three potential noise reduction measures, two of which describe everyday activities like using mufflers on and maintaining equipment. The third is simply crushing below grade. It does not commit to using any of these measures, and it does not demonstrate how they would be effective in any case.

The application also contains very little information about preserving the health, safety, comfort, or general welfare, essentially only committing to install a four-foot fence and erect no trespassing signs. Lighting is not discussed at all. These generalizations are not enough to satisfy the first standard.

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<sup>2</sup> Information in italics is included on Dane County's website as the kind of information that should be provided regarding the standards. See <https://plandev.countyofdane.com/documents/pdf/Zoning-Information/Understanding-Conditional-Use-Process.pdf>

**Standard 2: The uses, values and enjoyment of other properties in the neighborhood already permitted shall in no foreseeable manner be substantially impaired or diminished by establishment, maintenance or operation of the proposed conditional use.** *Explain how the proposed land use will fit into the neighborhood and what will be done to avoid potential nuisances, such as limiting the hours of operation, noise control measures, paving the parking area, or the screening of outdoor storage.*

In addition to the above deficiencies, the application contains no information about projected quality of life impacts to neighbors or property values. It only describes operations at the other, existing quarry. Based on the information available, the uses, values, and enjoyment of other properties in the neighborhood will certainly be substantially impaired or diminished by this new use, through noise, vibration, traffic, blasting, dust, and other factors. The application does not discuss visual impacts and whether stockpiles will be visible from neighboring properties or roads; it commits to seeding disturbed areas, but it does not commit to maintaining newly-seeded areas to ensure vegetation survives or isn't eroded.

The CUP application also does not commit to set hours of operation. It only states that "in general" hours will be 7 AM to 7 PM Monday through Friday and 7 AM to 5 PM Saturday, but it also says "extended hours" may be needed due to "peak hour project restrictions." (CUP App. at 14-15.) Thus, neighbors will always have to fear that nuisance conditions created by the mining operation could occur at any hour. This will also make it difficult for neighbors to plan the use of their property, whether it be hanging laundry, opening windows, or hosting special events like graduation parties.

**Standard 3: 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.** *Explain how the proposed land use will not interfere with the development of the surrounding property. It's possible that there may already be limitations on development on the surrounding properties such as being deed restricted to just agriculture.*

The CUP Application does not discuss surrounding property and impact on development, as required by Standard 3. It only discusses the 36.7 acre parcel and the Town's comprehensive plan as it relates to that parcel. The Applicant has not satisfied this standard. Meanwhile, neighboring properties will have to live with disturbance and truck traffic for the 50-year life of the mine, showing that it cannot be met.

**Standard 4: There are adequate utilities, access roads, drainage, and other necessary improvements to allow the land use, or improvements are planned to provide adequate measures.** *Explain what impact the proposed use has on such things as water, septic,*

*storm water, electricity, and traffic. Provide information on improvements that may be needed or if additional buildings are needed.*

There is alarmingly little information in the application about this factor, especially impacts to groundwater and surface water quality. The application admits that groundwater is close to the ground surface—within 20 to 50 feet (CUP App. at 24)—and that intermittent dewatering will be needed to keep the quarry floor dry (*id.* at 14). Yet it contains no information about the dewatering process, risks to groundwater quality, and measures it will take to protect groundwater quality during quarrying operations.

As for surface water quality, the CUP Application omits information necessary to assess this standard, like an erosion control plan the applicant says will be submitted *after* the CUP is issued. (CUP App. at 12.) The application says stormwater will be routed offsite to the existing quarry, where it appears an underground pipe transmits water to a ditch and eventually Badfish Creek. (*Id.*) The applicant should better explain this system and how it protects surface water.

**Standard 5: Adequate measures have been or will be taken to provide adequate ingress/egress to public streets and the proposed conditional use will not present traffic conflicts.** *Provide information on vehicle traffic that the proposed use will generate. Include frequency and types of vehicles.*

The CUP application is unhelpful on this point. It states that the new quarry could average “zero to 50” loads per day, and “more or less may be needed for local or specialized projects.” (CUP Application at 14.) This range is so broad and poorly defined that there could be no limit to truck traffic, especially during construction season. Yet truck traffic has a huge quality of life impact, from noise to dust to traffic safety for other drivers. More information is necessary about traffic impacts.

The application’s only discussion of this standard concerns ingress or egress, but it contains no information about traffic counts or any documentation that traffic on Center Road is “light.” (CUP Application at 72.) If the two entrances are open at the same time, this would increase traffic congestion on Center Road. Additionally, there is no information provided in the application as to road damage and how such damage would be addressed, despite the quarry’s location on rural roads and the significant weight of truck loads, at up to 22 tons of crushed stone. (CUP Application at 14.)

**Standard 6: The conditional use shall conform to all applicable regulations of the district in which it is located.** *Provide information on any necessary licensing, or regulations*



*associated with the proposed land use. Explain any buffering or screening that will be installed as part of the proposed use.*

The application does not discuss the applicable regulations of the FP-35 District, except for a passing reference to setbacks (CUP App. at 11). Non-metallic mineral extraction is only allowed in this district if it complies with Wis. Stat. § 91.46(6) and Dane County Ordinances Section 10.103(15) and Chapter 74. Dane County Ord. § 10.222(3)(c). The application does not discuss these provisions, even though Section 10.103(15) contains a detailed list of application materials and requirements for mineral extraction uses. Chapter 74 requires a reclamation plan, but that too, has not been submitted. The applicant has not demonstrated that it can meet any of these standards.

**Standard 7: The conditional use is consistent with the adopted Town and County Comprehensive Plans.** *The Town and the County may have specific policies on the development of particular areas of the county. Please provide any specifics that relate to the conditional use.*

The application summarily states that it satisfies the Town and County Comprehensive plans in two short sentences, despite the length and complexity of these plans. This is not even close to substantial evidence, but is akin to a personal opinion or speculation that is explicitly *not* substantial evidence. Wis. Stat. § 62.23(7)(de)1.b. The applicant has not satisfied this standard.

Meanwhile, Gail Simpson has thoroughly explained, in comments submitted separately, why the CUP application does not satisfy the Town's comprehensive plan. As for the County's plan, the CUP application is not consistent with its goals to "[m]inimize the amount of land converted to agricultural use to accommodate permitted non-farm development" and "[e]ncourage separation of incompatible uses in rural areas, among other things. See Dane County Comprehensive Plan at 37, 38.<sup>3</sup>

## **II. Nelson Excavating Cannot Satisfy the Five Additional Requirements for Non-Agricultural Uses in Farmland Preservation Areas.**

In addition to the above, the CUP must be denied because Nelson Excavating has not shown it can meet the five additional requirements for operating in a farmland preservation area. These requirements are mandated by state law to ensure the State's disappearing farmland is preserved. Non-metallic mines are not permitted as conditional uses in any farmland preservation district unless they strictly comply with these standards. Wis. Stat. § 91.46(6). This mine will not.

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<sup>3</sup> Available at <https://plandev.countyofdane.com/documents/DCCP/comp-plan-VolI-Final2016opt.pdf>

**Farmland Standard 1: The proposed use is consistent with the purpose of the district.**

The CUP Application does not discuss the nine distinct purposes of the FP-35 zoning district, much less even acknowledge those purposes.<sup>4</sup> It instead includes three vague sentences about farmland preservation zones generally. (CUP App. at 72.) This is insufficient on its face and the application should be rejected for this reason alone.

The proposed use is not consistent with several purposes of the district in any case: the use is not agricultural or even incidental to agriculture; the application admits that the site's aggregate would be used for "the construction and maintenance of local homes, businesses, and infrastructure, as well as water treatment and erosion," not agriculture. (CUP App. at 3.)

Some or all of the site will be removed from productive agriculture for the project's 50-year life, and it may never be restored to agriculture, since the CUP Application also list recreation as a future use. (CUP App. at 16.) This does not "preserve" farmland as required for the FP-35 District. And, non-metallic mining does not "preserve productive farms by preventing land use conflicts between incompatible uses," and in fact (as the Town well knows given the level of controversy associated with this use) it creates conflicts.

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<sup>4</sup> Under Dane County Zoning Ord. § 10.222(1), those purposes are:

- (a) Provide for a wide range of agriculture and agricultural accessory uses, at various scales. The FP-35 district accommodates as permitted uses all activities typically associated with the primary production and harvesting of crops, livestock, animal products or plant materials. Such uses may involve noise, dust, odors, heavy equipment, use of chemicals and long hours of operation.
- (b) Allow for incidental processing, packaging, storage, transportation, distribution or other activities intended to add value to agricultural products produced on the premises or to ready such products for market. Such uses are conditional as they may have the potential to pose conflicts with agricultural use due to: volumes or speed of vehicular traffic; residential density; proximity to incompatible uses; environmental impacts; or consumption of agriculturally productive lands.
- (c) Allow for other incidental activities, compatible with agricultural use, to supplement farm family income and support the agricultural community.
- (d) Preserve productive agricultural land for food and fiber production.
- (e) Preserve productive farms by preventing land use conflicts between incompatible uses.
- (f) Maintain a viable agricultural base to support agricultural processing and service industries.
- (g) Reduce costs for providing services to scattered non-farm uses.
- (h) Pace and shape urban growth.
- (i) Meet the criteria for certification as a Farmland Preservation Zoning District under s.91.38, Wis. Stats.

**Farmland Standard 2: The proposed use is reasonable and appropriate with alternative locations considered.**

There is no indication in the application that *any* alternative sites were *ever* considered. The Applicant claims it is limited by where aggregate occurs naturally, but aggregate is available throughout Dane County. (CUP App. at 73.) The Applicants do not explain why they did not purchase a different site that would have less impact on neighbors and the surrounding community and have not satisfied this standard.

**Farmland Standard 3: The proposed use is reasonably designed to minimize the use of agricultural lands.**

The CUP Application states that the “site will be developed incrementally” to preserve farmland (CUP App. at 73), but it provides no detail as to what that means. In any case, developing the mine incrementally does not mean farmland will be preserved – it only affects the rate at which it is consumed by mining operations. The land may never be returned to agriculture given the application’s reference to recreational use after reclamation. (*Id.* at 16.) It also does not discuss whether reclamation to agriculture is even possible given the level of ground disturbance that mining will cause.

**Farmland Standard 4: The proposed use does not substantially impair the current or future agricultural use of surrounding parcels.**

The application completely fails to discuss current or future agricultural use of surrounding parcels. There is no substantial evidence to support this standard. (CUP App. at 73.)

**Farmland Standard 5: Construction damage to remaining lands in agricultural use is minimized and/or repaired.**

The application completely fails to discuss repair of damaged agricultural lands, whether it is possible, and what repair methods are possible. (*Id.*) Its only discussion regarding “minimization” of damage is that trucks will use dedicated haul routes within the site. It does not satisfy this standard.

**III. The Town Should Disapprove the CUP Application.**

For all of the above reasons, and because the applicant has not supplied substantial evidence showing it can meet the 12 applicable standards, the Town should disapprove the CUP Application.

If Nelson Excavating attempts to supplement its application at or shortly before the public hearing, and supplies new information it should have submitted originally, the Town should not consider this information, or at least, it should hold another hearing before considering it. That is because the CUP application must be complete at the time of the last notice of the public hearing. As the Wisconsin Supreme Court has said:

unless a zoning ordinance provides to the contrary, a court should measure the sufficiency of a conditional use application at the time that notice of the final public hearing is first given. Such a rule ensures that interested individuals will have a meaningful opportunity to express informed opinions at the public hearings. Indeed, a contrary rule would create a damaging incentive for a conditional use permit seeker to withhold all controversial information from its application until during or after the public hearing.

*Weber v. Town of Saukville*, 209 Wis. 2d 214, 562 N.W.2d 412.

Thank you for your consideration. We'd again ask that the Town recommend denial of the CUP.

Sincerely,

PINES BACH LLP

  
Christa O. Westerberg

COW:see

cc: Henry Spelter  
Gail Simpson  
Atty. Allen Reuter  
Pamela Andros

Re: Hahn CUP, Center Rd. Quarry, Town of Rutland  
Comprehensive Plan

From: Joanna Kessenich <joannakessenich@gmail.com>

Sent: Thu, Apr 21, 2022 at 3:51 pm

To: Dawn George, Town Clerk

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Dear Town Board and Planning Commission,

We recently moved away from the Town of Rutland neighborhood. For over 30 years, we owned the home and 12 acre property directly adjacent to the small quarry on Center Rd. Before we purchased it in the very early 90's, we did extensive research and found that the old pit was not viable as a profitable quarry and we could purchase our home without concerns. Over the years, we put several hundreds of thousands of dollars' worth of improvements into the home and property.

For most of those years, the quarry sat dormant. Several times over the years, it was used to provide gravel for some small local jobs. When Kevin Hahn bought it a few years ago, he was able to use the property in several ways including storage, receiving and selling dirt/fill, and to quarry for gravel. We were very surprised to see just how much stone he was able to wrest out of that property. He blasted to go much further down than ever expected, had to pump out thousands of gallons of water, and he quarried all the way to the edge of the acreage. By doing this, he changed what was a quiet, walkable neighborhood into a thoroughfare for a trucking business.

For us personally, the main concern was the noise it created. Because our house was located only a few hundred yards from the pit, we could no longer enjoy the peace and quiet our yard always provided. Dirt from the pit covered our screen porch, outdoor furniture and pool. Our biggest concern was trying to sell our home since we were planning to retire and move. We would no longer be able to market our property as a beautiful, peaceful home in the country, as we had always known it to be.

For most of the neighborhood, the increased truck traffic is the primary problem and concern. According to the Town of Rutland Comprehensive Plan, the town is to cater to pedestrians and biking, not commercial trucking. Over the many years, since the original gravel pit was dormant, there have been hundreds of residential homes built. This is the personality of the neighborhood and is in compliance with the town's plan. If an established, working gravel pit had been in use all these years, those homes would never have been built.

The concern at hand is the proposed Conditional Use Permit. Kevin Hahn wants to expand his business (which has already caused many problems), to the 35 acres he recently purchased south of his small gravel pit. This would increase the size of the Hahn quarry from about 10 acres to over 40 acres. This is extremely significant and much too big of an operation for the quiet neighborhood to handle. It is one thing to operate a small, already established pit, but to go to a major operation is just not justifiable when considering all the people who live in the neighborhood. Kevin has explained that he is a small family business and won't be able to grow very quickly. However, if given his CUP, he has the right to grow as big as he wants to, and has the right to sell to a much larger operation, (for quite a profit, I might add).

I will conclude this letter by admitting that the only option we had was to sell our house and property to Kevin Hahn. If the gravel pit had stayed dormant, we could have sold our house for an estimated \$300K more. Because of Kevin's operation and his proposed expansion, we simply could not justify hiding information or lying to potential buyers about our concerns. The only buyer for our home and property was Kevin Hahn himself.

A family home is most often our most precious possession and our biggest investment. Protecting this for hundreds of families should be the utmost concern for this residential neighborhood and should be considered over establishing new commercial business.

Joanna Kessenich  
Recent, former owner of 439 Center Rd.  
Town of Rutland

## Kevin Hahn - Nelson Excavating Quarry

From: Eric Alfson <ealfson@brookstractor.com>

Sent: Thu, Apr 21, 2022 at 3:07 pm

To: Dawn George, Town Clerk

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image002.png (32.2 KB)

To whom it may concern-

I am writing in support of Kevin Hahn's proposal to extend a working quarry in the Town of Rutland. Kevin is a great partner with our business here at Brooks Tractor in Sun Prairie Wisconsin. We have over one-hundred employees in Wisconsin with up to thirty locally in Dane County. Kevin's business with Brooks Tractor helps keep these workers employed so they can contribute to our local economy. Kevin runs a top-notch operation while supporting Dane County's economy. Supplying locally sourced aggregates, purchasing equipment and goods, as well as performing industry leading work for new and existing local business are only a few ways Kevin Hahn supports the local economy. Please give this proposal your approval to promote a business-friendly environment in Dane County.

Thank you,  
Eric Alfson

**Eric Alfson | Account Manager**

**Nothing Runs Like a Deere**

1900 West Main Street,  
Sun Prairie, WI 53590  
Office: 608-837-5141 ext. 1008  
Cell: 608-220-9895  
Fax: 608-837-4012

# MARY'S TRUCKING INC.

3759 ROBERT NELSON LANE DEERFIELD, WI 53531  
\* PHONE: (608) 764-8301 \* FAX (608) 764-1487

April 21<sup>st</sup> 2022

Dear town of Rutland Attn: Dawn George,

I am glad to see the town of Rutland looking into allowing the conditional use permit to Nelson Excavating and Sons LLC as a recycling and raw material pit. It is nice that there will be a place to recycle asphalt and concrete and mineral products being that Dane county is all for recycling.

Thank you,

Mary laPlant- Owner of Mary's Trucking Inc

1:25 ↶



Jennifer's post



Hello Concerned Citizens of Rutland, regarding the proposed NEW QUARRY, I'm giving my opinion that this new quarry will not benefit the country community that the majority of residents aspire for when moving to the Town of Rutland. If this NEW QUARRY passes we residents will become a local industrial park of Dane County because of the neighboring privately owned quarry on Union Road. It is with great dissatisfaction that current longhaulers in the town have tried to overrun our peaceful country environment for their deep pockets to benefit family beneficiaries. Please heed warning that your land values will decrease and the township will become a sister community to a quarry association that doesn't care about peoples livelihoods. Thank you.

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 Comment

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Home



Watch



Marketplace



Notifications



Menu



## Photos for testimony for Hahn CUP

From: Kent and Mary Knutson <knutson14@hotmail.com>

Sent: Thu, Apr 21, 2022 at 2:31 pm

To: clerk@town.rutland.wi.us

[Image.jpeg \(1.5 MB\)](#)   [Image.jpeg \(1.5 MB\)](#)   [Image.jpeg \(1.4 MB\)](#)

[Image.jpeg \(1.4 MB\)](#) – [Download all](#)

In my written testimony, I said that we could see Hahn's existing quarry and the land where he wants to put future quarry, according to his CUP. He states in his CUP that his existing quarry is NOT visible on all sides. These photos prove that this statement is NOT true. These photos were taken from my home at 4061 Old Stone Road on April 21, 2022. The photos without the heavy equipment is the land for his future possible quarry.

Thank you,  
Mary Knutson





Fwd: DCPGUP-2022-02563. Kevin Hahn

From: Kent Knutson <kknute4061@gmail.com>

Sent: Thu, Apr 21, 2022 at 1:15 pm

To: Dawn George

Sent from my iPad

Begin forwarded message:

**From:** Kent Knutson <kknute4061@gmail.com>  
**Date:** April 21, 2022 at 1:04:02 PM CDT  
**To:** Kent Knutson <kknute4061@gmail.com>  
**Subject:** Fwd: DCPGUP-2022-02563. Kevin Hahn

There are 9 emails total.

My name is Kent Knutson, I reside at 4061 Old Stone Road. I oppose the CUP application because has a number of inaccurate statements, false truths, or out right make believe.

In 2020 this same site, the same person, for the same purpose applied for a CUP. The Rutland township board unanimously declined the CUP because it did not meet 4 of the 8 standards. Dane County also denied the Cup. Today we have a 75 page application with several pretty words like, wooded, protected view, sandhill cranes. No matter how many adjectives you add this still does not pass the sniff test.

Kevin, you and I sat on the front stoop of the Rutland town hall. In our discussion you shared with me how a family located close to your current quarry has a family member who it traumatized by the blasting shock wave and noise. You said you have had multiple conversations with them. I am here today to speak up for those who are unable or can't speak up for themselves. You yourself had mentioned the severe hearing loss for working around the machines. The activity of this business does and will make living next to the business bearable.

Page 8 (Aesthetics). You state the surrounding landscape shields the quarry view from all sides. This statement is not true. I have full view of all of your running equipment, trucks, excavators, skid loaders, trucks and personal pickups. I watch the crusher, the excavator, and several trucks move about every day. I provided a photo of my view every day. The new CUP is the same view.

Page 8 of the application also reads, existing wooded around the perimeter of the site will be preserved throughout the life of the project.

I have provided a photo that shows the only (wooded) area around the project are the scrub trees/brush/ noxious weeds on you property line along Center Road. There were about a dozen trees that you have bulldozed down. It is a open view from most all viewpoints except the applicants personal residence.

Page 9 you state that the noise level is similar to traffic, harvesting, cultivating.

Decibel noise level.

|                |         |
|----------------|---------|
| Combine        | 81-83   |
| Stone crusher. | 85      |
| Harley.        | 70 - 80 |
| Car.           | 50      |

The difference between a 50 decibel and 70 decibel is 20 Times louder.

You will see photos provided that there are 5 homes, some less than one block from the proposed CUP. The length of one sitting block ranges from 300 feet to 500 feet.

Now let's say you wake up one morning and at the end of the block you hear a guy revving up his Harley. Now he keeps it at full throttle for 6 hours. Then one or two of his buddies show up and rev theirs up for the same 6 hours. They do this for 200 days a year, some weekends and holidays. That is what it is like living next to a quarry

I spent 15 years farming I never at any time ran my combine for 8 -10 hours per day in a stationary place for 200 plus days per year. Most days you run the crusher, with the excavator, and a cat or pay loader with backup beepers and truck vibrates all at once. This is 85 decibels times 3 or 4 machines. A minimum of 200 to 250 decibels.

This does not meet the standards of our comprehensive plan. This noise will be with one city block of some of the existing homes. Some homes are one to two city blocks away from the proposed site. There is also a large development 6 blocks to the east of the proposed CUP.

Page 5. You state that you will be pumping water from the new quarry into your existing quarry and from there you pump the water in the road ditch and washing out neighbors driveways. Then the water collects and pools in the neighbors pasture. This has drowned out the grass and killed an entire grove of 80 year old oak trees. The old quarry cannot be used as a holding pond for the new quarry. You have been doing this practice for years. This does not meet standard 3, it does impede the normal development.

Sent from my iPad

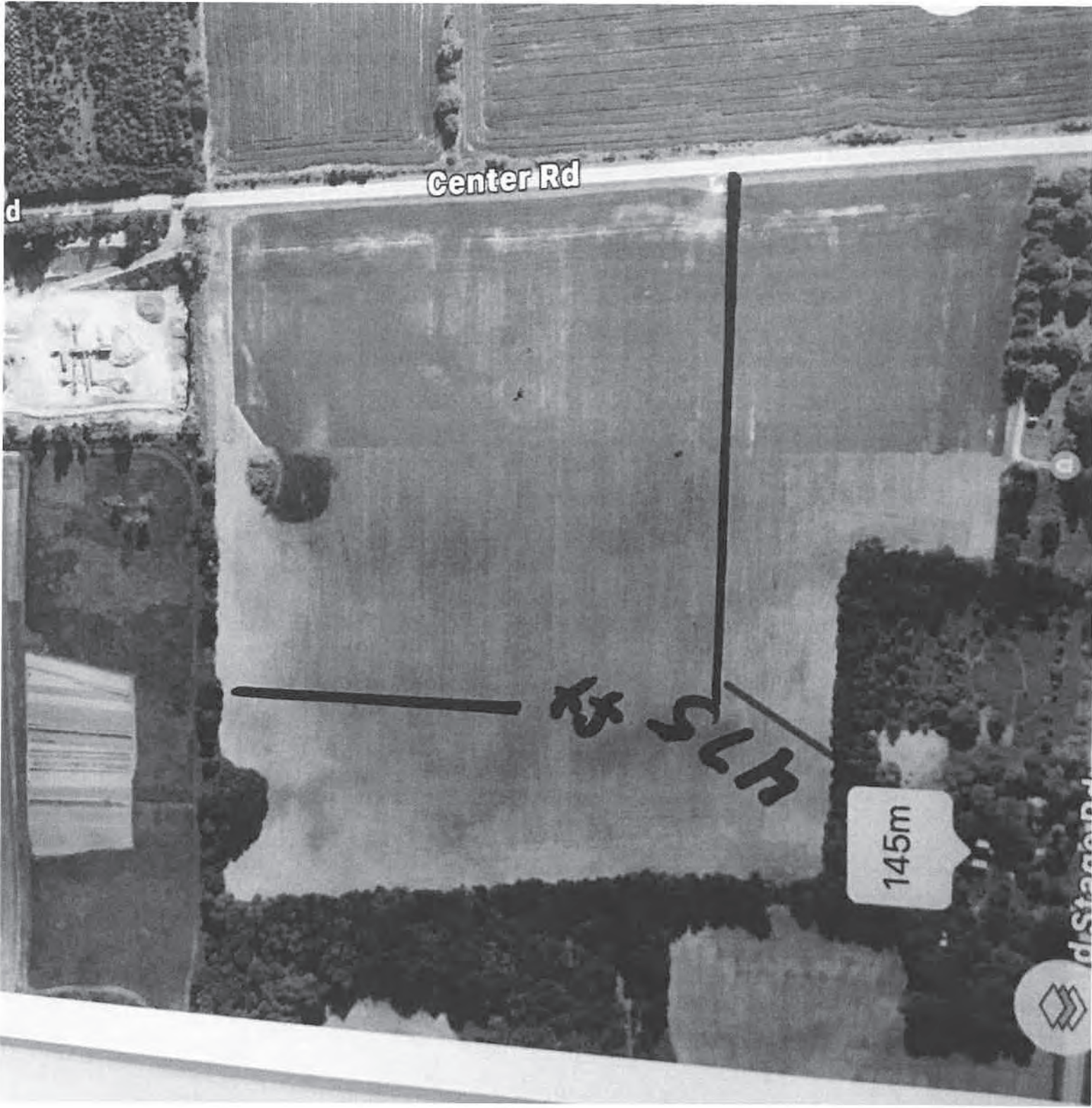
1980-1981 Survey Map  
Page 1



420'

130m

cometer



Center Rd

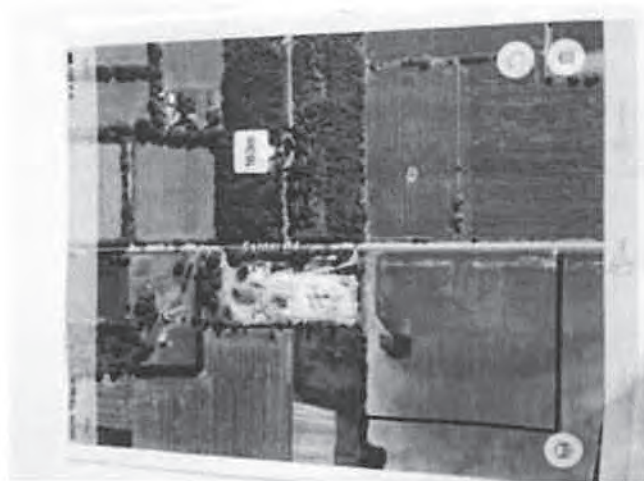
d

475  
SLH

145m



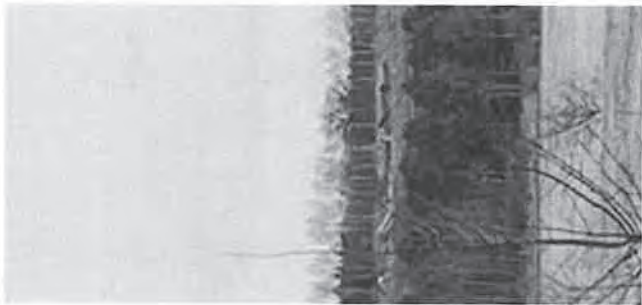
d/Star











To Town of Rutland

My wife and I are both strongly opposed to the expansion of the gravel pit on Center Road.

We live at 1409 Lake Kegonsa Road. This is a mile south of the gravel pit in the Town of Dunn, located on Rutland Dunn Townline Road. This gravel pit is expanding. It is horrific to consider what was a huge farm field will become an open pit gravel pit. They've already put up berms which may hide the sight of an ugly open pit mine from cars. However the noise and the smoke of operations will not be hidden. I feel very sorry for the immediate neighbors of this expanding gravel operation. Even from a mile away we can hear the pit operating, even the back up beepers of trucks.

At least a few days every week a parade of dump trucks travels on Lake Kegonsa Road. Sometimes it is a truck every five minutes, starting at 7 AM. Full ones go south to Hwy 138, empty ones return north to the pit. We can see and hear these from our house. It is only a matter of time before a bicyclist or a runner/walker will be injured or killed by a dump truck from this town of Dunn gravel pit.

We speak from experience already living near an operating pit. We do not want another pit to inflict the same noise, dust cloud, and truck traffic on what are now quiet roads and neighborhoods near Center Road.

Those within a mile of the Center Road pit will experience what we do now. At 7 AM the noise from the pit will start, along with truck traffic. This most definitely goes against Rutland's Conditional Use Permit standards:

- Stndrd 1 the noise of the Center Road pit and the truck traffic will most definitely be "detrimental to our neighborhood, health, safety, comfort and general welfare."
- Stndrd 2 the noise and traffic "impair and diminish" the "value and enjoyment of surrounding property." Property values, especially those near the pit will plummet as will the quiet quality of life Rutland residents desire.

Referring to Rutland's Comprehensive Plan, the Center Road pit will increase the potential for traffic accidents (Goal 2), will decrease pedestrian and bike travel (Goal 3) and it most definitely does not enhance the growth of agriculture since it will make an ugly pit out of good farm land (Goal 6), nor does it foster the rural character and agricultural land preservation (Goal 7).

Years ago, our Town turned down the construction of a 500-foot-tall radio tower on Old Stage Road. Similar objections were raised, not part of the rural character of our town, etc. The tower would have been ugly and unsightful, but at least it would have been quiet. The Center Road pit would be ugly and unsightful but also noisy, destructive and dangerous.

Please vote against the Center Road gravel pit expansion.

Thank you,

Tom Umhoefer and Alison Townsend

## Center Road Gravel Pit

From: Tom Umhoefer <tom.umhoefer@gmail.com>

Sent: Thu, Apr 21, 2022 at 12:55 pm

To: clerk@town.rutland.wi.us

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Gravel Pit.docx (21 KB)

Town of Rutland,

My wife and I would like to express our opposition to the expansion of the Center Road gravel pit. Please see the attached that outlines and explains why we think the gravel pit expansion goes against Rutland's Comprehensive Plan, and the Eight Standards of our Conditional Use Permit.

Thank you,

Tom Umhoefer and Alison Townsend  
1409 Lake Kegonsa Road, Stoughton, WI

--

April 20, 2022

To: Rutland Town Board and Planning Commission

From: Maureen Rowe, 798 Center Rd

RE: CUP application #2022-02563 (Quarry)

I oppose the Conditional Use Permit for the quarry because the application has not satisfied Standard #7, compatibility with existing Comprehensive Plans.

Despite the application's brief statement that "is consistent with the Town's Comprehensive Plan", absolutely no specifics are provided to support that claim. It is clear the new quarry is NOT consistent with the existing Rutland Town Comprehensive Plan. Here are some examples:

1. *Town Plan Page 2.3 regarding Goal 2 Transportation: Quote: first objective is "Reduce the potential for traffic accidents". Fourth objective "Reduce the amount of non-local traffic passing through residential areas".* **The application lists no traffic study and is silent as to the increased truck traffic volume. It will certainly increase the potential for traffic accidents. Truck traffic from the quarry (opened under the DOT rule) has increased on Center Rd significantly already, often one every 5 minutes.**
2. *Town Plan Page 2,4 regarding Goal 3 Pedestrian and Bicycle Travel: Quote: Develop a network of pedestrian and bike ways throughout the community and with other areas in the region. 1. Increase opportunities for pedestrian and bike travel within the Town. 2. Increase pedestrian and bicycle safety.* **The Town has clearly stated its preference for enhancing pedestrian and bike networks and opportunities. Approval of this CUP runs counter to the stated goal. The application does not address how its operation will "increase bike safety" or at minimum be neutral to it.**
3. *Town Plan Page 2.5 Goal 6 Agricultural Preservation District . Quote: The Plan's stated goals are*
  1. *Preserve existing farm operations.*
  2. *Permit development that enhances the growth of agriculture in the Town.*
  3. *Preserve the rural character of the Town.*

**Converting nearly forty acres of prime farmland into a commercial extraction operation for the next 50-80 years runs counter to the stated goal of "preserving farmland". The application does not address how its operation will "preserve farmland". It merely says the site will converted back to farmland after extraction. What is not stated is this is likely to take 80 years. We note the existing quarry has been operating since 1937 and is still not reclaimed.**

4. *Town Plan Page 2,8 regarding Goal 7 Land Use: Quote: Create a pattern of development that fosters the rural character and agricultural land preservation and Maintain the agricultural land*

base to the greatest extent possible **The Town has clearly stated its preference for ag land preservation. Approval of this CUP runs counter to the stated goal.**

Town Plan Page 2.10 Goal 10 Economic Development Quote: " In agricultural areas of the Town allow related commercial uses only if a rural location is required to serve farmers ". And " To limit any non-agricultural commercial or recreational use to small, rural-oriented businesses which provide services needed by residents of the town. Such uses must meet the following criteria prior to zoning approval: a. Be consistent with agricultural policies for farmland preservation. b. Have access to a state or county highway. c. Shall not adversely affect the traffic capacity and safety of the highway". **Approval of this new quarry runs counter to the stated goals of the Town's Plan. The application does not address how its operation will "serve farmers" or "provide services needed by the town residents". There are many other quarries nearby, so this quarry does not provide a service needed by the residents**

8. Town Plan Page 3.3 Quote: *The issues identified as "highest importance" in a resident survey were:*

*Pedestrian safety*

*Increasing traffic levels*

*Safety concerns at problem intersections*

*Farmland loss*

*Encroachment of incompatible land uses*

**Approval of this quarry and the logical increase in large truck traffic runs counter to what resident's feel are highly important.**

**Three other items listed in the Plan are important to note:**

**Page 3.7 Quarries or extractive operations are not listed in the list of "desirable activities"**

**Map 5-1, 5-2 The site is identified as "Prime Farmland" and as "Agricultural Preservation"**

**Map 6-2, 6-3 Center Rd is identified a future bike route ... as well as a future scenic "Rustic Road"**

None of the above items are addressed adequately in the CUP application.

I urge you to deny the CUP. It aligns with nothing in our Town Plan.

**Maureen Rowe**

Dear Town of Rutland Planning Commission and Town Board

I want to provide a written statement regarding CUP 2022-02563 by Kevin Hahn for a non-metallic extraction operation.

I want to register that I am neither for nor against this CUP but I wish to write for informational purposes only.

I completely understand that quarries are a necessity for our society. As you may know, I purchase product from quarries multiple times a year for my farm. That said here are the things that I believe the Town needs to answer or gain information on prior to approving or denying this quarry;

If there is a chemical spill, what will the process be to prevent ground contamination?

If there is a non-planned explosion or a blasting goes wrong, will there be someone on site that can provide emergency care?

When water is pumped into the road, how will the quarry ensure that harmful chemicals or contaminants don't get flushed down the hill to neighbors and their ground water?

One argument heard is that this quarry is a small family business. What will the Town do to prevent this family from selling some day to a large quarry operator like Wingra? We all know what the large quarries look like, sound like and smell like. If this happens is this truly what the Town meant when writing in its comprehensive plan "Currently Rutland is a rural community that is home to active agricultural lands, natural open spaces, and low density residential development. Residents value the quiet and the sense of community this rural character offers"?

Many have said homeowners bought land and built beautiful homes next to a quarry so they should have expected the traffic and noise. But I believe it is more likely that the quarry was in its non-functional mode. But even with that said, I think we can all assume that a quarry that has been in existence since the mid 1930's is almost at the end of its life. A homeowner can "put up with" another 5-10 years of being a neighbor to an active quarry. If the extension is approved, those same neighbors and the entire neighborhood will have to plan on an active quarry being their neighbor or in the neighborhood for the remainder of their lives and possibly their children's lives.

Everyone knows that my biggest issue is the constant sound and increased number of dump trucks running by my house. The Hahn's say there will only be 50 trucks a day using this proposed quarry. That means there will be 100 trucks passing the homes going to and from this quarry. Can the Town prevent that number from increasing? Can the Town require truck drivers use different routes so no one road

is over used, ruining the lives of those who live on it? When I have asked these questions in the past, I have been told that the Town can't control where trucks travel as they have a legal right to use the roads.

I have read information from a licensed realtor that home values will go down if they are next to a quarry or on the route of heavy dump trucks. My farm is my largest asset. I am sure this is the same for all the homeowners that live near this proposed expansion. This year the Town is undergoing a revaluation for property assessment. Can the Town absorb the lower assessment values of all the homes affected by this expansion? How will the Town handle the possibility of a lower tax base generated by home property taxes to conduct Town business? I am sure many of these homeowners affected will be closely watching the revaluation of their properties if the CUP is approved. I understand that a home in the Town of Deerfield had their assessment cut in half due to the fact that the home was next to or close to one of the quarries within that Town.

I have expressed my concern that Rutland may become one quarry after another because we have been blessed or cursed by having a lot of land with the appropriate material under our beautiful farmland. What is the Town's plan to limit the number of quarries within its boundaries? Is it even legal for the Town to have a limit on the number of active quarries? Will the Town be opening a "Pandora's box" if they approve this CUP? If homeowners give up and believe that their property is worth more as a quarry than a home or farm, can the Town deny future quarry CUP applications? Is the Town ok with having the landscape change from beautiful homes and farms along its roads to large piles of rock and sand?

At the Annual Town meeting that occurred on April 19<sup>th</sup> Chair Zentner spoke of highlights for the Town of Rutland in 2021. One of those highlights was a successful bike race event. This race lasted only a couple hours and was such a success they want to come back in 2022. An event like this is completely in line with the Town's comprehensive plan in my opinion and something we should embrace. That said, I understand that the two quarry operators were contacted and asked to avoid the bike race route. They both agreed to do this. Why was this request made? Is this the Town's own admission that it is unpleasant and/or unsafe for bicyclists and pedestrians to have dump trucks passing them while on our roads? If the answer is yes, then why would the Town want to promote this unpleasant or unsafe activity on a daily basis for the people that live within its boundaries?

The Hahn's themselves have said that if this CUP is not approved, they will fill in the existing 10-acre quarry. They have said this will cause an increase in dump truck traffic like never seen before. This might be true, but eventually the quarry will be filled and after reclamation, will be farmland again. Then there will be no dump trucks going to that location. So this will be a temporary disruption to the rural quality of life we all desire, unlike the increase in dump truck traffic that will occur as a result of an approved expansion that will go on for 50 plus years.



This whole thing has become sad, disrupting, quality of life compromised, and just downright depressing. Many residents feel the loss of living in the country. Our roads getting ruined and residents have to pay for them through taxation. Our homes will lose value as stated above. The unknown if what if it is sold to a bigger operator? Can they come in and then put in a tar pit and then it is another issue? I feel the town needs to research all environmental aspects, loss in revenue, cost to road repair, and the so many questions I have listed in this letter before any decisions should be made. Hoping there will be peace in my life again.

Concerned Citizen,

Mary Celley

April 20, 2022

To : Rutland Town Board and Planning Commission

From: Bill Boerigter, 798 Center R

RE: CUP #2022-02563 (quarry)

I oppose the Conditional Use Permit for the quarry.

I would like to make two points:

- A. I would like refute the idea statement I have heard: that since “the old quarry existed when we moved in”, we should somehow be supportive of this new proposal (so-called “expansion”).
  1. When we moved to Rutland 23 years ago, the existing 10 acre quarry was dormant, and we were told it was ‘at the end of its useful life’.
  2. There has been sporadic activity over the years where various operators have tried to extend the quarry life a bit. I have never complained to the Board or the operator, even during the occasional “heavy traffic” times, especially as this traffic was explained as “re-filling and re-claiming” the old quarry.
  3. However, this CUP is calling for quarrying on a scale unimaginable by those of us who bought homes in Rutland in the last 25 years. Nearly four times the size, and just starting, vs. winding down via reclamation. Please do not equate the noise and traffic of a small, nearly played-out quarry to a brand new operation almost 4 times as large.
  4. As many of you know, the recent DOT roundabout construction on Hwys 14 and 92 has allowed the new area to excavate (and truck) sand and gravel, even though the CUP is not approved. We are getting a taste of what it will look like, for the next 50-85 years. The truck traffic on Center Rd lately is unbelievable. Its terrible. It starts at 6.45 a.m. and I can hear trucks grinding gears perhaps every 5 or ten minutes as they roll by my house. I am now retired and its literally ruining the enjoyment of my property.

My second point:

This decision is about the **use**... a fairly large-scale commercial enterprise and the noise and traffic that comes with it.

This is *not* about Mr. Hahn. I have heard and seen many comments about Mr. Hahn being a “good guy” and a “good neighbor” and a local man just trying to make a living. Those things may all be true but are, in my opinion, irrelevant. You are not approving *Mr. Hahn*, but a noisy commercial use that brings a ton of truck traffic. What prevents Mr Hahn from selling the operation to Wingra Stone in one or two years? Why wouldn't he? A large corporation is going to operate this site full-bore and all the residents get the consequences. What does the Town get out of an approval to this CUP (which does not even meet the criteria in our Town Plan)? Nothing as far as I can tell. We note the existing quarry has had activity since at least 1937 and it is still not reclaimed. That is 85 years. Approval of the quarry will

negatively impact all Rutland residents for almost three generations. This is not like a conditional use permit for an artist studio, taxidermist or horse boarding where Rutland residents might benefit from the service, or where the traffic is minimal or the use itself is consistent with farming uses and our Plan. It is the exact opposite, with Rutland residents receiving all of the negative impacts of large truck traffic, noise, danger and expense...with exactly zero of the benefit.

There are far too many negatives and I ask the conditional use permit be denied. Thank you

Bill Boerigter

April 20, 2022

To : Rutland Town Board and Planning Commission

From: Bill Boerigter, 798 Center R

RE: CUP #2022-02563 (quarry)

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This decision is about the **use...** a fairly large-scale commercial enterprise and the noise and traffic that comes with it.

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There are far too many negatives and I ask the conditional use permit be denied. Thank you

Bill Boerigter

## A note from a collection of anonymous citizens of Rutland

From: Public Interest <publicinterestrutland@gmail.com>

Sent: Thu, Apr 21, 2022 at 6:00 am

To: clerk@town.rutland.wi.us

Cc: pcchair@town.rutland.wi.us,  
[supervisorndveck@town.rutland.wi.us](mailto:supervisorndveck@town.rutland.wi.us),  
supervisorwilliams@town.rutland.wi.us,  
supervisorpostel@town.rutland.wi.us,  
supervisorporter@town.rutland.wi.us, chair@town.rutland.wi.us

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This note is an attempt to bring some logic and direct discussion to an issue that has been polarizing in our small community, the proposed expansion to quarry (or mineral extraction) operations into a new parcel of land on Center road via the CUP submitted by Kevin Hahn.

This note is being submitted anonymously in light of attempted intimidation, and to ensure that it is just a discussion of facts without emotion, compiled by several concerned residents of our town. Escalation of hostile discourse from all sides, removal of signs on private property, and active quarrying activities taking place on the new site in defiance of the previous CUP denial has created an uproar and disruption to our community.

Our intent is to help the members of our town board, our community, and Kevin understand that while we are sympathetic to the commercial future of Nelson Excavating and understanding of the role of the stone they provide the residents of our community - the creation of a new quarry area into the parcel of land adjacent is unfortunately just something that cannot be allowed. It would be financially negligent for the town and its residents, conflict with many of the eight mandatory CUP standards, and be inconsistent with the town plan.

**Guarantees-** Even if all things considered a CUP is approved, the community has absolutely no legal guarantee that Nelson Excavating, a family operated business by residents of our community, will not be sold out to another entity that does not have the interest of Rutland at heart. As such the appeal for sympathy to a family business creates an unfortunate sort of 'straw man argument' situation.

**Financial Stewardship-** Our small town is not one with a booming budget and unlimited resources. The condition of our roadways is already one of the largest single expenses we have, and an expansion of quarrying work into the future would simply continue an unsustainable cycle of cost that comes at the expense of the taxpayer. It would be a financially irresponsible decision to accept any continued increase in quarrying if the town can not be fully compensated for the damage done by quarry trucking that is currently paid for by the agricultural and residential citizens of our community.

**Town Stewardship-** As in the previous CUP denial, a new quarry space on Center Road is entirely inconsistent with the overall future of the town and the town plan. It would be the permanent destruction of farm land and natural space near the center of our community. While it can be assumed that most, if not all, residents envision a future of our area remaining largely agricultural and rural residential, we all must acknowledge that our proximity to Madison means that growth is inevitable. Having a larger pit mine would limit the options our community has to respond to the dynamic nature of the future.

**Rights of Community-** It is the duty of the town board to weigh in and make decisions based on law, morality, and what is the right thing for the residents of our community. Reaching a conclusion that is "right" often means one or more parties feel they have been wronged, and we acknowledge the difficult position this puts the town board in. We hope it is clear through the points in this letter, current discussion, and the past denial of Kevin's CUP that there is significant negative community impact if the CUP is approved. Making a decision in favor of the CUP expansion provides benefit to Nelson Excavating and to the Hahn family personally, but at the expense of the surrounding community. If quarry operations expand, at a minimum we can expect decreased property values, safety concerns, interruptions to daily life, and impacts to the aesthetic of our area.

**Safety-** While all residents understand a quarry has been in place for quite some time at the current location, over the past decades years this area and community has continually grown and evolved from an almost solely agricultural space to thriving community of rural residences surrounding the

site. The increase in traffic flow of a growing quarry site on already overburdened routes via Center, Old Stage, Old Stone, and other nearby roads presents a tremendous risk to residents,

**Report by Courter Resource Group-** The CUP submitted is largely generated by the Courter Resource Group, which is an organization that specifically exists for quarry and mining advocacy. While they provide many sets of documents and discussion topics, we implore the board to recognize and understand that this is an organization who specializes in mining advocacy in the employ of the CUP applicant - and any technical details they provide cannot be considered in the evaluation as they have a clear conflict of interest. If an expert analysis is warranted and discourse from it to be considered it must come from an independent firm not in the employ of any one individual. Given the potential costs to the community a CUP approval may create, a 3rd party study like this may be warranted, and should be one that is bid out and vetted by the elected town board.

**Natural Resources-** The stone and gravel extracted at all quarries is a critical resource for residents of our area. No doubt this case is being made again as it has been in the past, and almost without exception we all rely on it for our homes, businesses, and roadways. However, it is important for the board and our community to understand that this space on Center Road is not home to a specialty or limited resource that cannot be sourced from more appropriate locations. In fact just looking at the specific mineral noted in the CUP application (Dolomite) and referencing other sources one can see that it is not critical for our society to extract this resource here ( "Dolomite is an abundant mineral in Wisconsin" - <https://wgnhs.wisc.edu/minerals/dolomite/> ). What is rare is a quarry in this location and proximity to future work, and the only beneficiary there is the current or future operator of the quarry as it gives them a financial advantage at the expense of their neighbors. There are over 100 mineral extraction sites in Dane County ( <https://pdf.countyofdane.com/plandev/zoning/MinExtPublicInfo2014.pdf>) and many of them are better suited to safely and economically serve construction efforts.

The points above and all of those presented by our peers over the past years as well as at the public hearing are hopefully enough to make it clear that the future of Rutland cannot include expanded quarrying. In fact, the timeliness of the recent election was considered by many as a referendum on this issue - where Kevin Hahn, whose name was first of the only three on the ballot, received the fewest number of votes of any candidate and instead a write-in candidate was chosen by the community. Like many things that have changed in our area over the past century or more, it is time for quarrying to start to sunset operations in this area. We say this not to target the team at Nelson Excavating, but in order to preserve safety, financial position of the town and individual residents, and integrity of our community.

As such we implore all those who read this to completely deny any expansion of quarrying or mineral extraction, and to do so with a clear conscience knowing that they are making the right choice for the community, the law, and our future.

To Kevin, the Hahn family, and team members of Nelson excavating, know that while there has been an abundance of hostile discourse around this issue the majority of the town wishes you no personal ill or harm - we all want commercial success of our neighbors - however when facts are considered and rights of all citizens in our society are weighed, logic and law dictates the path we all must take.





Everything about this proposal is a traffic conflict . The board should be looking for ways to reduce the current truck traffic and enforce speed limits and engine braking ordinances not considering adding more .

Standard 6:

The current quarry cant even properly fence in the property along the road how is it going to meet other standards of a new larger facility ? Has the township inspected the current operation ?

Standard 7:

Unless the townships comprehensive plan is to make Rutland a mining town with considerably more dangerous constant truck traffic , nosier, less desirable place to live with decreased property values and a majority of unhappy citizen's it does not remotely meet the plan in fact the current quarries are a detriment to it now. There is multiple quarry's already in operation in the immediate area there the cost to the quality of life and safety is to much .

Standard 8:

Digging a multi acre hole in the middle of farm field is in no way shape or form preserving farm land.

I am attaching 2 pictures I screen shot from two videos I have . One is of a Dane county truck empty heading east to a quarry that nearly hit me last October going over 70MPH it was over 75 MPH at one point just past Dawn Georges house and one heading west loaded just before the Old Stone Old stage intersection near my house doing nearly 60 MPH less than a quarter mile before the HWY 14 stop sign . I have video to back up what im saying and I will be more than happy to provide it .

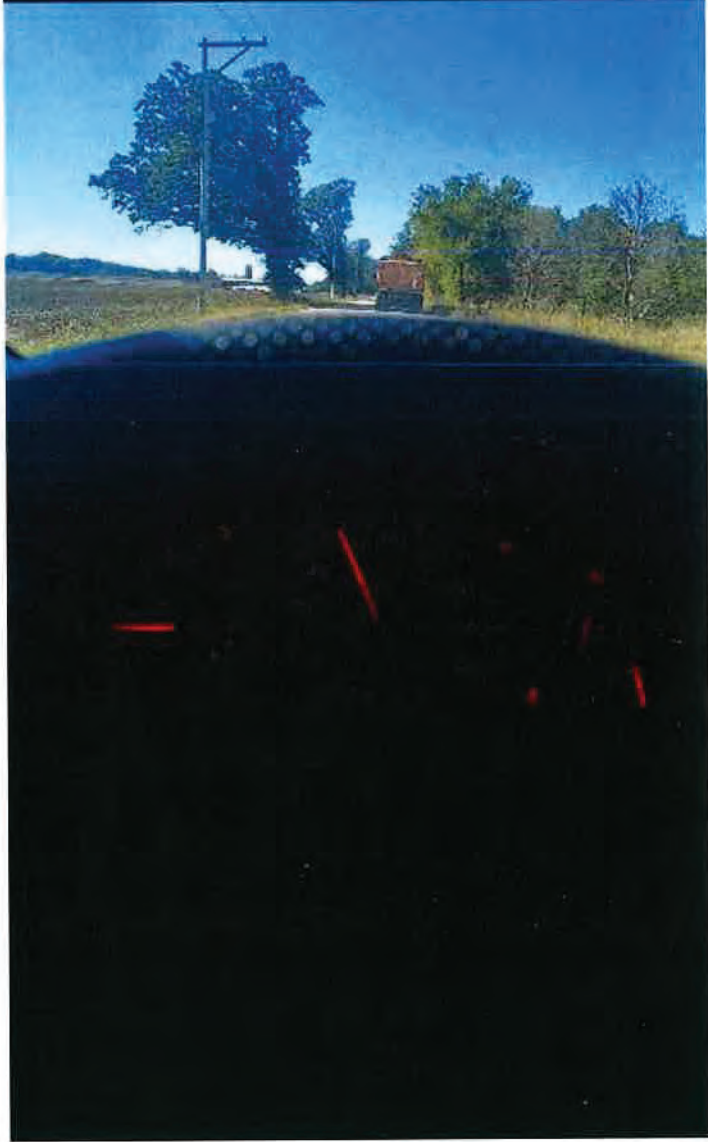
A new quarry bringing more of this to our roads or not.

THIS EXCESIVE SPEEDING NEEDS TO STOP AS DOES THE ENGINE BRAKING AND SKIDDING DOWN THE HILL TO THE HWY 14 STOP SIGN!

Sincerely

Robert Marcussen  
(262) 501- 2468





## CUP Center Rd. gravel pit

From: Eric Bachhuber <ericfbachhuber@gmail.com>

Sent: Wed, Apr 20, 2022 at 9:10 pm

To: clerk@town.rutland.wi.us

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Greetings,

This message is to provide written comments to the board concerning my thoughts on the proposed expansion/ creation of a new quarry on Center Rd. Any CUP approval must meet all 8 of the standards. I believe this CUP fails to meet several of those standards. My interpretation and thoughts on how it relates to the 8 standards that the CUP must meet:

Std 1. Approving the cup will lead to an increase in dump truck traffic. I and my family enjoy walking the dogs, jogging, riding bikes, and other activities on the road. The increase in dump truck traffic will make those activities less safe, enjoyable, and pleasant. Most importantly the added danger. I should be able to feel good about letting my kids ride their bike on the road. As Rutland continues its transition to more rural/residential, this conflict with pedestrians will only continue to increase.

Std 2. This mirrors much of what is listed for std. 1. Using the road will become more dangerous and unpleasant. Even mowing the grass will become more dangerous. Enjoying the peace and quiet will be negatively impacted by the substantial noise a dump truck makes cruising down the road.

Std 3. I think few people would want to live near a gravel pit with heavy truck traffic. It will render the surrounding area less desirable for the future development. That will lead to reduced future tax dollars our community uses to maintain services - such as roads. People will choose to live elsewhere.

Std 4. I have seen when jogging past the pit that water from the pit is pumped into the ditch along the side of the road. I believe that drainage travels across Center Rd and then crosses Old Stage Rd and empties into the wetland and creek that is situated between Center Rd and Lake Kegonsa Rd. Eventually flowing into the Badfish creek and then Yahara river. I question the legality of this. My understanding is you can't make your water somebody else's problem. How clean is that water?

Std 7. Approval of the CUP is not consistent with multiple elements of the Rutland Comprehensive Plan. Center Rd is designated as both a future "Rustic Rd " and also a future bike route. The future bike route is incompatible with actions that will lead to any increase in heavy truck traffic. It is a basic safety issue not to mention the general unpleasantness of the truck traffic. Center Rd is hilly and has several blind hills. It is not a good route to encourage additional truck traffic. It is a safety concern. Agriculture will be reduced and the "rural town feel" will be skewed towards an industrial feel. A large gravel pit that people do not want to live near will encourage additional operations that will continue to degrade what the town of Rutland's comprehensive plan values. A rural agriculture/ rural residential place to live.

Other important factor-

There is no shortage of gravel for town residents. There are several active pits in and near the township. If town residents want gravel they have several local options to contact.

Additional heavy truck traffic is hard on the roads that the town struggles to maintain. Additional maintenance will be required that incur costs.

Groundwater - pumping the water out of the quarry will impact wells in the area.

Wetlands - Dumping the water to runoff into wetlands is irresponsible at a minimum. They are sensitive environments that need balance.

I believe the CUP should not be approved because it clearly fails to meet multiple different standards that it is required to meet. It will reduce potential tax base and cause additional maintenance costs. The safety issue is extremely important to me.

Thank you

Eric Bachhuber  
632 Center Rd, Rutland



### **Concerns with Approving CUP 2022-02563**

This CUP deals with approving a significantly expanded quarry on the south end of Center Road. Although there are a number of other issues associated with this request, my primary focus is on traffic concerns as they relate to Standards 1 and 2 of the eight standards to be met in obtaining a CUP. We live at 393 Lake Kegonsa Road, which is on the south end of the road.

A few years ago, as Kettle Park West was being built up on the far west side of Stoughton, there was a heavy demand for gravel from a pit to the south of us. As a result, we had dump trucks flying by our house, which is close to the road, every 4 to 5 minutes. They did not appear to be adhering to the 45 mph speed limit for this road. Having to put up with this noise for several hours on most days became very aggravating. We also felt this traffic to be a safety hazard that limited our willingness to walk our dogs along the road when the trucks were operating. Any bikers using that stretch of road must have felt intimidated.

Another result of this constant traffic was that the surface of our road deteriorated rapidly. A year or two later the town had to completely reconstruct the road in order to keep it safe for traffic. Based on our experience, opening a new quarry that is 3 to 4 times the size of the present quarry on Center Road will lead to similar experiences for the residents of Center Road, especially those residents on the south end of the road. If the quarry expansion is approved as requested, I fully expect that the town will have to reconstruct Center Road within two years of starting operation of the expanded quarry. There will also be impacts on Old Stone Road, Old Stage Road, and other stretches of Lake Kegonsa Road.

One other concern is blasting. I have not read the CUP application so do not know if much blasting is expected to occur. In my experience, the present quarries in this area only set off explosions on rare occasions. When those explosions occur, they often shake our house to some extent. If blasting is to become more prevalent with the new quarry, residents living closer to the site may face significant issues in maintaining the structures of their houses.

Although my wife completely opposes approval of this CUP, I would accept some expansion of the current quarry on to the new site. My primary objection is to the size of the proposed expansion, which does not seem to fit the Rutland Comprehensive Plan or meet all of the standards needed to obtain a CUP.

Sincerely,

Walter Zeltner  
393 Lake Kegonsa Road  
Oregon, WI 53575

Comment on April 28 Public Hearing re CUP 2022-02563

From: WALTER A ZELTNER <wzeltner@wisc.edu>

Sent: Wed, Apr 20, 2022 at 8:20 pm

To: Dawn George, Town Clerk

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Concerns with Approving CUP 2022-02563 20 Apr 2022.docx (21.2 KB)

Dear Dawn,

I have attached a document detailing my primary concerns with the request for approval of CUP 2022-02563. My wife intends to speak against the application at the public hearing.

Sincerely,

Walt Zeltner

## Letter of Support - Kevin Hahn of Nelson Excavating and Son

From: Kyle Rostowfske <kyle@rs-ins.com>

Sent: Wed, Apr 20, 2022 at 3:09 pm

To: clerk@town.rutland.wi.us

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Dawn,

I wanted to send a quick letter of support for Kevin Hahn of Nelson Excavating and Son. I have worked with Kevin Hahn for many years and he has been an constant professional and has grown his business from the ground up into a great contracting operation. Kevin has always tried to do the right thing and runs his business with integrity. He will continue to help the community by providing jobs for the area and providing excellent services in his field of business. I support the decision of the township of Rutland in allowing Kevin to continue to grow by allowing him to expand the quarry.

Thanks,  
Kyle Rostowfske

R & S Insurance  
PO Box 608  
1520 Vernon Street  
Stoughton, WI 53589-0608

[kyle@rs-ins.com](mailto:kyle@rs-ins.com)  
(608)873-9258 or (608)251-0022  
Fax Number: (608)873-3395

"The finest compliment I can receive is a referral to friends or colleagues from an appreciative customer."

**NOTE: Insurance coverage can only be "BOUND" by your agent --  
Sending an email request "DOES NOT BIND COVERAGE"**

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From: Margo Dilocker <mdilocker.md@gmail.com>

Sent: Wed, Apr 20, 2022 at 5:20 pm

To: [clerk@town.rutland.wi.us](mailto:clerk@town.rutland.wi.us)

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I would like to document my opposition to the quarry expansion on Center Road. I have lived in my home at 4009 Old Stone Rd, Oregon, WI 53575 for over 40 years. The recent increase in truck traffic and gravel pit activity has definitely become an intrusion on the peaceful enjoyment of my property.

The pit may not be in my backyard but when trucks are constantly coming and going from the pit they sound like they are in my backyard. The increase in truck traffic and pit activity cause me to be very concerned about the environmental impact an expanded pit could have in our neighborhood. How will our air quality be affected? What impact will more activity have on our wildlife. My other concern as a retired person living on a fixed income is how the increase in truck traffic will impact our roads and the need for increased maintenance leading to an increase in my property taxes. Living in the country by choice to enjoy peace and quiet and nature sure won't be the case with a very industrial gravel pit in my backyard. NO TO AN EXPANDED QUARRY!!!!