

**Report from Rutland Residents in Response to Courter Resource
Group Operation and Environmental Control Plan
Center Road Quarry DCPUP 2022-02563**

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I. Introduction and Purpose

The purpose of this report is to provide information and evidence from the residents, who are in opposition to the Center Road Quarry, evidence which is contrary to what was presented by the applicant of the Conditional Use Permit (CUP) for nonmetallic mineral extraction. The CUP application does not provide substantial evidence that it meets all 8 standards, and this document will provide substantial evidence that it does not.

For those of you who may not be familiar with the Town of Rutland, two of the four main roads which now serve as highways for dump trucks are known as Old Stone Road and Old Stage Road. These names are historical and date back to the days when stagecoaches traveled between Mineral Point and Milwaukee. Some of the historical homes that were designed by the Graves family are still standing and being occupied on Old Stage Road and Center Road. Center Road is located in the middle of Rutland and now has many residents lining both sides of the street who have invested heavily in their properties and expect peace, tranquility and above all, safety. Lake Kegonsa is the fourth main road which carries residents in and out of Rutland to the community of Stoughton.

II. Background

The residents who built their homes in Rutland between 1996 and 2016 were either not aware of the original small pit's existence, or did not imagine that it would ever change hands and reopen. They did their research and chose Rutland based on the town's vision, which was written into its Comprehensive Plan - a vision which stated that farmland would be open space and would include family farms, specialty farms and organic farms. It also stated that commercial development would be limited, controlled and located near municipal services so as not to impact the town's rural character. **Standard 2 stipulates that the "use, value and enjoyment of other properties in the neighborhood" not be impaired. The applicant states that "continued operation of the quarry will not devalue or interfere with the enjoyment of the surrounding properties," but this has been untrue since 2017 when the applicant acquired the smaller non-conforming pit adjacent to this new site. A heavy volume of complaints to the Town Board since that time provides substantial evidence that residents in the vicinity of the pit and its truck route have already been negatively impacted by this operation.** Documentation of these complaints is provided. Residents' hard-earned tax dollars now go towards the continuous upkeep and maintenance of the four main roads mentioned earlier which is completely unfair to all the other residents in other parts of Rutland who are impacted by deteriorated roads. Every mile of new road costs over \$200,000, but the same roads get repaired over and over in order to accommodate pits and the dump truck traffic that they generate. During heavy operations there are hundreds of trucks running on our town roads per day. Neighbors cannot even open their windows to enjoy the fresh air. Can you imagine this type of disturbance – the noise and vibration in your backyard? Dane County already has numerous examples of the conflict caused by gravel pits operating in residential areas. The decision to allow this benefits only the owners, who are looking to profit at the expense of their neighbors.

The application is also required to be consistent with the Town's Comprehensive Plan, Standard 7. The application simply states that "The operation of the quarry is consistent with the adopted Town of Rutland Comprehensive...which seeks to limit the density of residential development." This is a gross oversimplification and misrepresentation of the Comprehensive Plan. The Plan is a 58 page document that prioritizes quality-of-life, economic and development issues based on resident preferences. It is NOT dedicated to limiting the density of residential development, but discusses all of the factors and best-practices for locating housing within this rural residential community. Rutland has 300 "splits" (potential home sites) within its boundaries. This greatly increases the likelihood of further conflicts with this new quarry site and greater incompatibility with the Comp Plan.

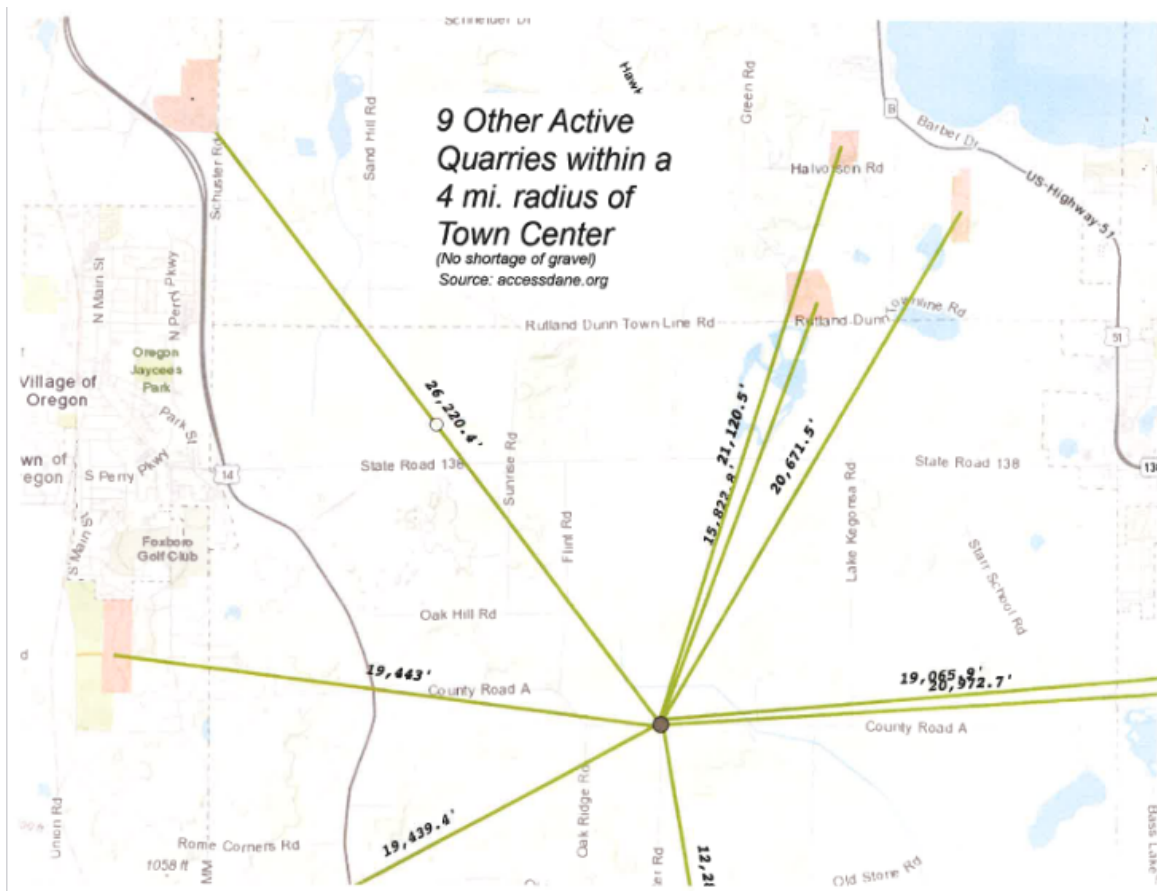
Our Town Chair once said in a letter that she felt fortunate to live on a quiet road without quarry noise, but that does little to serve the needs of the entire town. All residents in the Town of Rutland should be represented, not the wants of one individual.

III. Existing Site Conditions

A. Location, Zoning and Land Use

The 36.7-acre parcel is zoned FP-35. The operation that is being proposed as a new gravel pit is currently considered to be “farmland” but it should really be zoned as a commercial business and pay its fair share of the property taxes to help cover the enormous cost of road repair that is a direct result of truck traffic which is generated by the existence of the mining pit. The cost of seal coating alone costs Rutland \$21,500 per mile. **This CUP does not meet goal #2 in the Comprehensive Plan which talks about reducing the amount of non-local traffic passing through residential areas.** The plan encourages “small, rural-oriented businesses”, not large industrial operations that profit the owners while residents pay to support the infrastructure through higher tax rates.

This gravel pit will become a neighborhood blight because the site isn’t deep enough to keep operations far from other properties. **Under Standard 2 the applicant states that “The existing quarry is surrounded by agricultural land, and obstructed from view on four sides.” This will not be possible** considering the size and shape of the parcel, and one side faces two historically significant sites on the National Register of Historic Places. **Considering FP Standard 2**, the argument is made by the applicant that gravel is a needed commodity, but no one is denying that. The fact is that there are 9 other active quarries located within a 4-mile radius of our town’s center and no one is experiencing a shortage of gravel. See illustration 1.0 below.



B. Topography

The site is located on Center Road in an upland area in southeastern Dane County. A quote from Mike Bakken of Northwestern Stone quarry at the September 8, 2021 town board meeting stated that “Your town roads are not very conducive to having heavy trucks running up and down Center Road. It has steep grades and stop signs. The visibility is not good and has low-hanging trees in lots of places. Center Road is not a very good or safe road.” A pedestrian was struck and killed on Center Road in a blind spot before the current pit even reopened. The town roads are curvy and rolling, just like the topography. **The safety precautions mentioned, without much detail, in the application’s response to Standard 1 (safety) will not address the problem of the town roads.**

C. Distribution, Thickness and Type of Soils

The soil types are gently sloping and well-drained which are conducive to traditional agriculture. The Comprehensive Plan favors farmland. The definition of farmland has been used out of context by this CUP application. When residents see “farmland preservation” in the Comp Plan, they think of a land that provides food for animals and humans, not of rock for one individual’s economic gain. **This CUP clearly goes against Farmland Preservation Standards 1, 2 and 3,** which are meant to minimize land use conflicts. Once the site has driveways and haul routes, berms, stormwater areas, and clearance for equipment in addition to the operation area, there will not be a significant area left for farmland.

D. Surface Water and Groundwater

Departments of Natural Resources in neighboring states have reported that mining alters the landscape and natural hydrologic systems, essentially altering the ground-water flow paths. A study showed that quarries can lower local ground-water and surface-water levels, can change levels of groundwater due to blasting and interrupt ground-water conduit flow paths by the removal of rock and alter surrounding aquifers or natural springs. Research among eight major gravel pit mines in those states found that five of eight pits were reported to have altered ground-water flows and paths dramatically as a result of mining activities. Quarries can act as huge wells, lowering the water table in an aquifer. The operation of blasting in quarries can actually shake the limestone and the groundwater which can release sediment into surrounding water wells. The applicant admitted that the pit’s groundwater is close to the surface, but yet the CUP provided little to no information about how its operation would go about addressing the dewatering process and said nothing about the risk to groundwater quality. How will the applicant address potential diesel field and hydraulic fluid loss? Based on the 8 standards, **this CUP fails to meet Standard #1 and FP Standard 4. The plan lacks detail about what reclamation activities will be done during mining and reclamation, and a timetable. It should also describe methods of shaping and sloping the open water areas, and offer a solid plan for the future use of the site. The CUP also did not address mine operations and dewatering schedules that may need to be altered to minimize impacts on underground aquifers and springs.**

E. Plant and Wildlife

The field located in the NE ¼, SE ¼, Section 28, Township 5 North, Range 10 East, Town of Rutland, used to contain trees and various crops such as corn, soybeans, or alfalfa. A portion of that land has already been marred by the removal of sand for a “borrowed use” DOT project. Trees have been removed in order to access the sand. Year-round wildlife continues to be squeezed onto neighboring lands which forces animals to migrate to different routes in order to be able to access their supply of food and water. **The applicant fails to present a clear remediation plan that will restore the site to agricultural use, as per FP Standards 4 and 5.**

IV. Proposed Operations

The applicant stated in his CUP that his plan of operation is developed to efficiently utilize the site's natural and agricultural resources, protect human health and the environment, and minimize long-term operational costs.

A. Access

The site currently has two driveways located directly on the crest of the hill on Center Road which is extremely dangerous to traffic coming from either direction. A near miss accident almost occurred recently when a skid steer was out in the middle of Center Road sweeping misplaced gravel off the pavement when a driver of a vehicle came over the knoll and nearly hit the skid-steer, once again proving Mike's comment from Northwestern that a quarry on Center Road is too dangerous. **Center Road has 21 driveways and 9 blind spots**, with numerous residents including children using the road for walking, bicycling, horseback riding etc. The applicant provided no information about traffic counts or studies and could not back up his own statement that traffic on Center Road is light. Based on the known information at the beginning of this paragraph, **Standard #5 is not met because adequate measures cannot be taken to prevent traffic conflicts. Standard 1 is not met because of the threat to public safety posed by gravel truck traffic on town roads. Standard 7 is not met because pedestrian use of the roads is prioritized in the Comprehensive Plan.**

B. Setbacks

Regulations concerning setbacks and yard size are not discussed in the CUP as it relates to the FP-35 District. It only addresses the number of feet that it will be distanced away from Center Road. Why was the Dane County Ordinance Section 10.103(15) not discussed in the CUP? For these reasons, **the CUP does not pass Standard #6.**

C. Site Development and Erosion Control

The applicant has stated that the site will be developed incrementally to minimize disturbed areas and preserve farmland. Once this farmland becomes a quarry, the residents do not have faith that this land will ever be reclaimed as crop farmland. The applicant himself said that remediation efforts just create more truck traffic. The CUP is not about preserving farmland. It's about setting up acreage for industrial use in a rural residential setting, affecting the residents who live near the pit and those who live on multiple truck routes.

D. Blasting and Mineral Processing

Blasting, dust, vibrations, truck traffic are just a few of the many things already mentioned that will affect the uses, values and enjoyment of other properties on Center Road, Old Stone Road, Old Stage Road, Lake Kegonsa Road and other neighboring routes. The application states that "blasting does not happen all the time". **It doesn't need to happen all the time to fail Standards 1, 2, 3 and 7.**

E. Haul Routes

The applicant states that the primary haul route will be Center Road to County A to US14 and then to US 138, with loads delivered to customers on town roads. Evidence by residents has already proved that other haul routes are being used such as Old Stone Road and Old Stage Road and that "borrowed use" privilege has been going beyond the project from the Hwy. 92 roundabout to include other construction projects in Dane County. It's clear that the applicant says one thing but does another.

F. Hours of Operation

The hours of operation as stated in the application are another **clear failure of Standards 1 and 2, which deal with impacts on neighboring properties.** The CUP states that beginning work hours would be 7:00am but current starting work hours have been as early as 6:15am. It specifies hours of operation as “7 a.m. to 7 p.m., Monday through Friday, and 7 a.m. to 5 p.m. on Saturdays. 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.” The CUP app clearly does not commit to any set hours which leaves the residents to believe that hours of operation could be endless. Can the citizens count on a future town or county board to hold accountable and regulate conditions of the CUP for the next fifty to eighty years? As Pam Andros mentioned in a recent Town of Rutland meeting, if a citizen were to complain, Dane County would come out and reprimand the owner but not shut him/her down. This is not adequate protection for residents.

V. Human Health and Environmental Protections

A. Safety

A gravel truck accident occurred two years ago at the corner of Center Road and A when a truck had to drive off the road into trees to avoid a young driver that pulled out in front of it. A fully loaded dump truck weighs approximately 22 tons which greatly affects the wear and tear on town roads. One dump truck is equivalent to 1,400 cars. The Town of Rutland roads are already showing wear and tear. New sections can only be improved a little at a time. The town cannot keep up with the required upkeep of its 45 miles of roads when it has to continually fix, fill or replace the roads on major truck routes. According to our past and present town chairs, “we can only afford to spend \$200,000 per year to fix one mile of road”. How is this feasible when pit owners are exempt from contributing towards this cost?

B. Aesthetics

The applicant's CUP did not address how high berms should be - at least 20 feet and that it should be planted with softwood trees to minimize the sound, address safety and add to the ambience of this rural neighborhood. Likely all of the site will eventually be removed from productive agriculture for the next 50+ years, causing land-use conflicts and making this CUP incompatible with the town and county comprehensive plans. Therefore, **Standard #7 does not pass.**

C. Noise

Quarrying operations generate substantial decibels of noise from blasting and crushing to truck noise such as backing, beeping banging tailgates, loading and unloading. This application minimizes those facts and does not take into account that neighbors who live as far away as Old Stone and Oak Ridge Road can hear this. The CUP uses sweeping, loose statements to distract the reader into thinking that **Standard #1** will be satisfied when clearly, it will not.

D. Air Quality and Dust

Mining creates dust clouds, haze and contributes towards air pollution. Scientific studies have shown that micro particles in the air impairs lung function. Photographic evidence from 2021 shows that the current pit owner does not control dust according to the measures that Dane County has prescribed.

E. Reclamation

Standard #3 was minimally addressed by the applicant who said the mine will be developed a little at a time. Residents in Rutland do not foresee this land ever being restored back to its original use as can be seen by the lack of reclamation of the original pit which has been periodically used since the 1930's. That's 85 years!







F. Property Values

Expert testimony by realtors, appraisers and residents have raised awareness about how property values currently are and will be affected by this neighboring mining operation. Citizens within a 5-mile radius built their homes under the assumption that the materials in the pit on Center Road had been exhausted. A potential pit owner from another township confirmed this and turned down the purchase of the old mine due to the "lack of material". In fact, there was expectation that when the quarry reached the end of its life, it would be restored to its original farmland use, which it has not. Potential splits located closest to the pit will be deeply affected and will have basically no value, taking away potential future tax revenue from the township. A representative from Wick Buildings confirmed sites located closest to the pit would fall below the 1,000 foot buffer deemed safe, according to Dane County's Land Use Plan. By law, each rezoning has to be consistent with the community's Comprehensive Plan and individual decisions affecting land use must be consistent with this plan. An industrial pit at the south end of town will discourage any new residents from moving to the area. Dane County's land use plan specifies that 1000' should separate new development from potential pits. **This aspect fails Goal #7** in the Comprehensive Plan pertaining to land use.

VI. Summary

According to Dane County Ordinance 10.101(7)(d), 10.220(1), under 2017 Wisconsin Act 67, Nelson Excavating does not meet all 12 criteria with nearly enough meaningful documentation, scientific evidence or expert testimony therefore, you must follow the law and decline this CUP because the standards have not been met. The Town of Rutland board chair and supervisors duly rejected the first CUP that was submitted for this mining operation in 2020. It is the same proposal as last time and does not contain any substantial information to support its claim of passing all of the standards mentioned in this report.

We thank you for your time and consideration of this important matter - a decision which affects not just a few, but 1,900+ residents in the Town of Rutland.



Signed: William Boerigter, Jodi Igl, Bonnie Larson, Maureen Rowe, Sharon Seffrood, Gail Simpson, Henry Spelter