

Summary of the Case

On Behalf of Citizens of Rutland

The Issue: Limits of Property Rights

- Whether the Right of Some to Develop Their Land Infringes on the Rights of Others to Use, Enjoy and Develop Their Property

Statutory Basis of Scrutiny

- **10.101(7)(a)** Certain uses, because of their unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review.

Statutory Obligations of ZLR Committee

- 10.101(7)(c)2e Prior to granting or denying a conditional use, the zoning committee shall make written findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the following standards:

Residents' Claim

- CUP 2582 application contains vague assertions unsupported by substantial evidence or measurable outputs, and thereby fails to meet all eight standards in Dane County ordinances under 10.103(15) Mineral Extraction.
- Residents will offer substantial, unambiguous, uncontroverted, and unrebutted evidence that CUP 2582 fails to clear its statutory hurdles and further that no potential conditions will enable it to meet them.

Residents' Core Argument

- The large footprint of CUP 2582 relative to its campus makes it impossible to sufficiently buffer the neighborhood from its adverse impacts.
- CUP 2582 is ~30 acres within a 37-acre field.
- The Northwest quarry $\frac{1}{2}$ mile away is situated within 180-acres, giving its surroundings ample buffering space.

Issue Hinges on

- That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use;
- Residents' evidence will show that it does.



Standard 1

The establishment maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.



Application Claims:

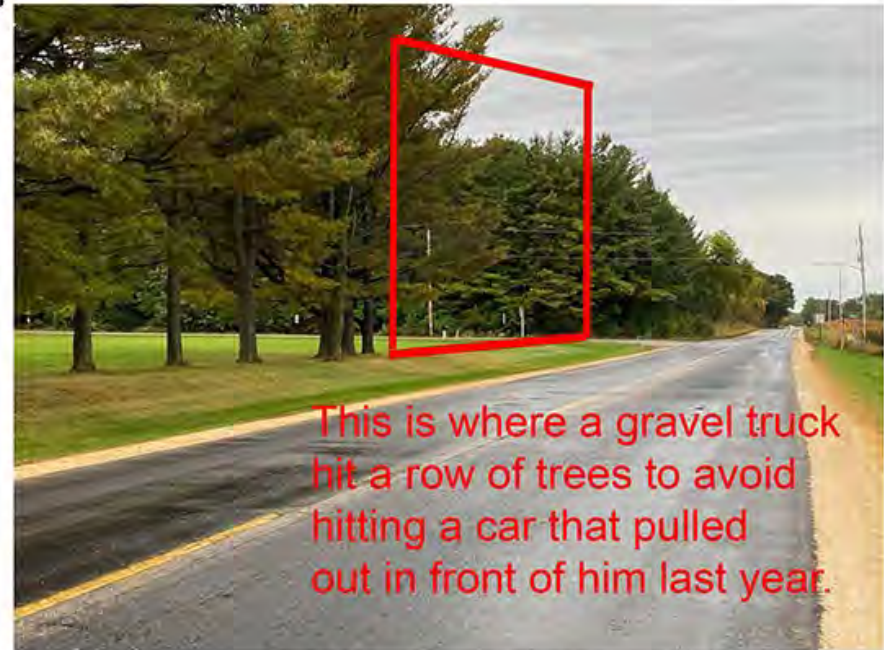
- Safety precautions, including a 4' high fence, berms, and locking gate around the perimeter, will be maintained.

Comments:

- Regarding safety: none of the descriptions of safety measures inside the pit can address the safety issue that concerns most residents, and that is road safety in this residential neighborhood. Many residents will share with you today their near misses and their difficulty with the increased gravel truck traffic since this owner took over the existing pit in 2017. An extensive log of complaints to the Town Board from residents in the vicinity of the pit began in May of that year and has continued since that time.
- A serious accident involving a gravel truck occurred in 2020 on the corner of Center Road and A, and before the trucks were even running a pedestrian was killed in a blind spot on Center Road. The Town roads in the surrounding community are curving and narrow, with numerous blind spots and hidden driveways. This is a family-oriented area with many pedestrians, bicyclists, horse, kids and pets. This is incompatible with the increased level of gravel truck traffic that will follow the new, larger pit.

"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



This is where a gravel truck hit a row of trees to avoid hitting a car that pulled out in front of him last year.

Application Claims:

- Operational and engineering controls have been developed ... including detailed plans for safety, aesthetics, noise abatement, emission control, blasting, storm water pollution prevention, reclamation, and the control of noxious weeds.

Comments:

- Application lacks basic information, such as the planned depth of the mine below the ground surface. The application shows depth to ground water at between 20 and 50 feet. Existing quarry is at or very close to the 50' depth and is concerning from the viewpoint of the water quality and the water table.
- No data on the amount of water discharged through pumping is given. That information is necessary in order to evaluate its impact on the water table and wells. An adjacent neighbor will share with you her experience of her well going dry after an extended period of pumping.

Application Claims:

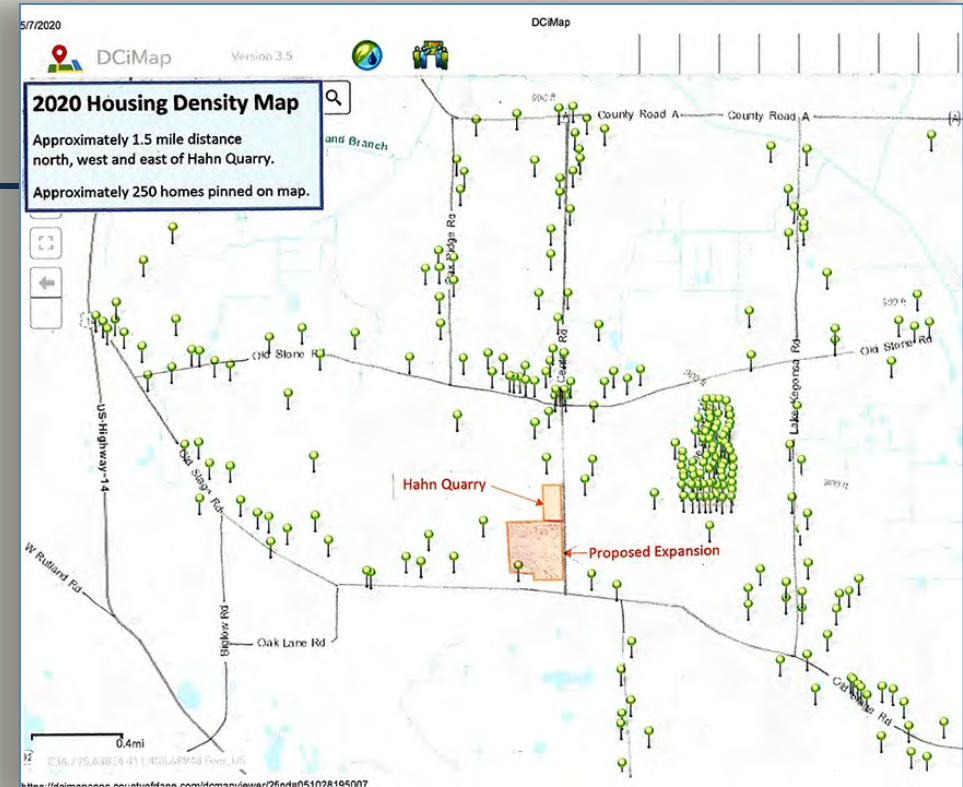
- That the existing quarry is surrounded by agricultural land and with proposed berms and existing off-site trees to obstruct from view on all four sides.

Comments:

- Only a 30' setback and an 8-10' high berm are specified along Center Road. This minimal setback places the quarry too close to the road while the 8-10' high berm is too low. The other quarries in the area are farther from the road and heavily screened. Trees are mentioned as an additional sound and sight buffer but only on the western fence line, not on the eastern, northern and southern boundaries where aesthetic concerns are the same if not higher.

Comments:

- Aesthetics is an issue given that the site is in a residential neighborhood. In a recent CUP the Town stipulated that an applicant not use recycled shipping containers as storage units because it would detract from the Town's appearance.





Standard 2

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.

Application Claims:

- That the management practices outlined in the operation plan will be used to reduce noise and control dust.

Comments:

- In the application claims are couched in vague and undefined terms that cannot be measured or monitored. "Reduce noise" from what level to what decibel level? For dust control, the claim and reality diverged as video evidence showed dust control measures were not consistently implemented if at all.
- The application minimizes noise as typical for farm equipment. It does not describe sources of noise or projected levels, even though quarrying generates noise not only from truck mufflers, but also from from crushing, blasting, backup beepers, banging truck grates, and truck loading and unloading. **It does not spell out in measurable terms, as stipulated in Act 67, how these steps would transform noise within the quarry to acceptable levels at the fences.**

STATUTES REGARDING NOISE

- 10.102(6)a Town boards and the zoning committee **may, as necessary**, set decibel limits appropriate to the use and location as a condition on a Conditional Use Permit. (comment: this is necessary to reduce the adverse effects of excess sound pollution on neighboring property owners)
- 10.102(6)d Noise levels **shall** be set to the db(a) decibel scale and should be **appropriate to the background noise level of the surrounding area**, and to the nature, duration and repetition of the proposed use. (comment: background noise level in rural settings is around 65 decibels. The CUP application does not specify a decibel limit.)
- 10.102(8)(g)9a1cii. (Exceptions): Lands where noise control barriers effectively reduce the noise level from traffic to **67 decibels [db(a)]** or less. (comment: this is a reference to a specific level of generally acceptable noise pollution)

Application claims re. sound abatement:

- Using sound control devices on equipment, such as mufflers.

comment: this describes normal upkeep and maintenance, not specific to sound abatement

- Maintaining equipment on a regular basis.

comment: this just describes everyday activity

- Crushing below grade in the quarry

comment: Without measured impact, this is not sufficient.

- Utilize Alternative MSHA approved backup alarms (in lieu of beeping).

comment: elsewhere in application this is qualified as “pending approval by MSHA”. This was proposed over a year ago and it has neither being vetted nor implemented.

Professional Sound measurements and abatement study are needed

- Sound intensity at a given location varies depending on environmental conditions. A more comprehensive study than a neighbor's sample is needed.
- **Statutory authority for zoning authority to investigate:** 10.101(7)(b)5 If necessary expertise is not available from county staff, public academic institutions or from appropriate regional, state or federal agencies, **the committee may consult with a third party to effectively evaluate a conditional use permit application.**



Standard 2

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.

CUP Standard 2

That “The uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use”.

Following are two examples showing how neighboring property values will be diminished by a quarry expansion

Bill Boerigter, 798 Center Rd, Town of Rutland

A Quarry
Depresses
Home Values
in Proportion
to Proximity
to it

Home Values

Two Rutland Sales-2021

- **510 Center Road**
Days on Market: 46;
Sold \$307K , \$7K above List.
- **439 Center Road**
Days on Market: NA-No public offers,
Sold \$575K, \$175K below List (-23%).

Site characteristics

510 Center Rd. modest ~1,200 sq. ft. starter home on a 1.5-acre, low lying lot

- ~2500' from quarry.
- Distance from quarry translates to faster sale and **\$7k over List price.**

439 Center Rd. large ~3,000 sq. ft home on 12-acre site with views. Extensive remodeling/addition in 2009.

- 600' from quarry.
- Listed two separate times, it received no offers. **Eventually sold to the quarry operator at a 23% discount.**
- Superior attributes failed to overcome proximity to the quarry.

Conclusion: Proximity to an operating quarry depresses home values, even with superior improvements.

A Real Estate Consulting Report done for Marquette County to “Quantify the Impact of a Mine on Surrounding Residential Property Values”

In a survey of 189 Wisconsin real estate professionals in 2022 and a review of an Auburn University peer reviewed research study, the consultant concluded that “there will be a negative impact on residential property value within a 1-mile radius of the proposed open pit sand and gravel mine” to the following degree:

Abutting a mine.....-25%

300-1000' distant.....-23% (note similarity to 439 Center Rd discount in 2021 sale)

2,500' (1/2 mile).....-15%

5,000' (1 mile)..... -7%

Existing vs Expansion

A dormant quarry, or one nearing the end of its useful life, will result in less value depression, based on perceptions of prospective buyers.

(For example, as we get closer to ~20 years when the current Rutland non-conforming quarry is likely to be reclaimed, adjacent site values should eventually rebound).

However, if the quarry expansion is approved, the value suppression will continue for 100 years or more. (-23% using the 439 Center Rd example)

This loss is “substantial” and standard #2 is not met.

Rebuttal to Application's examples

23 Homes were featured, 22 of which did not abut a quarry and thus not comparable to 439 Center.

The one home abutting a quarry showed the following details relative to the other 22:

Distance from quarry: 800' (average of the 22: 2976')

Days on Market: 147 (average of the 22: 62)

Selling price vs Listing: -2%, (average of the 22: -1%). **Info NOT provided by the applicant: the site abutting**

the quarry had previously been on the market and failed to sell. From the original listed price, its selling price

discount was -10%, not -2%. Proximity translated to substantial diminished value.

Land Prices

Four Rutland Examples

A Quarry
Depresses
Land Values
in Proportion
to Proximity
to it

- Spelter (1988, adjacent to quarry)
.....\$710/acre
- Eugster (1992,
nonadjacent).....\$1400/acre
- Knutson (2000,
nonadjacent).....\$3200/acre
- Hahn (2020, adjacent).....\$7895/acre

Date of Sales Adjustments

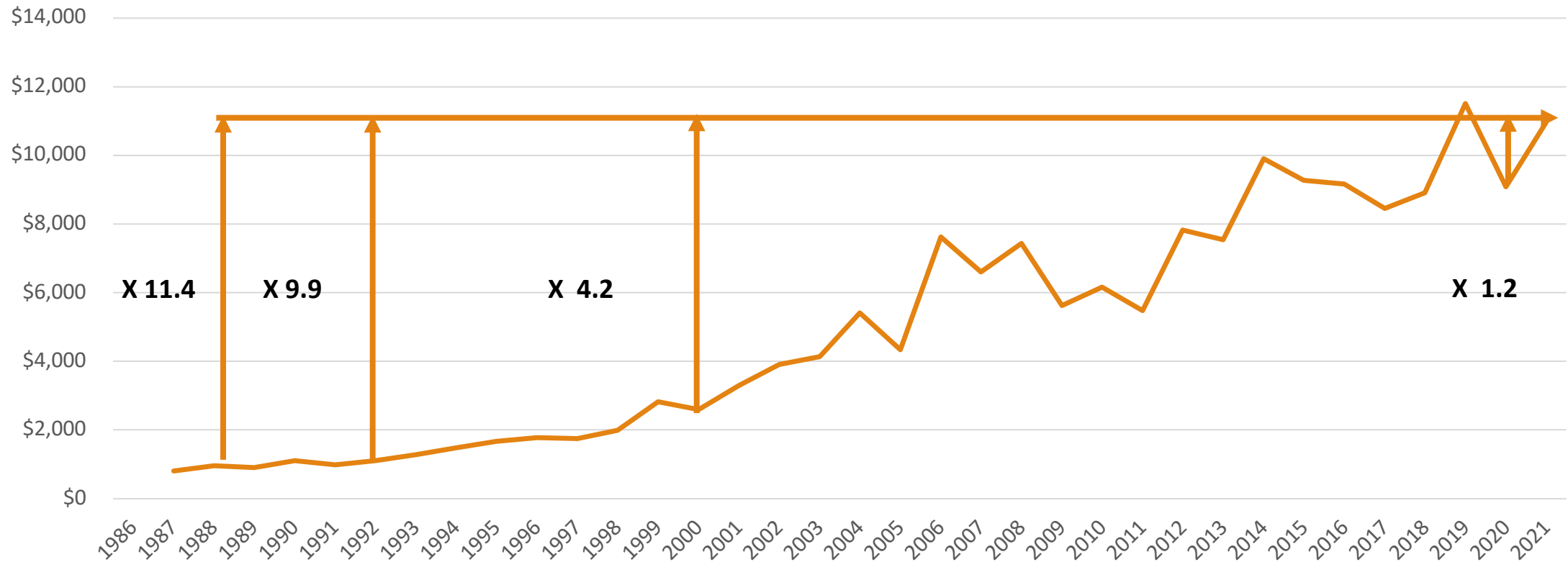
Transactions at different times need to be indexed to a common base

Adjustments are indexed to Dane County bare ag land prices

Price source: USDA National Agricultural Statistical Service

Ag Land Sales - Dane Co Index to Find 2020 Equivalents

Dane Co Average Farmland Sale Prices, \$/Acre

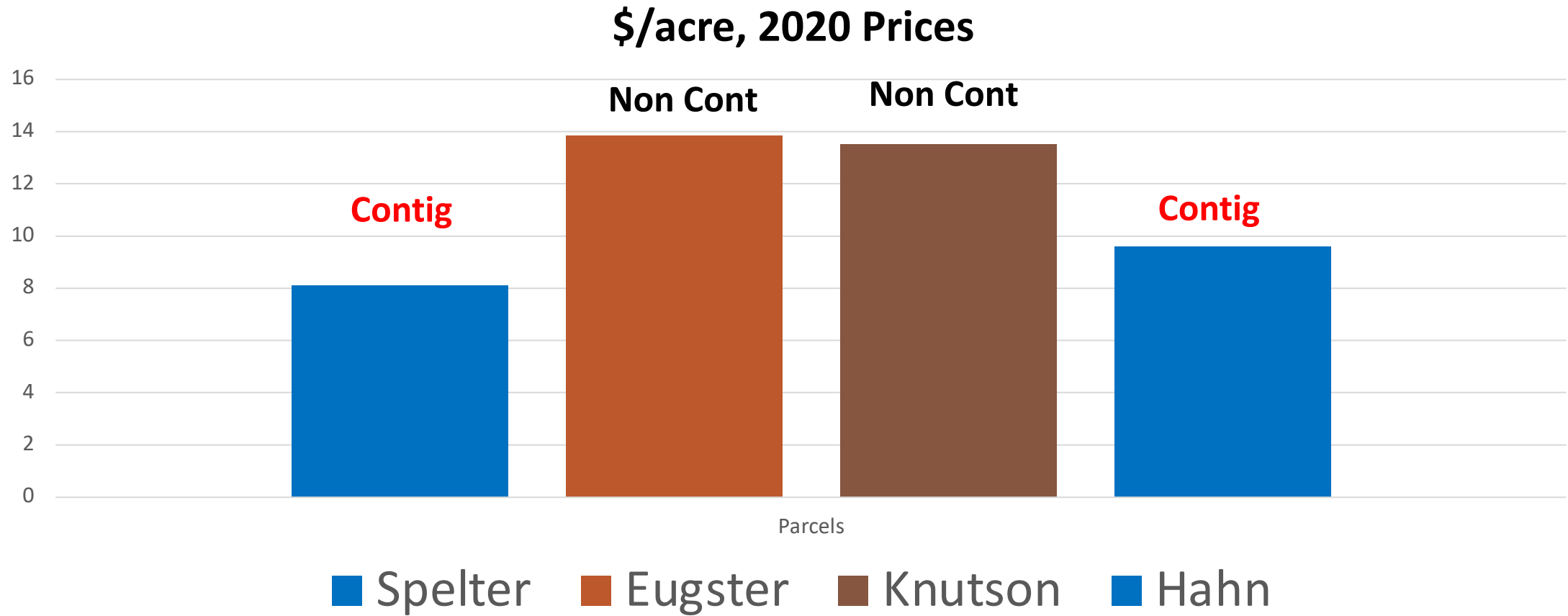


SOURCE: NASS.USDA.GOV

Date of Sale Adjustments to 2021 Prices

Spelter (1988, \$710/ac.....x 11.4 \$8,125/ac)	Contiguous
Eugster (1992, \$1,400/ac....x9.9\$13,865/ac)	Not-contiguous
Knutson (2000, \$3,200/ac ...x4.2\$13,499/ac)	Not Contiguous
Hahn (2020,\$7895/ac....x1.0\$9,581/ac)	Contiguous

Price Differentials - Farmland Contiguous and Noncontiguous to Quarry



Value Loss With Quarry Expansion Hypothetical 40-acre Parcel

In ~20 years when the current non-conforming quarry is reclaimed, neighboring land values will rebound to the area's norm.

However, if the CUP extends mining for the next ~ 100+ years, surrounding land values will remain depressed for the duration:

~ -\$4,829/acre (-\$193,150 for a 40 ac parcel, in 2021 dollars)

This loss is “substantial” and standard #2 is not met.






Standard 2



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.



CUP 2582 Impacts on 4058 Old Stage Rd

Summary of Risks for 4058 Old Stage Rd

- Risk 1: Lowers land value
- Risk 2: Lowers Home value
- Risk 3: Depresses Values for up to 3 possible splits



Standard 2

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.

Dane County ZLR Meeting January 24, 2023

1. Affidavit by Kent Knutson
2. McWilliams Certified Appraisals Not Accurate
3. Property at 2236 U.S Highway 12
4. Property at 439 Center Road
5. Eight Available Splits/Lots Available Within 800'
6. Vacant Land Disclosure Report
7. United States Senate Letter

Below is an email from the selling agent.

From: Kyle Broom <kylejbroom@gmail.com>
Date: January 4, 2023 at 11:50:38 AM CST
Kent Knutson
Subject: phone call follow up 2236 hwy 12/18

Greetings Kent,

It was nice talking to you on the phone today. Here is the public history for the property at 2236 Hwy 12/18, Cottage Grove, WI 53527.

11-21-2016 to 11-23-2016: publicly listed for sale at \$269,900.

01-12-2017: publicly listed for sale at \$264,900.

02-06-2017: publicly listed for sale \$255,000.

03-09-2017: publicly listed for sale \$249,500. Stayed at this until the sale listed below.

06-19-2017: property sold for \$243,500.

Thank you, Kyle Broom

Conclusion: **The data that McWilliams is not accurate.** This property has full view of the quarry from their back door which is 800 feet away. The property did finally sell after reducing the price four times. It took 147 days for the property to sell when most of the other properties were sold in 2 to 31 days.


In conversation with our own Appraiser of Rutland Township, in December of 2022, their own expert stated the following: The value of property next a quarry will be affected and be reduced by as much as 30%.



Standard 3



That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.



Application Claims to Explain How the Proposed Land Use Will Not Interfere:

- According to the Town of Rutland Comprehensive Plan, preserving the rural character of the area is a priority.
- The site is located in a rural area with only 6 residential homes within 1000' of the proposed site.
- Operations will occur incrementally to preserve farmland.
- When the mineral resources at the site have been depleted, the site will be reclaimed to a freshwater lake (~19 acre) surrounded by farm fields (~19 acre) as outlined in a future reclamation plan to be approved for the site.

Comments:

- Claim 1 “preserving the rural character of the area is a priority” that reflects the Town Plan intent, but this project fails to meet the standard. It converts the character of the district from rural to industrial. The application fails to address the need for this quarry expansion when there is a 160+ acre Northwest Stone non-conforming pit operating less than a half a mile away.
- Claim 2 is factually correct, however, it's also the major reason the proposed use is incompatible with the site. Dane Co Land Use Plan specifies a 1,000' separation between residences and significant mineral resources. Further, the same Plan stipulates “**countywide standards for adequate separation between existing land uses and new mineral extractions or expansions**”. The implication is that less than 1,000' is inadequate.

Comments:

- Claim 3. The quarry currently in operation has been in existence for 85 years., the operator projects 25 more years of activity without the approval of this CUP. The reclamation of this site will then have taken 100 years to implement. By extension, its threefold expansion will remove the expanded site from agriculture or residential use for over a century which most certainly impedes its "development and improvement".
- Claim 4. This CUP will reduce interest in nearby residential development which will result in further expansion of mining sites.

Likely expansion of 9-acre legacy pit (dark) to 140-acre quarry complex (blue)






Standard 4



That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;



Application Claims:

- The operation plan for the site identifies access roads and drainage for the site.
- The site will be accessed from the existing (north) quarry entrance on Center Road until the additional entrance will be created to access the expansion property to the south.
- The driveways will be protected with recycled asphalt, with seeding and erosion control along the side slopes.
- Operations will comply with permits issued by Wisconsin DNR and Dane County for erosion control and storm water pollution prevention.

Comments:

- **Claim 1** Not in dispute.
- **Claim 2** Not in dispute.
- **Claim 3** Accepted at face value.
- **Claim 4** There is little information in the application about this factor, especially any impacts to groundwater and surface water quality. CUP 02582 application admits that groundwater is close to the ground surface—within 20 to 50 feet — and that intermittent dewatering will be needed to keep the quarry floor dry.
- Yet it contains no information about the dewatering process, which it concedes that if maintained “over extended periods of time can lower the water table”. There is no indication that the operator evaluated the aquifer characteristics, recharge rates or contacted neighbors about well impacts since his dewatering process began,

While there are benefits to dewatering, high pumping rates over extended periods of time can lower the water table

p. 86/120 Appendix K

Center Rd Quarry in Recent Years



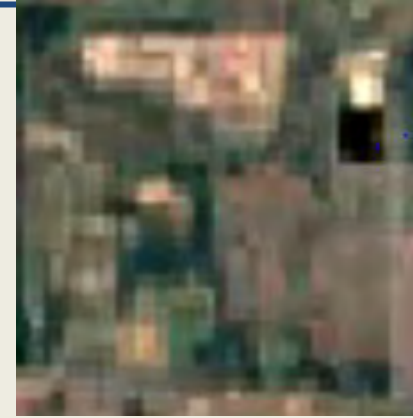
2001



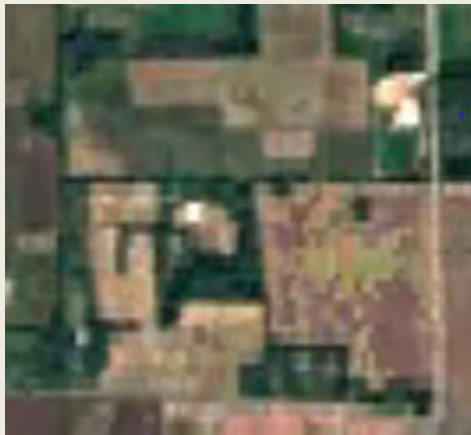
2007



2010



2013



2017



2019



2020



Picture Timeline

- **2001 – 2002** The quarry looked like a serene pond with no active Quarry operations at that time. We moved here in 2002.
- **2007 -** The area of the ‘pond’ appears to have increased in size, and this is when our well went dry. Well report for our Old Stage property is found in the attached Appendix C of the CUP.
- **2010 -** The area of the ‘pond’ is decreased, more material has been removed closer to Center Road.
- **2013 -** Again the area of the pit has a larger ‘pond’ visible.
- **2017 – 2022** The area of standing water has diminished, but areas where material has been removed has increased.

Current Well info

1. Well Location		T=Town C=City V=Village Of Rutland
Grid or Street Address or Road Name and Number 4082 Old Stage Rd		Geological Unique Well Number WJ023
Subdivisions Name	Lot #	Block #
County Name Dane	Well Completion Date February 20, 2007	
Grid Loc. at SW 1/4 of SW 1/4 of Section 28 , T 5 N, R 10 E		
2. Well Type <u>2</u> 1 = New 2 = Replacement 3 = Reconstruction		
of previous unique well # _____ constructed in 19 _____ Reason for new, replaced or reconstructed well? OLD WELL OUT OF WATER New Well Id _____		
3. Well Serves <u>1</u> # of Homes and or _____ (Ex. Barn, Restaurant, Church, School, Industry, etc.)		<u>1</u> 1 = Drilled 2 = Driven Point 3 = Jetted 4 = Other
4. Static Water Level <u>25.0</u> ft. A = Above B = Below B		5. Geology From (ft.) To (ft.)
6. Pump Test		
Pumping Level <u>48.0</u> ft. below ground surface		Sand & Clay 0 5
Pumping at <u>20.0</u> GPM <u>1.00</u> hrs		Sand & Clay 5 59
		Broken Limestone/Dolomite 59 64
		Limestone/Dolomite 64 97

- **Feb 20, 2007**
- Old Well Out of Water
- Replacement Well
- Had to be Re-Drilled
- Thru Sand / Clay / Limestone / Dolomite
- **Final Depth 97 ft**

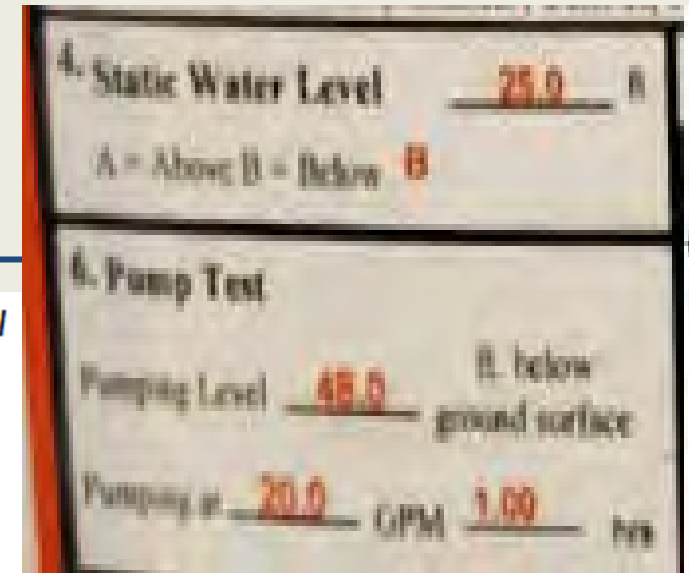
Water Plans

Site dewatering as noted above in *III. Proposed Operations 3. Site Development and Erosion Control* will meet all regulatory and permit requirements and occur intermittently as needed. It is expected that when dewatering occurs pumping will discharge between 50 gpm – 400 gpm depending on the operations and rainfall event(s). Per *Appendix A - Figure 8 – Operation Plan* equipment storage and fuel storage will be maintained in the northeast and/or southeast corners of the site away from any groundwater/surface water. In addition, a detailed plan will be included in the site’s stormwater pollution prevention plan (SWPPP) that will include but are not limited to daily inspections, spill response planning, plant operating area planning to reduce risks, diking / berming and safe storage of equipment and fuel to prevent groundwater contamination. Finally, reference *Appendix K – Understanding Groundwater Fact Sheet* for additional information and note that all local, state, and federal reporting requirements will be followed.

SWPPP on p. 56 – 67 of CUP

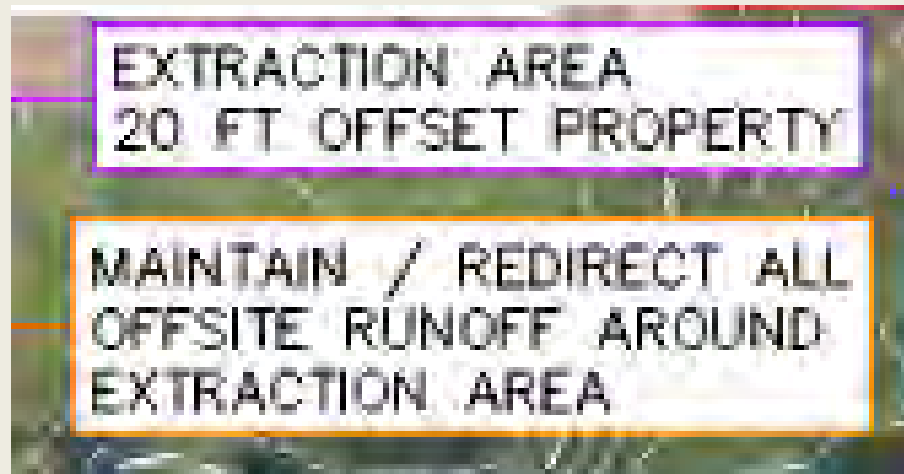
This is for existing 9 acre pit. Date: Mar 2018

An updated SWPPP should be in place.



From Appendix A Figure 8

4. ALL EQUIPMENT AND FUEL WILL BE STORED IN SOUTHEAST OR NORTHEAST CORNER OF PROPERTY WHEN NOT IN USE. IN ADDITION, GROUNDWATER WILL BE PROTECTED AT ALL TIMES FOLLOWING BEST PRACTICES / PERMIT REQUIREMENTS.
5. LIMESTONE PHASE 4 WILL POTENTIALLY BE EXTRACTING LIMESTONE FLOOR APPROXIMATELY AT GROUNDWATER ELEVATION, WHILE SAND EXTRACTION WILL BE DONE BELOW WATER TABLE (PHASE 1-3)



[3] surrounding properties will be affected by this **OFFSITE Runoff** water being redirected to the area immediately surrounding the extraction boundaries, with Center Rd being the Eastern [4th] boundary.

Appendix K GroundWater Fact Sheet

Best Management Practices for Protecting Groundwater

Before expanding an existing or developing a new operation:

- Catalog the aggregate resource and its relationship to groundwater. This may include the depth to and direction of groundwater flow and baseline data on existing groundwater quality.
- Inventory location, depth, and condition of neighboring wells.
- Develop a groundwater protection and management plan that is geared to the location, geology and size/scope of the project.
- Obtain all necessary local, state and federal permits and approvals, paying particular attention to local groundwater concerns.

Bullet 1 – Incomplete

Bullet 2 – Well Data included in the CUP

Bullet 3 – **Minimal Plan**

Bullet 4 – **SWPPP**

permits are not for CUP but existing pit

Summary of Standard 4 Concerns

Adequate utilities, access roads, drainage, and other necessary site improvements have been or are being made to accommodate the conditional use.


- **Static Water Level** in the vicinity of the proposed area to be mined is found to be ~ 25 – 102 ft
 - ***Pumping excess Water from the areas being mined at a proposed rate of 400 GPM is worrisome for the viability of these wells.***
- **Future Septic** Not listed as part of the CUP Application
 - *A future building is planned at SE corner, possible septic needed?*
- **Storm Water / Drainage** **sending this excess water either S or N of the proposed area to be mined appears to be troublesome to Center Rd and to Graves Cemetary and farm fields directly S of Old Stage Rd at this location. Both these areas presently flood during heavy rains.**



Standard 7



“That the conditional use is consistent with the adopted town and county comprehensive plans”.



The Application Claims:

1. The Town of Rutland has established Agricultural Preservation Districts as a means of preserving agricultural lands and rural character.
2. The operation of the quarry expansion is consistent with the adopted Town of Rutland Comprehensive and Dane County Zoning, FP-35 (General Farmland Preservation) which seeks to limit the density of residential development

Comments:

- Applicant Claim 1. Not in dispute.
- Applicant Claim 2. I disagree that the “operation of the quarry expansion is consistent with the Town of Rutland Comprehensive Plan”. Here are some of the inconsistencies:
- The Town Plan states: “Residents value the **quiet** and sense of community”; **A quarry is manifestly not quiet as amply demonstrated by measurements described in other testimony.**
- The Town Plan states: “Create a pattern of development that fosters the rural character and **agricultural land preservation...**”; **This CUP eliminates agricultural land in the long-run because it makes farming less financially attractive, relative to mining. Just like when you upzone a residential property to commercial, you suddenly incentivize the more financially lucrative use ... to the detriment of the use your Plan says you want to preserve.**

Comments:

- The Town Plan states: “Create a pattern of development that**that minimizes potential conflicts between incompatible land uses.**” **The CUP engenders conflict** because it positions an incompatible use on nearby potential future residential sites.
- The Town Plan states: “Require **buffers between incompatible land uses** to minimize potential negative effects”; and “Provide a **buffer** between the commercial use and any adjacent non-commercial use.”; **The footprint of this CUP is too large, conceding a mere 20’ buffer to two neighboring properties.**
- The Town Plan states: “Commercial uses to be limited to those having **minimal effect on existing nearby uses**”; **Comparative value calculations discussed elsewhere by residents indicate a 25%-to-40% hit to neighboring property values.**

Comments:


- The Town Plan states: “Protect the rural atmosphere and **scenic beauty** of the town”; **Beauty** is in the eye of the beholder, but most would hesitate to characterize a mine as **scenic**.
- The Town Plan states: “Foster a local economy that is agriculturally based and is **sustainable**”; Mining is an exhaustive, **unsustainable** activity and it reduces agriculture land as it first swallows up this field and ultimately, due to its value depressing effects, acquires nearby fields for further mining as those become, in relative terms, uneconomic for residential development or farming.
- Approving a mining operation for the next 85 years and calling it “farmland preservation” is laughable.



Standard 7-2



“That the conditional use is consistent with the adopted town and county comprehensive plans”.



Comments:

- The CUP is inconsistent with the Town Plan in the following ways:
- Pages 2-3; Goal 2; Transportation, Objective 4. “**Reduce the amount of non-local traffic** passing through residential areas”; and “**Reduce the potential for traffic accidents** and provide for safe transportation throughout the town”;

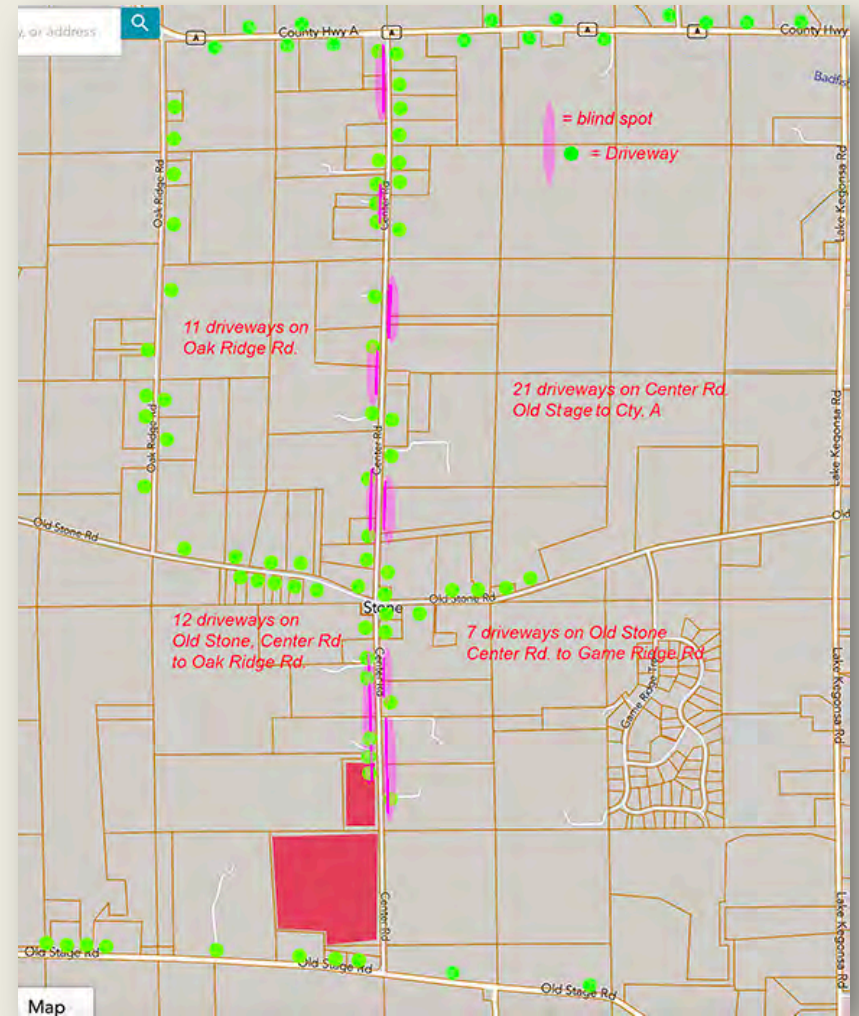
There are 29 houses on Center Road, from HWY A to Old Stage Road.

There are 34 houses from the corner of Lake Kegonsa Road to Old Stage Road on Old Stone Road.

There are 27 houses on Old Stage Road from Hwy 14 to Oak Lane, including Biglow.

- These houses are all on the routes the trucks make. They **HAVE** to drive on these town roads to get to a major road. There is no way to get to 14 or 138 without driving through these increasingly residential neighborhoods. Neighbors seeking more home sites are on the agenda for EVERY Planning Commission meeting.

Trucks Passing/Driveways and Blind spots



Comments:

- Objectives 1-3 state:
- Increase opportunities for pedestrian and bicycle travel
- “Increase **pedestrian and bicycle safety**”;
- Increase the number of miles for bike routes

The CUP does the opposite, it decreases **pedestrian and bicycle safety**. It increases non-local traffic to as much as 1-truck/minute on narrow, 22' wide town roads with nonexistent shoulders. The average quad axel dump truck is 8'6" wide. That means that two trucks passing each other leave only 20" of clearance between the trucks and the edges of the road for pedestrians walking dogs or bicyclists. This makes any pedestrian or bicycle traffic very hazardous if not impossible.

The Town agrees that bicycles and trucks do not mix. When races are held on our Town roads the quarries are asked to stop running trucks.

Conclusion:


- Our Comp Plan's Goal is "To limit non-agricultural commercial use to small, rural oriented businesses which provide services needed by residents of the town (and) not **adversely affect the traffic capacity and safety** of the highway";
- The listed priorities of residents were such issues as "**maintain quality of life, pedestrian safety, farmland loss, encroachment of incompatible uses**"
- This CUP fails Standard 7, "Compatibility with the Town's Comprehensive Plan".



CUP Standard 7 – Historic Preservation



“That the conditional use is consistent with the adopted town and county comprehensive plans”.



Town of Rutland Comprehensive Plan

- **Goal 12: Historic Preservation**

Policy Requirement:


Protect, preserve, and capitalize on the Town's historic and archaeological resources.

Support efforts to maintain the Graves Cemetery and the Rutland Church Cemetery.


The CUP does not meet this Goal.

- There are four houses and structures on the WI Historic register that are located within a mile radius of the proposed new quarry site. The site is immediately adjacent to the historic Graves Cemetery.

4006 Old Stage Rd National Register of Historic Places



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.

Lockwood Barn

From Wikipedia, the free encyclopedia

Coordinates: 42°51′54″N 89°19′22″W﻿ / ﻿42.865°N 89.323°W﻿ / 42.865; -89.323

The **Lockwood Barn** is located in Rutland, Wisconsin


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

Location Old Stage Rd, Rutland, Wisconsin

Coordinates 42°51′54″N 89°19′22″W﻿ / ﻿42.865°N 89.323°W﻿ / 42.865; -89.323

Area less than one acre

Built 1855

Architect Sereno W. Graves

MPS Graves Stone Buildings TR

NRHP reference # 82000653[l]

Added to NRHP September 29, 1982

The CUP does not meet this Goal.

- Many local residents moved to this area specifically for the enjoyment of seeing these lovely, well-built structures that remind us of original construction techniques that have long been abandoned since the second half of the 20th century.

Samuel Hunt House

From Wikipedia, the free encyclopedia

For others of a similar name, see Hunt House.

The **Samuel Hunt House** is located in Rutland, Wisconsin.


History

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

- ¹ ↑ "National Register Information System". *National Register of Historic Places*. National Park Service. November 2, 2013.
- ² ↑ "632 Center Rd". Wisconsin Historical Society. Retrieved 2018-07-08.



Samuel Hunt House	
U.S. National Register of Historic Places	
Location	632 Center Rd., Rutland, Wisconsin
Coordinates	42°52′51″N 89°18′35″W﻿ / ﻿42.88111°N 89.30972°W﻿ / 42.88111; -89.30972
Area	less than one acre
Built	1855
Architect	Sereno W. Graves
Architectural style	Creek Revival, Italianate
MPS	Graves Stone Buildings TR
NRHP reference #	82000552
Added to NRHP	September 30, 1982

Daniel Pond Farmhouse

From Wikipedia, the free encyclopedia

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.

History

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 U.S-14. They were the Dejeans, the Prenlises, 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.

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.

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.

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.



Daniel Pond Farmhouse	
U.S. National Register of Historic Places	
Location	76 US Hwy 14 Rutland, Wisconsin
Coordinates	42°50′58″N 89°50′02″W﻿ / ﻿42.84944°N 89.83389°W﻿ / 42.84944; -89.83389
Area	less than one acre
Built	1850
Architect	Sereno W. Graves
NRHP reference #	80000128
Added to NRHP	June 30, 1980

The CUP does not meet this Goal.

- A larger quarry will increase the amount and intensity of dust, noise, truck traffic and will surround the adjacent Graves Cemetery on 3 sides with an industrialized operation. How will persons be able to serenely visit family member's graves in such an environment? How will participants be able to audibly hear a grave-side internment ceremony?

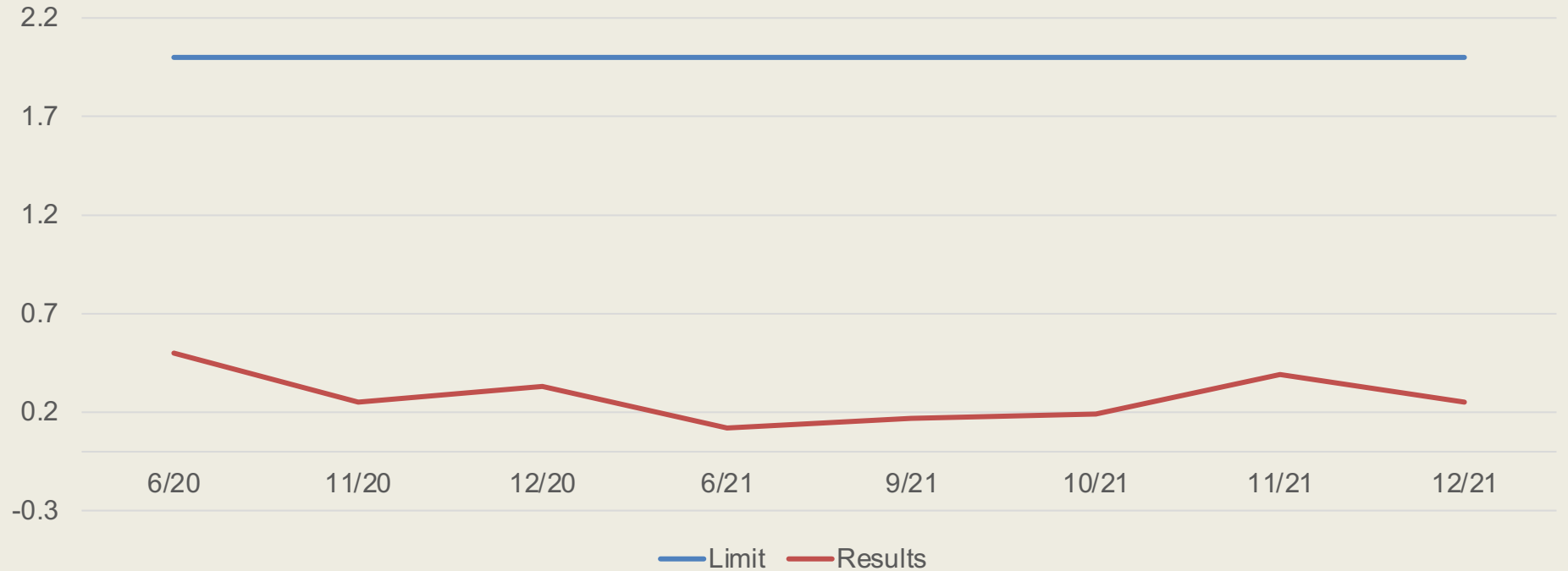


CUP 2582 Presentation of Blast Results was Misleading

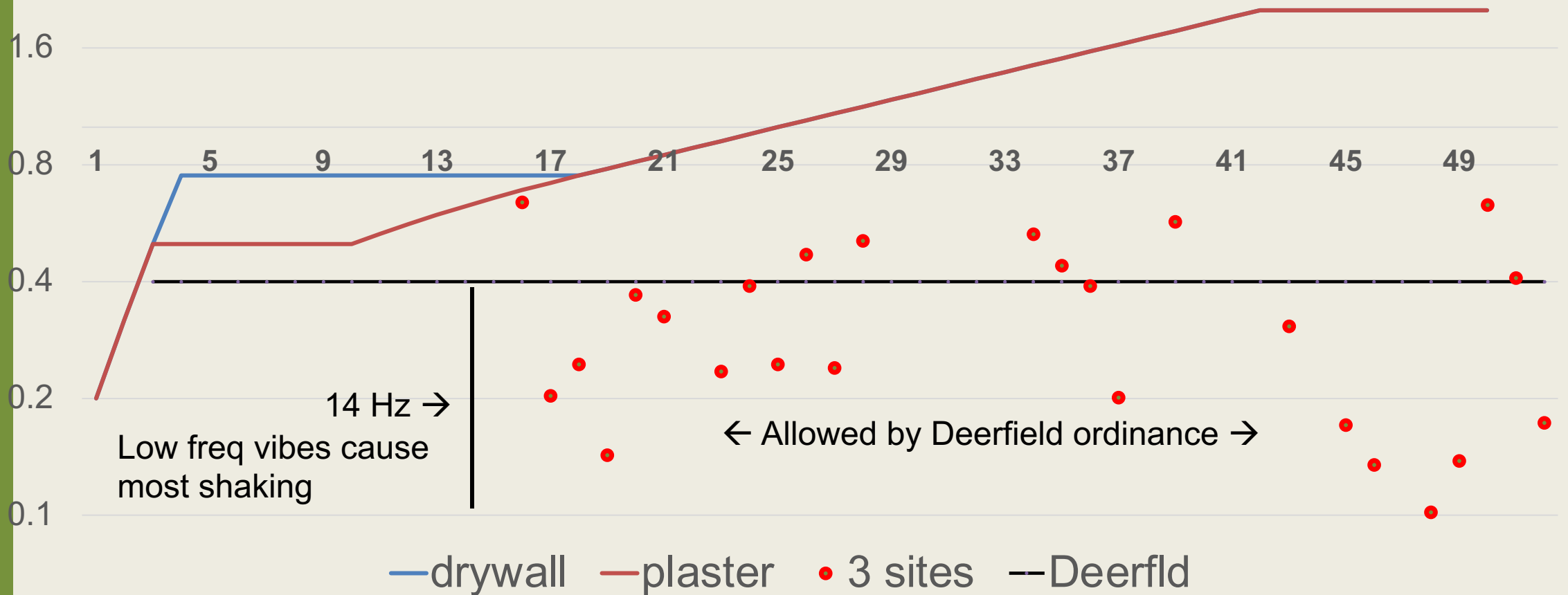
- Measured velocities in 3 directions were averaged whereas only the highest should have been used.
 - *Peak velocity “is the fundamental and principal damage possibility parameter.”-OSM*
- Then, different sites with varied distances from the blast were also averaged.
- These computational methods mixed apples and oranges, undercut the validity of the results and played down the relevant wave Intensities.

CUP 2582 misleading representation of their site's wave intensities

Averaged, not Peak Data Were Shown



Actual Peak Data from Three Nearly Equidistant Sites: Spelter, Kessenich, Hanson (PPV Y-axis, as a function of wave frequency, X-axis)





Town Action Report



Town Board of Rutland

TAR REPORT 2020

Standard 1

- **That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.**
 - “Current quarry operation does not satisfy Std #1 and therefore an expansion would also not satisfy Std1”
 - “The quarry itself, and the proposed expansion, cause great noise, dust and flyrock, cause truck traffic that is frequent, damaging to the roads and of great risk to pedestrians and bikers, is of an unknown lifetime and is in direct violation of several Town of Rutland goals and policies.”
 - Voting on Standard #1 as not being met: Loughrin; **Zentner, Nedveck**; Grueneberg.
-

Standard 2

- **That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.**
 - “The Current quarry does impair and diminish the uses, values and enjoyment of other property and an expansion would continue this impairment and diminishment.”
 - “The Town and County Dane county development approvals since 1937 have created a limit to the existing 9-acre quarry site to remain as a 9-acre quarry.”
 - “Dane county Comprehensive Land Use Plan, page 40, discusses a 1,000 foot rule. Interpreted as intended, the rule causes any mineral deposits outside of the current 9-acre site to be out of the realm of possibility of extraction.”
 - Voting on Standard #2 as not being met: Loughrin; **Zentner, Nedveck**; Grueneberg.
-

Standard 3

- **That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**
 - “The Current quarry has been in existence for 87 years. Kevin Hahn estimates a remaining **useful life of 25 years**, meaning the existing quarry will not begin a reclamation until after 100 years. By extension, an expansion this time would prevent current FP-35 land from being reclaimed for a very, very long time.”
 - “Standard #3 requires that the use will not impede normal and orderly development of surrounding property. This particular FP-35 land, if governed by an indefinite period of maybe 100 years, most certainly “impedes the normal and orderly development” that would occur if the land was not governed by this CUP.”
 - Voting on Standard #3 as not being met: Loughrin; **Zentner, Nedveck**; Grueneberg.
-

Standard 4

- **That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.**
 - “The current quarry has a well documented problem with water. Uncontrolled and unregulated pumping out of the quarry resulted in flooding areas and killing trees.”
 - “Center Road is not a safe road for the types of vehicular traffic required of the existing quarry and of any expansion.”
 - Voting on Standard #4 as not being met: Loughrin; **Zentner, Nedveck**; Grueneberg.
-

Standard 5

- **That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.**
 - “Town roads are being damaged.”
 - “The size of trucks (**8.5'**-wide), the frequency of trucks approaching each other on narrow (**22'**) town roads with no shoulders, uncovered loads and poor driving habits all endanger pedestrians and bikers.”
 - “An expansion of the quarry will not minimize traffic congestion and this general standard is not satisfied.”
 - Voting on Standard #5 as not being met: Loughrin; **Zentner, Nedveck**; Grueneberg.
-

Standard 7

- **That the conditional use is consistent with the adopted town and county comprehensive plans.**
 - “The CUP is not consistent with the town and county comprehensive plans as evidenced in numerous places.”
 - “Policy #1. Ensure that existing cemeteries are protected from development including transportation corridors.”
 - “Mineral resources. Makes clear that mineral extraction needs to be no nearer than 1,000’ from nonfarm development.”
 - “Objectives: Reduce the potential for traffic accidents and provide for safe transportation throughout the Town.”
 - “Reduce the amount of non-local traffic passing through residential areas.”
 - “Increase pedestrian and bicycle safety.”
 - Voting on Standard #7 as not being met: Loughrin; **Zentner, Nedveck**; Grueneberg.
-

K&D Stone LLC

DCPCUP-2022-02582

Please note that because this may be the only opportunity that we, as citizens, have to provide feedback, a set of conditions has been prepared that we would “propose” in the event of approval.

Conditions presented by Rutland Residents



Forward

- ▶ Residents living near the Center Road quarry maintain that CUP Application 02582 lacks substantial evidence to meet all **8 standards** in Dane County's **ordinance under 10.103(15)**, Mineral Extraction. Significant evidence proves that no potential conditions will enable it to meet them.
- ▶ If you decide to approve the CUP despite not meeting the standards, please address the harm done to the community by putting these conditions on it.



Background – CUPS – 4 Categories

- ▶ 1. Dane County ordinances **require** certain basic conditions for all CUPs termed as *Standard CUP conditions* - they are obligatory.
- ▶ 2. Attached to all mineral extraction CUPS are *Standard Mineral Extraction CUP Conditions*.
- ▶ 3. Conditions specific to a CUP site, subject to modification by the ZLR Committee, termed as *Conditions Unique to CUP-2022-02582*.
- ▶ 4. Conditions originating from the Town based on citizen or other technical input termed as *Town Action and Conditions*.



Condition #1 – Hours

- ▶ Hours of operation limited to 7am – 4pm weekdays only.
- ▶ No operations on weekends.
No exceptions!
- ▶ Limits above to include blasting and trucking.



Condition #2 – Operation Distance

- ▶ Operations area should be at least 1,000 feet away from any home, graveyard, or structure listed on the National Register of Historic Places.
- ▶ 1,000-foot metric is a prominent benchmark within the Dane County Comprehensive Land Use Plan.



Condition #3– Berm Height

- ▶ Berms must be built at least 15' high, maintained until extraction is complete, and be planted with trees to provide a screen.
- ▶ Follow in the footsteps of Town of Oregon. The pit outside of Brooklyn is beautifully landscaped!



Condition #4 – Noise Limits

- ▶ Noise levels from the open pit mine and site operations shall not exceed 65 decibels (dBa scale) as measured from any point along any property line.



Condition #5 – CUP Renewal

- ▶ Annual hearing to review CUP performance and to solicit neighbors' comments.



Condition #6 – Cost Supplement

- ▶ Pit owners must supplement the cost of added wear and tear to Town roads caused by dump truck traffic in the amount of \$25K/yr or a sum deemed appropriate by the Town to compensate it for added road repairs caused by heavy-duty trucks. In my opinion, \$25K is too low. It should be higher.
- ▶ Neighboring communities, Deerfield and Windsor currently receive money from gravel pit owners. Why can't ours?



Condition #7 – Dust Reduction

- ▶ Driveways into and out of the pit should be paved to reduce billowing clouds of dust.



Condition #8 - Truck Loads

- ▶ Trucks carrying loose gravel must be shrouded to prevent flying stone from breaking other drivers' windshields and to protect citizens who are bicycling or walking along our roads with their children and pets.



Condition #9 – External Materials

- ▶ No material to be brought into the pit for washing, crushing or any other process. Bringing in external material adds to traffic and noise.
- ▶ Extraction only – no hauling in.



Condition #10 – Equipment Noise

- ▶ Applicant to reduce noise caused by truck and loader backup signals.
- ▶ Include use of strobe alarms to dampen beeping noises.
- ▶ Restrict noisy trucks that are built out to be purposefully loud with illegal mufflers. Other nearby pits ban these type of trucks from entering their pits.



Condition #11 – Setbacks

- ▶ Setbacks from fence lines to be set at a minimum of 200 feet.
- ▶ Town of Deerfield specifies a 200' setback.
- ▶ Village of Windsor requires a 300' setback.



Condition #12 – Structure Survey

- ▶ Condition survey of any structure within 1/2 mile of proposed quarry to be overseen by a licensed structural engineer before business commences to establish ahead of time, any cracks or other visual evidence of structural distress.






Standard 7-4



“That the conditional use is consistent with the adopted town and county comprehensive plans”.

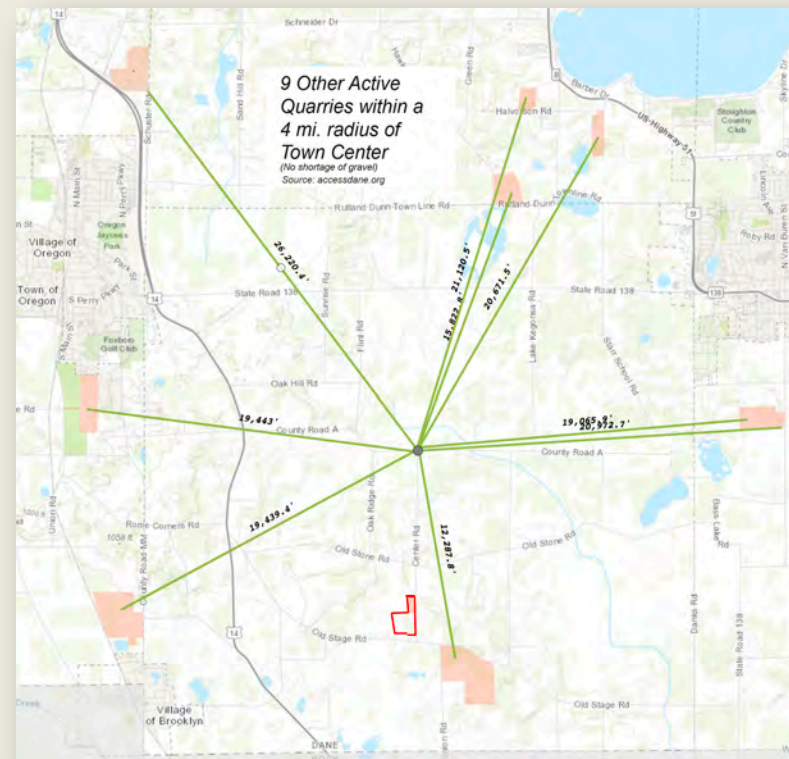


Comprehensive Plan – Sec. 10

- Tax rate for residential property here averages about **4.5 times** the rate the quarry pays.
- Rural residential development = more substantial revenue base
- Better economic sense than investing in a nuisance business like a quarry both for the town of Rutland and Dane county.
- Sealcoating town roads – not rebuilding them – \$21,500 per mile, the town's biggest expense. Quarry pays **nothing** towards the road maintenance.
- Residential taxpayers paying disproportionately more of this cost, while doing disproportionately less damage than gravel trucks.
- Benjamin Jordan, director of the Transportation Information Center at the University of Wisconsin-Madison's College of Engineering: the gravel trucks in his comparison do 100 times more damage to the roads than garbage trucks. **"One of those trucks does the same damage to that roadway as 9,600 cars."**



- 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 totally at least 699 acres within 4 miles of the town center, so residents are experiencing no shortage of gravel.



-
- 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.



Conclusion:

- Although this use may be compatible in the zoning district in which it is proposed, that should not guarantee approval because of the range of potential conflicts that such a use may create. Wisc Lawyer, Vol 96, No 1. <https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?ArticleID=24303>
- Has the applicant provided substantial evidence that the application meets 8-standards?
- Have objectors provided significant contrary evidence that the applicant's use causes substantial harm upon them and fails one or more standards?
- If “no” to item 2, and “yes” to item 3, the Committee should reject the CUP.