

**TOWN BOARD ACTION REPORT – CONDITIONAL USE PERMIT**

Regarding Petition # CUP 02449 Dane County ZLR Committee Public Hearing Tuesday, February 12, 2019

**Whereas**, the Town Board of the **Town of** Deerfield \_\_\_\_\_ having considered said conditional use permit application, be it therefore resolved that said conditional use permit is hereby (check one):  **APPROVED**

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

**PLANNING COMMISSION VOTE:**      6 **In Favor**      0 **Opposed**

**TOWN BOARD VOTE:**                      3 **In Favor**                      1 **Opposed**

**Whereas**, in support of its decision, the Town Board has made appropriate **findings of fact** that the standards listed in section 10.255(2)(h), Dane County Code of Ordinances, and section 10.123(3)(a), if applicable, are found to be (check one):

**SATISFIED**

**NOT SATISFIED (PLEASE COMPLETE FINDINGS SECTION ON PAGE 2)**

**THE CONDITIONAL USE PERMIT IS SUBJECT TO THE FOLLOWING CONDITION(S):**

The Town Board approved the petition for CUP with 7 conditions. Conditions 1-5 were listed as potential conditions for CUP 02449 and all 5 were adopted by the Town Board with the additions of Conditions 6 and 7 listed below.

condition 6:

The seismograph at St. Paul's Liberty Lutheran Church shall be placed by a third party agreed to by the church and the quarry, and will be paid for the quarry. A copy of the agreement will be forwarded to the Town Clerk. In the event that a third party cannot be agreed upon, then the blaster shall place two seismographs at the church.

condition 7:

The operator shall contact St. Paul's Liberty Lutheran Church and the Town Clerk and the cemetery association by email 2 days in advance of blasting to verify that the church and/or cemetery will not be in use for Church services, weddings, or funerals during the proposed blasting date and time. Blasting will not take place during the week-long summer school, and the church will notify the quarry and the Town Clerk when summer school will take place. There will be no blasting on election days.

A document listing all adopted seven conditions can be provided if necessary

**PLEASE NOTE:** The following space, and additional pages as needed, are reserved for comment by the minority voter(s), **OR**, for the Town to explain its approval if the decision does not comply with the relevant provisions of the Town Plan.

Chairperson Mike Schlobohm abstained from the discussion and voting on this petition.

The minority voter voted "No" on items 1,2,3, stating that the conditions were not met by the Petitioner. The Board member also voted "No" on the following adopted conditions: 1 & 5 and ultimately voted "No" on adoption of all additional conditions to be added to the CUP based on his feeling that 10 years was too long as proposed in item # 1 and that the response time for violations of blasting in item # 5 was too long.

I, Robin Untz \_\_\_\_\_, as Town Clerk of the Town of Deerfield \_\_\_\_\_, County of Dane, hereby certify that the above resolution was adopted in a lawful meeting of the Town Board on Monday, March 11, 2019

Robin Untz  
**Town Clerk**

Tuesday, March 12, 2019  
**Date**

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

**If the Conditional Use Permit application is denied, please complete the following section. For each of the standards, indicate if the standard was found to be satisfied or not satisfied. Please note the following from section 10.255(2)(b):**

*“No permit shall be granted when the zoning committee or applicable town board determines that the standards are not met, nor shall a permit be denied when the zoning committee and applicable town board determine that the standards are met.”*

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

- |   |   |
|---|---|
| 1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.   | 1. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use. | 2. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.   | 3. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.   | 4. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.   | 5. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 6. That the conditional use shall conform to all applicable regulations of the district in which it is located.   | 6. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |

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

**Discuss/Action of request for Petition # DCPCUP-2018-02449 a Conditional Use Permit made by Oak Park Quarry LLC, Rachel Halverson, Agent, of 353 Haugen Road, Edgerton, WI 53534, for mineral extraction at ¼, ¼ north and south of 3522 Oak Park Road.**

Town Chairperson Schlobohm turned the gavel over to Sup. Brattlie to Chair this discussion and Schlobohm recused himself from the discussion.

**Discussion of the required Standards to be met for the CUP:**

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”* Sup. Roelofs motion to approve that Standard # 1 of the CUP application has been met, seconded by Sup. Kelly. Sup Behlke-no, Sup. Roelofs-aye, Sup. Kelly-aye, Chairperson Schlobohm-abstain, Sup. Brattlie-aye. Motion carried.

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.”* Sup. Kelly motion to approve that Standard # 2 of the CUP application has been met, seconded by Sup. Roelofs. Sup Behlke-no, Sup. Roelofs-aye, Sup. Kelly-aye, Chairperson Schlobohm-abstain, Sup. Brattlie-aye. Motion carried.

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.”* Sup. Roelofs motion to approve that Standard # 3 the CUP application has been met, seconded by Sup. Kelly. Sup Behlke-no, Sup. Kelly-aye, Chairperson Schlobohm-abstain, Sup. Brattlie-aye. Motion carried.

Standard #4 *“That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made”* Sup. Roelofs motion to approve that Standard # 4 of the CUP application has been met, seconded by Sup. Kelly. Sup Behlke-aye, Sup. Kelly-aye, Chairperson Schlobohm-abstain, Sup. Brattlie-aye. Motion carried.

Standard #5 *“Adequate measures have been or will be taken to provide ingress and egress to designed as to minimize traffic congestion in the public streets.”* Sup. Roelofs motion to approve that Standard # 5 of the CUP application has been met, seconded by Sup. Kelly. Sup Behlke-aye, Sup. Kelly-aye, Chairperson Schlobohm-abstain, Sup. Brattlie-aye. Motion carried.

Standard #6 *“That the conditional use shall conform to all applicable regulations of the district in which it is located.”* Sup. Kelly motion to approve that Standard # 6 of the CUP application

has been met, seconded by Sup. Roelofs . Sup Behlke-aye, Sup. Kelly-aye, Chairperson Schlobohm-abstain, Sup. Brattlie-aye. Motion carried.

**Discussion of the Potential Conditions to be added to the CUP petition 2449 as listed on the CUP application on page # 8:**

Sup. Roelofs motion to approve item #1 “, seconded by Sup. Kelly. Sup Behlke-no, Sup. Kelly-aye, Chairperson Schlobohm-abstain, Sup. Brattlie-aye. Motion carried.\

Sup. Roelofs motion to approve items #2,3 & 4, seconded by Sup. Kelly. Sup Behlke-aye, Sup. Kelly-aye, Chairperson Schlobohm-abstain, Sup. Brattlie-aye. Motion carried.

Sup. Roelofs motion to approve item #5, seconded by Sup. Kelly. Sup Behlke-no, Sup. Kelly-aye, Chairperson Schlobohm-abstain, Sup. Brattlie-aye. Motion carried.

Sup. Roelofs motion to add the following to Condition #6 as written: “The seismograph at St. Paul’s Liberty Lutheran Church shall be placed by a third party agreed to by the church and the quarry, and will be paid for by the quarry, a copy of the agreement shall be forwarded to the Town Clerk. In the event that a third party cannot be agreed upon, then the blaster shall place two seismographs at the church. The PPV and corresponding frequencies, the seismograph data and maximum air blast in decuples to be recorded in a log.”. Motion seconded by Sup. Kelly. Sup Behlke-aye, Sup. Kelly-aye, Chairperson Schlobohm-abstain, Sup. Brattlie-aye. Motion carried.

Sup. Roelofs motion to approve and additional Condition # 7 to read: “The operator shall contact by email, St. Paul’s Liberty Lutheran Church, the cemetery association, and Town Clerk two (2) days in advance of blasting to verify that the church and or cemetery will not be use for church services, weddings, funerals/burials, week long summer school or elections and the church shall notify the quarry and Town Clerk by email when summer school is scheduled and other events at the church with reasonable but not less than 24 hours’ notice” Motion seconded by Sup. Kelly. Sup Behlke-aye, Sup. Kelly-aye, Chairperson Schlobohm-abstain, Sup. Brattlie-aye. Motion carried.

Sup. Kelly to approve Petition # DCPCUP-2018-02449 a Conditional Use Permit made by Oak Park Quarry LLC, Rachel Halverson, Agent, of 353 Haugen Road, Edgerton, WI 53534, for mineral extraction at ¼, ¼ north and south of 3522 Oak Park Road with the additions and conditions, seconded by Sup. Roelofs. Sup Behlke-no, Sup. Kelly-aye, Chairperson Schlobohm-abstain, Sup. Brattlie-aye. Motion carried.

Chairperson Schlobohm returned to chair the meeting.

## LIST OF CONDITIONS FOUND ON PAGE 8

1. Operations shall cease no later than 10 (ten) years from the date of CUP approval.
2. The haul route will be Oak Park Road South to USH 12.
3. Hours of operation shall be from 6:00 a.m. to 6:00 p.m., Monday through Friday, and from 7:00 a.m. to 1:00p.m. on Saturdays. No operations of any kind shall take place on Sundays or the following holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day or Christmas Day.
4. No blasting can take place until the operator has received a blasting license from the town of Deerfield. A copy of the license and/or approval from the town of Deerfield must be provided to Dane County Zoning.
5. Specific only to St. Paul's Liberty Lutheran Church, the following limits shall not be exceeded more than 1 out of 10 consecutive times during blasting events, as measured by a seismograph placed at St. Paul's Liberty Lutheran Church:
  - PPV of .20 in./sec.;
  - PPV of .15 in./sec. when Hz. is less than 14;
  - Airblast of 123 dB(L)

If any limit is exceeded more than 1 out of 10 consecutive times, blasting may be suspended for up to 30 days. If any limits are exceeded more than 1 out of 10 consecutive times twice within 12 months, blasting may be suspended for up to 60 days. If any limits are exceeded more than 1 out of 10 consecutive times for a third time within 12 months, blasting may be suspended for up to 180 days. After the third suspension within 12 months, the schedule will reset. The suspensions above will go into effect 10 days after the permittee is provided notice of the violation, unless during that 10-day period the permittee appeals to the zoning committee or Board of Adjustment.

The suspension is stayed during the appeal. The zoning committee or Board of Adjustment may specify the exact days of suspension if a violation is found. The option of suspension does not preclude the zoning committee or Board of Adjustment from taking other enforcement action, including revocation.

Reports of each blast will be submitted to the Dane County Zoning Administrator within 3 working days, and the Town will notify the County of any violations therein.